

1983 WL 181975 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 23, 1983

*1 Lauraette K. Hensley
Clerk of the Town of South Congaree
Municipal Office Building
1633 Berry Road
South Congaree, South Carolina 29169

Dear Ms. Hensley:

You have requested the opinion of this office on the question of whether it would be a violation of the dual office holding provisions of the South Carolina Constitution for the Town Clerk of the Town of South Congaree to also serve as a city council member for the Town of Pine Ridge.

[Article XVII, § 1A of the South Carolina Constitution](#) provides 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, 58 S.E. 762 (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](#), 274 S.C. 475, 266 S.E.2d 61 (1980).

In a previous opinion directly on point (copy enclosed), this office has determined that [§ 5-7-180, Code of Laws of South Carolina \(1976\)](#), prohibits a city council member from holding another municipal office or other municipal employment in any municipality, even if the positions are in two different municipalities; see also, [§ 5-7-220 as amended](#) (municipal clerk an officer). This being the case, we do not have to reach the issue as to whether this constitutes dual office holding under the South Carolina Constitution.

Sincerely,

Carol P. Black
Staff Attorney

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