

1980 WL 120722 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 18, 1980

\*1 David C. Norton, Esquire  
Isle of Palms City Attorney  
Isle of Palms, South Carolina 29451

Dear Mr. Norton:

In response to your recent request for an opinion from this Office as to whether or not the Isle of Palms City Council (Council) is authorized to make an appointment to office upon the failure of the mayor to do so, my opinion is that it is not so authorized as hereinafter discussed.

[Section 5-9-30\(1\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, vests the appointment power in the mayor in the mayor-council form of municipal government as follows:

to appoint . . . all municipal employees and appointive administrative officers provided for by or under Chapters 1 through 17, . . .

My understanding is that the Council created the appointive office of playground director, which the mayor has failed to fill. While a mandamus proceeding may lie against the mayor [[see generally](#), 52 AM.JUR.2d [Mandamus](#) § 275 (1970); [Wampler v. State](#), (Ind.) 47 N.E. 1068] to compel him to exercise his power of appointment or his failure to act may be grounds for removal from office [[see generally](#), 52 AM.JUR.2d [Mandamus](#) § 54 (1970); [see also](#), §§ 5-7-200(a)(2) and [§ 5-9-30\(4\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended], I know of no express authority by which the Council can make an appointment in his stead.

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

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