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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY MCMASTER
ATTORNEY GENERAL

April 22, 2005

The Honorable Nancy C. Lawson
Member, Lockhart Town Council
P. O. Drawer 250
Lockhart, South Carolina 29364

Dear Ms. Lawson:

In a letter to this office you indicated that you are a member of the Union County Drug and Alcohol Commission and have recently been elected to serve on the Lockhart Town Council. You have questioned whether holding both positions constitutes dual office holding.

Article XVII, Section 1A of the South Carolina Constitution provides that "no person may hold two offices of honor or profit at the same time ..." with exceptions specified for an officer in the militia, a member of a lawfully and regularly organized fire department, a constable, or a notary public. For this provision to be contravened, a person concurrently must hold two offices which have duties involving an exercise of some portion of the sovereign power of the State. Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its duties or salary, or require qualifications or an oath for the position. State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 (1980).

This Office has advised on numerous occasions that a member of a city or town council would be considered an officer for dual office holding purposes. See, Ops. S.C. Atty. Gen. March 21, 2005; April 12, 1998; June 12, 1995; February 4, 1994; July 23, 1993; July 24, 1991. This Office has also consistently opined that a board members for county commissions on alcohol and drug abuse are officers for purposes of dual office holding. Ops. S.C. Atty. Gen. dated June 7, 2004; May 6, 1992; January 17, 1985; February 13, 1984; March 6, 1989; and December 10, 1991). As a result, it is my opinion that an individual may not simultaneously serve as a member of the Union County Drug and Alcohol Commission and as a councilperson on the Lockhart Town Council without violating the dual office holding prohibition of the State Constitution.

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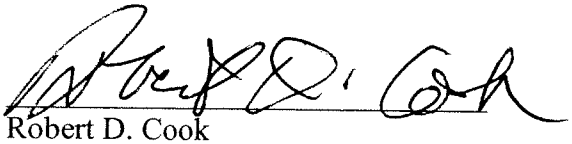
If there are any questions, please advise.

Sincerely,

Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General