

1983 WL 181711 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 17, 1983

*1 R. Murray Hughes, Esquire
Attorney at Law
Post Office Box 396
Pickens, South Carolina 29671

Dear Mr. Hughes:

You have requested the opinion of this Office on the question of whether a person serving concurrently as a Municipal Recorder and a City Attorney would be in violation of the provisions of the South Carolina Constitution prohibiting dual office holding.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) that ‘ . . . no person shall hold two offices of honor or profit at the same time.’ For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171 \(1907\)](#). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. [State v. Crenshaw, 266 S.E.2d 61 \(1980\)](#).

This Office has issued previous opinions concerning both the positions of Municipal Recorder and City Attorney. The attached opinion dated May 4, 1977, demonstrates the view that has been taken previously on the position of City Attorney. That opinion reasons that since the appointment of municipal attorneys is authorized by statewide statute, it is an office under the dual office holding provisions of the Constitution. As well, past opinions have consistently concluded that the position of Municipal Recorder is an office for dual office holding purposes. [See, 1957 Op. Att’y. Gen. 103; 1974 Op. Att’y. Gen. 3778; and Opinion dated May 5, 1977 to C. P. Brewer \(copies enclosed\)](#).

Based on the foregoing, it is the opinion of this Office that the simultaneous holding of the offices of City Attorney and Municipal Recorder would contravene the provisions of the South Carolina Constitution prohibiting dual office holding.

Very truly yours,

Helen T. Zeigler
Assistant Attorney General

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