

1982 WL 189251 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 13, 1982

*1 Stephen A. Kern, Esquire
Greenville City Attorney
Post Office Box 2207
Greenville, South Carolina 29602

Dear Mr. Kern:

In response to your request concerning municipal civil service commissions created pursuant to [Sections 5-19-110, et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, I can advise you as follows:

1. In a municipality with a civil service commission, that commission, not the municipal council, is to dismiss a fire chief or a police chief pursuant to [Sections 5-19-110 et seq.](#) of the Code. The municipal 'home rule' legislation itself recognizes that a municipal council does not automatically hire and fire all municipal employees and appointive administrative officers. See, §§ 5-9-30(1) and 5-13-90(1), [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended ('except as otherwise provide by law'); cf., § 5-19-290, [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended.
2. I agree with your conclusion that [Section 5-19-110 et seq.](#) of the Code are permissive rather than mandatory because of the use of the word 'may.' Accordingly, a municipality which creates a civil service commission by ordinance can abolish it by ordinance. [Wright v. Florence](#), 229 S.C. 419, 93 S.E.2d 215 (1956). It cannot, however, vary from the provisions of [Sections 5-19-110 et seq.](#) if it decides to retain a civil service commission.

I am enclosing a copy of an earlier opinion which discusses other aspects of the civil service commissions created by [Sections 5-19-110 et seq.](#)

With kind regards,

Karen LeCraft Henderson
Deputy Attorney General

1982 WL 189251 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.