

**ORGANIZATION AND RULES for BERKELEY COUNTY COUNCIL
2009 – 2010**

SECTION I - OFFICERS

The Council shall elect a Vice-Chairman and such other officers as it may deem necessary for terms as hereinafter set forth at the organizational meeting of the Council in January following each General Election.

A. CHAIRMAN

The Chairman shall preside at all regular, special, and organizational meetings of the Council; shall execute, on behalf of the Council, all ordinances, resolutions, directives, deeds, bonds, contracts, and other official instruments or documents; and shall have such other duties and perform such other functions as are set forth in these Rules.

B. VICE-CHAIRMAN

At the organizational meeting in January following each General Election, the Council shall elect one of its members to serve as Vice-Chairman for a two-year term; in the event that the Chairman shall be temporarily absent or unable to serve, the Vice-Chairman shall serve in the Chairman's stead. In the event the Vice-Chairman should assume the chairmanship, he or she shall retain the right to vote on matters brought before the Council. The Vice-Chairman's responsibilities shall include the preparation of an employee performance evaluation for the Clerk of Council in accordance with the Berkeley County Personnel Policies and Procedures Manual.

C. CLERK

The Council shall appoint a person, not a member of the Council, to serve as Clerk for an indefinite term. The Clerk will record and maintain recordings of all proceedings of the Council; as required by South Carolina Department of Archives & History, deliver copies of the minutes of each Council meeting to all members prior to the next regular Council meeting; keep the minutes of all committee meetings; keep a register of all proposed ordinances and resolutions, assigning them a number and arranging them in order of introduction; render any needed assistance to members of the Council in preparation of reports, recommendations, ordinances, resolutions, directives and correspondence. The Vice-Chairman shall review budget and personnel matters and report matters to Council as deemed necessary. Employees of the Office of the Clerk of Council shall report directly to the Clerk. The Clerk of Council shall report directly to the Vice-Chairman. Any change in the Clerk of Council's status, level of authority or responsibilities shall take a 2/3 vote of Council. All employee complaints shall proceed through this chain of command, except for those complaints that may be directed to the Human Resources Department (e.g. sexual harassment).

SECTION II - MEETINGS OF COUNCIL

A. MEETINGS

The Council shall hold its regular meeting for the transaction of official business at least once each month in accordance with the schedule adopted by Council. Special meetings may be called by the Chairman or by the written call of a majority of Council. The written call (or calls, if separate writings are submitted) shall be addressed to the Chairman and signed by the members calling the special meeting, and shall set forth the date, time, and purpose of the special meeting. No special meetings shall be held

unless all members of Council and the public are provided 24 hours written notice of the date, time, and purpose of the meeting.

An organizational meeting of Council shall be held on the first Monday of January, provided however that if the first Monday of January is a County Holiday, the organizational meeting shall be held on the day after. The organizational meeting shall be scheduled following each General Election (once every two years) Public notice for any called, special or rescheduled meetings shall be posted at a conspicuous location in the Berkeley County Administration Building as soon as practicable but not less than 24 hours before the meeting. The notice shall include the agenda, date, time and place of the meeting. This requirement shall not apply to emergency meetings of the Council. Efforts shall be made by the Clerk of Council to notify local news media or such other news media as may request notification of the times, dates, places and agenda of all Council meetings, whether scheduled, rescheduled or called, and the efforts made to comply with this requirement shall be noted in the minutes of the meeting. If and when any one member of Council objects to any item which is brought up for discussion and which has not been placed on or specifically identified on the official agenda, then that item will not be discussed at that meeting. A majority of the members of Council shall constitute a quorum for the transaction of official business.

B. ATTENDANCE

If a Council Member must be absent from any meeting, the Council Member shall inform the Clerk to Council before the start of the meeting. Failure to do so will result in that Council Member being recorded as absent from the meeting. If the Council Member informs the Clerk to Council before the start of the meeting, the absence will be recorded as excused. Excessive absenteeism by any member shall be reviewed by County Council on a case-by-case basis. Council reserves its right to take any action it deems appropriate at that time.

C. MEETINGS TO BE OPEN TO THE PUBLIC EXCEPT AUTHORIZED EXECUTIVE SESSIONS

All meetings of Council shall be open to the public; however, Council may conduct executive sessions upon a public vote of a majority of the Council members present and voting for the following purposes:

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; provided, however, that if an adversary hearing involving the employee (other than under a grievance procedure provided in S. C. Code Ann. §8-17-110, *et. seq.* (1976, as amended) is held, such employee shall have the right to demand that the hearing be conducted publicly.
2. Discussions 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 County or its departments or agencies in other adversary situations involving an assertion against the County or its departments or agencies.
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.

These purposes currently conform to S. C. Code Ann. §30-4-70 (1976, as amended). If this code section is updated before the next review of these Rules, this section shall be superseded by the updated law. The Chairman shall, after a favorable vote to enter executive session, announce the purpose of the executive session. No formal action shall be taken in executive session.

D. CONDUCT OF MEETINGS

1. **Meeting to be opened with prayer.** Every meeting of the Council shall be opened with prayer.
2. **Public Comments.** Any member of the public attending a regular or special council meeting shall have the opportunity to address members of Council. Public comments may be received by Council immediately following the approval of minutes and may concern any matter on the agenda and at the discretion of Council. Public comments may also be received after the Council meeting has been adjourned on any matter. The Council Chairman shall determine the manner in which a person may speak or otherwise address Council.
3. **Decorum in Speaking.** Every member, when about to speak, shall first address "Mr. Or Madam Chairman", and, in speaking, shall avoid disrespect to the Council and any personalities; and shall confine discussion to the question under consideration.
4. **When Members Address the Chairman.** The Chairman, when addressed by a member, shall recognize the member by name. The member who shall first be recognized shall be first heard; and if several shall address the Chairman at about the same time, the Chairman shall decide who shall be first to speak and shall recognize such member.
5. **Matters not Within the Council's Jurisdiction.** No matter shall be entered on the agenda or heard by the Council unless it is within the Council's authority or jurisdiction; provided, the Council may entertain requests that it make recommendations or inquiries to other governmental bodies, departments or agencies.
6. **Recognition of Persons.** When any person or persons, including employees of the Council and of the County, are heard by the Council as provided in Paragraph 2 above, that person or persons, when they have completed their presentation, shall be seated and no person or persons other than a member of the Council will be recognized to make any statement on such matter unless requested to do so by any member of the Council through the Chairman.

E. PARLIAMENTARY PROCEDURE

1. **Members May Appeal From Decision.** All questions or order shall be determined by the Chairman in the first instance without debate, or with such debate as the Chairman, in his or her discretion, may permit; but any member may appeal to the Council from the decision of the Chairman.
2. **When Motions Debatable.** All motions are debatable, except: motions to adjourn; to fix the time at which to adjourn; to take a recess; to appeal; to suspend the rules; to object to the consideration of a question; to lay on the table; to move for the previous question; to close, limit or extend the limits of the debate; to amend an un-debatable motion; or to reconsider an un-

debatable or incidental motion.

3. **Voting.** The Clerk shall record the votes as either "yes", "no", "abstain", or "excused". Any member not desiring to express an opinion with either a yes or no vote on a question before Council may signify such desire by abstaining from casting a vote. A Council member cannot be compelled to cast a vote, though the effect of the abstention is the same as if the member had voted on the prevailing side. The Clerk shall fill in the vote on the appropriate document if the Council member fails to do so. Upon any question, at the request of any one member, a roll call vote shall be ordered; whereupon the Clerk shall call the roll by District in numerical order and shall record the votes in the minutes. Any member may have his or her vote recorded on any question.
4. **When Members May Not Vote or Do Business With the County.** Neither the Council Chairman nor any other member of Council shall knowingly use their official position to obtain an economic interest for themselves, a member of their immediate families, an individual with whom they are associated, or a business with which they are associated; nor shall they make, participate in making, or in any way attempt to use their office to influence a governmental decision in which they, a member of their immediate family, an individual with whom they are associated, or a business with which they are associated has an economic interest. Council members who, in the discharge of their official responsibilities, would be required to take actions or make a decision which affects an economic interest of themselves, a member of their immediate families, an individual with whom they are associated, or a business with which they are associated shall prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest with respect to the action or decision and shall furnish a copy of the statement to the Council Chairman, 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.
5. **When Debate Is In Order.** No motion shall be debated until it shall have been stated by the Chairman, and properly seconded. Any motion shall, if desired by the Chairman or any other member, be reduced in writing and delivered to the Chairman and other members of Council and read before it shall be debated.
6. **Debate May Be Interrupted.** When a question is under debate, no motion shall be received, except:
 - a. To adjourn;
 - b. To lay on the table;
 - c. The previous question;
 - d. To adjourn debate to a subsequent meeting;
 - e. To commit or recommit;
 - f. To strike out the ordaining or resolving words;
 - g. To amend;

- h. A question of order;
 - i. A question of privilege; and
 - j. A question of taking a recess.
7. **Motion to Adjourn and to Recess.** Motions to adjourn and to recess shall always be in order, except while the Council is actually engaged in deciding a question.
 8. **Substitutions In The Chairmanship.** The Chairman, in the absence of the Vice-Chairman, or the Vice-Chairman, when he or she is presiding, may name a member to fill his or her place during an occasional absence from the chairmanship, but such substitution shall not extend beyond an adjournment. In the absence of the Chairman and Vice-Chairman, the Council or the Committee shall elect an acting Chairman to serve until the return of the Chairman or the Vice-Chairman. An Acting Chairman is entitled to cast his or her vote as a member of Council or the Committee.
 9. **Receipt of Information.** When a member of the Council receives any information or is presented with any matter which will ultimately require action by the Council, such matter shall be promptly reported to the Chairman for further action by the Council.
 10. **Parliamentary Procedures Not Specified in These Rules.** In all particulars not determined by these rules, or by law, the Chairman or other presiding officer shall be guided by parliamentary law and procedure as it may be collected from "**Roberts Rules of Order, Newly Revised,**" published by Perseus Publishing.

F. SEATING

The Vice-Chairman and the Finance Committee Chairman shall each sit immediately next to the Council Chairman, one on either side. In succeeding years, as other council members become either the Vice-Chairman or the Finance Committee Chairman, they shall then exchange seats with the departing Vice-Chairman and/or Finance Committee Chairman. Other members of Council shall choose their seats based on seniority (beginning with longest serving Council Member and ending with the newest elected Council member).

SECTION III - ORDINANCES AND RESOLUTIONS

A. In General

The Council shall take legislative action by ordinance. Prior to introduction, all ordinances and resolutions shall be submitted to and approved by the County Attorney as to form and draftsmanship. As used herein, the term "ordinance" shall be an ordinance having the force of law. The term "bill" shall be a proposed ordinance which has not received three readings. Resolutions shall not have the force of law, but shall express the opinion of Council concerning a particular thing or matter. Bills shall not have the force of law until they are enacted and approved as ordinances. Except for emergency ordinances or by two-thirds vote of Council, Council will consider no matter prior to its introduction /consideration by the appropriate committee.

B. ORDINANCES AND RESOLUTIONS TO BE IN WRITING

All proposed ordinances and resolutions shall be in writing, by title only or in completed form,

either typed or printed, and in a sufficient number of copies for each member of the Council to be provided with copies at the time of introduction. Upon introduction the Clerk of Council shall assign a bill number to each proposed ordinance. Upon adoption by Council, the Clerk of Council shall assign the bill an ordinance number.

C. READING OF ORDINANCES AND RESOLUTIONS

If all members of Council are provided with copies of a proposed bill or resolution, a verbatim reading thereof shall not be required unless such reading is specifically requested by a member. All bills, with the exception of emergency ordinances as hereinafter set out, shall be read by title at three meetings of Council on three separate days with an interval of not less than seven days between the second and third readings.

D. INTRODUCTION AND REQUIRED READINGS OF ORDINANCES OR RESOLUTIONS

1. **Introduction of Bills.** Any member or committee of Council may introduce a bill for first reading at any meeting of the Council. The Chairman shall refer the proposed ordinance to the appropriate committee unless it has been introduced by a committee.
2. **First Reading.** At the first reading of a bill, no vote shall be taken and no debate or amendment shall be in order. The bill shall be referred by the Chairman to the appropriate Committee unless reference shall be dispensed with a two-thirds (2/3) majority vote or unless the proposed bill shall have been introduced by a committee.
3. **Second and Third Readings.** Committee reports on a bill shall ordinarily be made at the next consecutive regular meeting following introduction and first reading. Second reading may be deferred until the next consecutive regular meeting of the Council following the Committee report. If the proposed bill is defeated on second reading, there shall be no third reading. At least one (1) day prior to the second reading of a bill, complete typewritten or printed copies of the text of the bill and the Committee report thereon shall be delivered to every member of the Council, by title or in completed form. After all amendments and privileged motions are disposed of, all bills shall be given second reading by one motion as a collective group unless any member objects to second reading of any particular bill(s). If a member objects, the particular bill(s) will be separated from the collective group and handled by a separate motion. After the bills have been given second reading, and following the Committee report, the bills shall be given third reading on a subsequent regular public or special meeting of Council and amendments may be proffered on third reading the same as on second reading. After all amendments and privileged motions, if any, are disposed of, the question shall be the passage of the bill and enactment as an ordinance with the full force of law accorded to the ordinance as presented. In those instances when a bill has received first and/or second reading and no formal action is taken regarding the bill at either the Committee or Council level within one (1) year from the last recognized action, the bill shall be considered withdrawn and must be re-introduced as a new item.
4. **Public Hearings.** Public hearings, upon giving fifteen (15) days notice of the time and place of such hearing, which shall be published in a newspaper of general circulation in the county, shall be held before final Council action to:
 - a. Adopt annual operational and capital budgets;
 - b. Make appropriations, including supplemental appropriations;

- c. Adopt building, housing, electrical, plumbing, gas and all other regulatory codes involving penalties;
 - d. Adopt zoning and subdivision regulations;
 - e. Levy taxes;
 - f. Sell, lease, or contract to sell or lease real property owned by the County.
5. **Adoption of Resolutions.** A resolution does not have the force and effect of law and may be adopted at any regular or special meeting of Council by majority vote of the members of Council present and voting. However, every resolution must upon introduction be referred to an appropriate committee unless reference shall be dispensed with by a two-thirds (2/3) majority vote of members present and voting or unless the resolution was introduced by an appropriate committee. If the resolution is referred to a committee, a report of the committee shall ordinarily be made at the next regular or special meeting and the resolution may be adopted by Council at that meeting or any subsequent regular or special meeting. Any resolution which is up for adoption may be amended. After all amendments and privileged motions, if any, are dispensed with, the question shall be the adoption of the resolution.
6. **Majority Vote Required.** No bill, ordinance, resolution, code, or policy shall be passed or adopted unless at least a majority of the members of the Council present and voting shall have voted for its approval or passage. Similarly, no amendment to a bill, ordinance, resolution, code, or policy shall be passed unless at least a majority of the members of the Council present and voting shall have voted for its approval or passage. Each Council member shall record a vote of "yes", "no", or "abstain" when signing the newly passed or approved document. If the Council member fails to record his or her vote, the Clerk of Council shall thereafter record the member's vote with the prevailing side or, when appropriate, shall write "excused". If the majority vote is such to defeat any bill or ordinance so considered, the effect shall be to render the bill or ordinance as withdrawn. Further consideration of the matter must begin the process anew with first reading after appropriate introduction.
7. **Emergency Ordinances.** In accordance with S. C. Code Ann. §§ 4-9-120 and 4-9-130 (1976, as amended), Council may adopt emergency ordinances. An emergency ordinance shall be effective immediately upon its enactment without regard to any reading, public hearing, or public notice requirements. Emergency ordinances shall expire automatically as of the sixty-first (61st) day following the date of enactment. Such ordinances, however, must deal with public emergencies affecting life, health, safety, or the property of the people. Such ordinances shall not levy taxes, grant, renew, or extend a franchise, or impose or change a service rate. Every emergency ordinance shall be designated as such and shall contain a declaration that an emergency exists and describe the emergency. Every emergency ordinance shall be enacted by the affirmative vote of at least two-thirds (2/3) of the members of Council present.
8. **Codification** As provided by Section 4-9-120 of the 1976 Code of Laws of South Carolina, all ordinances adopted by council shall be compiled, indeed, codified, published by title and made available for public inspection at the office of the Clerk of Council. The Clerk shall maintain a permanent record of all ordinances adopted and shall furnish a copy of such record to the Clerk of Court for filing in that office.

E. ELECTION AND APPOINTMENTS TO BOARDS AND COMMISSIONS

1. **Commissions.** It shall be Council policy to have the broadest representation practicable both geographically and of concerned citizens to serve on all current and future boards and commissions. In order to assure and implement this policy all current and future boards and commissions when not specifically prohibited by law shall be structured to:
 - a. Have a minimum of eight but not more than sixteen members;
 - b. May have one and not more than two appointees from each Council District;
 - c. Each member of Council may nominate the board or commission member or members representing his or her district. The nominee must reside within the county.
 - d. At the time of the creation of the board or commission its duties and responsibilities shall be delineated by ordinance of Council;
 - e. All new board and commission members and current board and commission members, when not in conflict with current law, may receive minimal expenses for services, this to be determined by Council;
 - f. Council may establish citizens' advisory committees to review and advice on the scope and function of current and future boards and commissions.
2. **Recommendations for Appointment.** In cases where the Council does not elect but recommends persons for appointment by the Governor or otherwise, the same procedure as applied to elections will be followed as to such recommendations.

F. REVENUE MEASURES TO BE REFERRED TO COMMITTEE ON FINANCE

All bills and resolutions levying a tax, incurring indebtedness or otherwise affecting county revenue shall be referred to the Committee on Finance, which shall report thereon before the Council shall vote for their passage.

G. ANNUAL APPROPRIATIONS ORDINANCE

At or prior to the third regular meeting of the Council preceding the end of the County's fiscal year, the Committee on Finance shall introduce for first reading an appropriations bill which shall set forth in detail appropriations for all county purposes and activities during the ensuing fiscal year; and this bill, as it may be amended, shall be enacted by the Council prior to the commencement of such fiscal year and be established as the appropriations ordinance upon approval. The total of the appropriations under such ordinance shall not exceed the total of anticipated county revenue from all sources as projected by the Supervisor under the direction of the Committee on Finance. Such appropriations ordinance shall include a "contingency fund" of no less than one (1%) percent of the total of anticipated county revenues from all sources as projected by the Council Chairman under this paragraph, to cover items of expenditures for which no express provision is made elsewhere in the ordinance.

H. EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS

The effective date of each ordinance or resolution passed by Council shall be on the date that the bill is given third reading and modified by title to become an ordinance or the date the resolution is adopted unless a different effective date of such ordinance or resolution is set out in the ordinance or resolution.

I. ORDINANCES AND RESOLUTIONS TO BE PRINTED

Annually, all ordinances and resolutions of the Council passed during the preceding twelve (12) months shall be printed and made available for public distribution through the office of the Clerk to County Council. In accordance with S. C. Code Ann. §4-9-120 (1976, as amended):

"All proceedings of council shall be recorded and all ordinances adopted by council shall be compiled, indexed, codified, published by title and made available to public inspection at the office of the clerk of council. The clerk of council shall maintain a permanent record of all ordinances adopted and shall provide a copy of such record to the clerk of court for filing in that office."

SECTION IV - COMMITTEES

The Council shall be comprised of eight (8) standing committees and such other committees as may be appointed from time to time by the Council with the consent of a simple majority of members of Council. The Council shall determine the standing committees, the title, scope, function, and inter-relationship of each. The standing committees shall be determined during the bi-annual organizational meeting of Council. A majority vote of the members of Council present and voting shall determine the standing committees. Also, Council by majority of those present and voting shall elect the chairman of each standing committee. Each Council member shall be chairman of one standing committee and shall serve as a member on the remaining seven (7) standing committees, provided that no member shall be appointed as chairman of more than one standing committee. Members of standing committees shall serve for a term of two (2) years.

A. COMMITTEE MEETINGS

Committee meetings shall be governed by the same rules as previously set out in "SECTION II. MEETINGS OF COUNCIL", unless in conflict with the specific rules set out herein. Committees shall meet at least once per calendar quarter, but shall meet more often when requested to do so by a county department head. Committee meetings shall be held on the call of the Chairman of such committee upon three (3) days notice of such meeting to each committee member, provided, however, upon call of the Chairman with consent of all members of the committee a meeting may be held provided twenty-four (24) hours notice is given. Materials relating to particular items as set on the agenda shall be submitted prior to the meeting so that all committee members may have the opportunity to review all pertinent information prior to the actual meeting. This provision should be complied with in all instances except where certain constraints make it impossible to adequately provide members with copies of information prior to the set meeting time. If the committee chairman is unable to attend a meeting after it has been called, he or she shall appoint another member of the committee to be acting chairman for that meeting only. A quorum of each standing committee shall consist of a simple majority of its members, such members to include the chairman of the committee. Each committee member, except the committee chairman, has the right to vote on any matter before the committee for which a vote is required. The committee chairman may only vote when there is a tie vote. All committee reports and recommendations shall be delivered to the Chairman of the Council by the chairman of such committee for presentation to the Council at its next regularly scheduled meeting or special meeting.

B. CHAIRMAN OF COUNCIL TO BE MEMBER OF STANDING COMMITTEES, EX-OFFICIO

The Chairman of the Council shall be an ex-officio member of all standing committees.

C. REPRESENTATION OF STANDING COMMITTEES ON COMMITTEE ON FINANCE

Each Council member shall represent his or her standing committee on finance and budgetary affairs relating thereto at meetings of the Committee on Finance.

D. RECALL OF ORDINANCES OR RESOLUTIONS

Any Ordinance, Resolution, or other matter which has been referred to a committee may be recalled by an affirmative vote of three (3) members of Council.

SECTION V - REIMBURSEMENT

A. Reimbursement to Council Members. County Council members may be reimbursed for expenses incurred for any Council related travel and/or dues, fees and other discretionary expenses as allowed by Berkeley County Personnel Policies and Procedures Manual.

B. Reimbursement to the County. If the County pays for the costs of a member to attend a conference, seminar or meeting, and the member fails to attend for reasons not related to County business, the member may be required to reimburse the County for the costs. If meal per diem is advanced to a member and the member does not utilize the meal per diem, either because a meal is provided from another source or the member does not attend the event for the entire duration, the member may be required to reimburse the County the meal per diem.

SECTION VI – AMENDMENTS

A proposed amendment to these rules shall be referred to the appropriate standing committee and upon action by the committee, an amendment would be brought back to the next regularly scheduled meeting of Council and may be adopted, provided all members of Council are present and voting. If all members of Council are not present, no action will be taken at this meeting, and will be delayed until the next regularly scheduled meeting of Council at which time action will be taken provided there is a quorum of those members present and voting.

SECTION VII. ADOPTION OF RULES

In the year following a General Election, Council may adopt rules and rule changes. Should Council take no action on rules by the Fourth Monday in January following a General Election, these rules shall remain in full force and effect unless they are amended pursuant to Section VI.