

1979 WL 42946 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 19, 1979

*1 Honorable McKinley Washington, Jr.
Member
House of Representatives
State House
Columbia, South Carolina

Dear Representative Washington:

In response to your request for an opinion from my Office as to whether or not the Mayor of the Town of Ravenel, South Carolina can be removed from office by popular recall, there is no provision in the laws of South Carolina for the removal of a public official by popular recall. [Section 5-7-200\(a\) of the 1976 Code](#) states the grounds for forfeiture of office of mayor or city councilman. The grounds include (1) if the mayor lacks at any time during his term of office any qualification for the office prescribed by the general law and the Constitution; (2) if the mayor violates any express prohibition of Chapters 1 to 17; or (3) if the mayor is convicted of a crime involving moral turpitude. Although [Section 5-7-210 of the 1976 Code](#) provides that the city council is to be the judge of the grounds for forfeiture of council members, the council, most probably, does not have the authority to declare the office of mayor forfeited under this provision. Indeed, the Honorable Julius H. Baggett, Judge of the Eleventh Judicial Circuit, ruled this week that the City Council of South Congaree, South Carolina did not have the authority to declare the mayor's office forfeited. While that decision does not come from a court of last resort, I feel constrained to abide by that ruling until and unless the State Supreme Court decides otherwise.

Very truly yours,

Daniel R. McLeod
Attorney General

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