

1976 WL 30839 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 18, 1976

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Attorney at Law
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Moncks Corner, South Carolina 29461

Dear Mr. West:

You have requested an opinion from this Office as to the terms of office of the present members of the Goose Creek City Council as well as the Mayor thereof. In my opinion, the Mayor serves a four-year term, three of the six Council members serve four-year terms and the remaining three Council members begin with two-year terms.

Section 47-92, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), provides in part:

The mayor and councilmen of each municipality shall be elected for terms of two or four years which shall be set in the case of four year terms so that not more than one half of the council and mayor shall be elected in the same general election; provided, that, in the first election after . . . adoption of a form of government pursuant to § 47-26, one half of the councilmen may be elected for terms of two years and one half of the councilmen and the mayor may be elected for terms of four years if necessary to establish staggered terms. . . .

Inasmuch as Goose Creek City Council members as well as the Mayor served two year terms before the adoption of the mayor-council form provided for in Sections 47-60 through 47-63 of Act No. 283 of 1975, the 'home rule' legislation, one-half of the Council members must begin with two-year terms initially in order to establish staggered terms. As far as determining which Council members are to begin with two-year terms, the authorities state:

Where officers are elected at the same time to fill terms of varying length, and the statute indicates no method of determining which officers are elected for the longer term, the fact that one of the officers receives a larger number of votes does not entitle him to the longer period, and it has been held that an agreement between the officers is a proper method of deciding the question. 67 C.J.S. Officers § 44 at 197-198. [Footnotes omitted.]

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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