

1980 WL 121008 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 19, 1980

*1 T. H. Rawl, Jr., Esquire
Attorney at Law
Post Office Box 846
Lexington, South Carolina 29072

Dear Mr. Rawl:

In response to your request for an opinion from this Office as to whether or not a vacancy occurs when a county council member no longer resides in the single member election district from which he was elected, the general authorities state that a residency requirement is in derogation of the common law and must expressly stated. 29 C.J.S. Elections § 130; 63 AM.JUR.2d Public Officers and Employees 47. The legislation specifying the method of election for members of the Lexington County Council does not expressly make continuing residency throughout the term of office a requirement. 59 STAT. 2427 (1976); cf., § 5-15-20(2), CODE OF LAWS OF SOUTH CAROLINA, as amended, 1976. Nevertheless, it can be argued with force that continuing residency is an implied requirement because a county council member must be an elector in order to be elected and he would no longer be an elector (at least of the district from which he was elected) if he moved out of that district.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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