

1976 WL 30847 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 22, 1976

*1 Robert L. Stoddard, Esquire
Attorney at Law
Post Office Box 5178
Spartanburg, South Carolina 29304

Dear Mr. Stoddard:

You have requested an opinion from this Office as to whether or not a city council member other than a mayor or mayor pro tempore can serve as municipal judge during his term of office as a councilman. In my opinion, he cannot.

Section 47-52, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), provides in part as follows:
. . . No mayor or councilman shall be so elected or appointed to serve as municipal judge during his term of office. . . .
[Emphasis added.]

Although Section 47-52 specifically excepts from its prohibition a mayor (and, thus, impliedly, a mayor pro tem) who presides over a mayor's court in his capacity as mayor, there is no such exception for a city council member. Moreover, Section 47-47 of the Code (Cum. Supp.) prohibits a councilman (and mayor) from holding any other municipal office or employment while serving his term as councilman, except as otherwise authorized by law. For these reasons, I think that it is clear that a city council member cannot serve as municipal judge during his term of office on the council.

You have also requested an opinion as to whether or not there presently exist any limitations on the amount of taxes which a municipality can levy for operational purposes. Other than the constitutional requirement that they be levied for corporate purposes [Article X, Section 5 of the South Carolina Constitution of 1895, as amended] and the proposed constitutional amendment which, if approved, specifies assessment rates for various classifications of property [Act No. 750 of 1976, appearing in Advance Sheet No. 7 (October 18, 1976) of the 1976 Acts and Joint Resolutions], there are no other limitations of which I am aware on the amount of taxes which a municipality can levy for operational purposes.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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