

1984 S.C. Op. Atty. Gen. 185 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-71, 1984 WL 159878

Office of the Attorney General

State of South Carolina

Opinion No. 84-71

June 21, 1984

*1 A. Glenn Greene, Jr., Esquire
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Attorneys at Law
220 East Main Street
P. O. Drawer 398
Latta, South Carolina 29565

Dear Mr. Greene:

Mr. Medlock has referred your recent letter to me for reply. You have stated that the Town of Latta has a municipal ordinance that requires a candidate to municipal office to have resided in the Town six (6) months and that electors must have resided in the Town four (4) months before an election. You have stated that a petition candidate is running for councilman and will not meet the four month or six month requirement; however, he will have resided in the Town for at least thirty days before the election. You have inquired if the ordinance requiring six month residency is invalid, then how long before filing his petition must a potential candidate have resided within and been a registered elector of a municipality.

[Article II, Section 5 of the South Carolina Constitution](#) provides that

[m]unicipal electors shall possess the qualifications prescribed in the Constitution, but each such elector must have resided in the municipality in which he offers to vote for thirty days next preceding the election. (Emphasis added.)

The General Assembly has amended South Carolina Code of Laws, 1976, Section 7-5-610(3) to provide that a person may vote in a municipal election when he has resided within the Town for thirty (30) days prior to the election. (R. 308 of 1984).

[Article VI, Section 1 of the South Carolina Constitution](#) states that no person shall be elected to any office in this State unless he possesses the qualifications of an elector. Our Office has interpreted this provision to mean that in order for a person to be elected to public office in this State, he must not only be a qualified elector, but he must be a qualified elector in the municipality in which he would be elected. A qualified elector is defined as a person who is legally registered to vote.

The following cases decided by the South Carolina Supreme Court, although not directly in point, clearly indicate that it is a necessary requirement in South Carolina for a person to be a qualified elector in the area in which he is to be elected. [State v. City Council of Union](#), 95 S.C. 131; [Rawl v. McGowan](#), 97 S.C. 1; [Thomas v. MacKlen](#), 186 S.C. 290. And reasonable residency requirements have been consistently upheld as constitutional. See, [Marston v. Lewis](#), 410 U.S. 679 (1973); [Burns v. Fortson](#), 410 U.S. 686 (1973); [Carrington v. Rash](#), 380 U.S. 89; [Dunn v. Blumstein](#), 405 U.S. 330.

In order to be a qualified candidate in a municipality, a person must be eligible to vote in the election that elects him. [State ex rel. Kulp v. City Council of Union](#), 95 S.C. 131. Therefore, a person must be registered to vote thirty days before the municipal election in order to be a qualified candidate.

Sincerely,

Treva G. Ashworth

*2 Senior Assistant Attorney General

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