

1976 WL 30907 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 17, 1976

*1 Mr. Matthew Poliakoff
Attorney at Law
Post Office Box 1702
Spartanburg, South Carolina 29304

Dear Mr. Poliakoff:

You have requested an opinion from this Office as to whether or not the mayor in the mayor-council form of municipal government has the authority to appoint employees in appointive offices. Section 47-62(1), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), authorizes the mayor to appoint:

. . . appointive administrative officers provided for by or under this chapter, except as otherwise provided by law, or personnel rules adopted pursuant to this chapter.

Under this language, then, if an appointive office is provided for by statute, the appointment of the official who occupies that office must be made pursuant thereto. See, e.g., §§ 47-97 and 47-98, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.).

In a letter to Mayor Blakely dated December 16, 1976, a copy of which is enclosed herewith, I advised him that the term 'law' appearing in Section 47-62(1) of the Code does not have reference to a municipal ordinance. I would further advise that the phrase 'personnel rules adopted pursuant to this chapter' does not authorize the council in the mayor-council form of municipal government to pass an ordinance depriving the mayor of the appointment and removal authority vested in him by the provisions of Section 47-62(1) of the Code. In my opinion, that phrase has reference to personnel policies and procedures which, if adopted, can regulate the hiring and firing of municipal employees and officials without taking away from the mayor his powers in those areas under the mayor-council form of municipal government.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

1976 WL 30907 (S.C.A.G.)

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.