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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

October 27, 1997

The Honorable Ann Stevens
Mayor, Town of Carlisle
P.O. Box 305
Carlisle, South Carolina 29031

Re: Informal Opinion

Dear Mayor Stevens:

Your recent opinion request has been forwarded to me for reply. You have advised this Office that a member of the Carlisle Town Council has pled guilty to the crime of disorderly conduct. In light of this guilty plea, you ask whether this member of council has forfeited his office or if he may be removed from office.

Pursuant to Section 5-7-200(a)(3), a member of municipal council shall forfeit his office if he is convicted of a crime of moral turpitude. However, the crime of disorderly conduct is not a crime of moral turpitude. State v. LaBarge, 275 S.C. 168, 268 S.E.2d 278 (1980). Accordingly, since disorderly conduct is not a crime of moral turpitude, the fact that a member of town council pled guilty to that crime would not automatically result in forfeiture of office.

As to your question of removal, the South Carolina Code contains various provisions as to removal or suspension of certain public officials. At this time, however, none of these sections seem to apply to the situation raised in your request. Section 1-3-240 et seq. provides a procedure whereby the Governor may remove county or state officers guilty of misconduct, persistent neglect of duty, and the like. Section 8-1-100 gives the Governor the discretion to suspend any state or county officer indicted for any crime. The preceding two sections address county and state officers and not municipal officers such as members of town council. Section 8-1-110 permits the Governor to suspend public officials deemed "probably guilty of embezzlement," upon indictment.

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Article VI, § 8 of the State Constitution permits the Governor to suspend certain officers of the State or its political subdivisions when those officers are indicted for embezzlement, misappropriation or a crime of moral turpitude.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,

A handwritten signature in cursive script that reads "Paul M. Koch".

Paul M. Koch
Assistant Attorney General