

1977 WL 37056 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 13, 1977

\*1 The present Orangeburg County Council cannot preclude future councils from amending or repealing an ordinance of the present Council in the absence of a constitutional prohibition.

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### QUESTION

Can the present Orangeburg County Council obligate succeeding councils to earmark a prescribed tax levy and funds therefor to hospital purposes?

### DISCUSSION

We find no authority for such and the accepted rule is that:

'\* \* \* it is elementary that acts of a legislature do not limit the power of future legislatures \* \* \*.' [Toomer v. Witsell](#), 73 F. Supp. 371, 68 S. Ct. 1156, 334 U. S. 385, 92 L. Ed. 1460.

'Subject to constitutional limitations the legislature has plenary power to amend statutes.' [Boatwright v. McElmurray](#), 247 S. C. 199, 146 S. E. 2d 716.

'It is a general rule, subject to certain qualification hereinafter noted, that a municipal council has the right to reconsider its action and adopt an ordinance or measure that has previously been defeated, or rescind one that has previously been adopted, at any time before the rights of third parties have vested.' 56 Am. Jur. 2d, [Municipal Corp., etc.](#) Sec. 352, p. 379.

It is thus evident that the power to enact ordinances by future councils cannot be defeated by an action of the present Council, absent constitutional prohibition.

### CONCLUSION

It is the opinion of this office that the present Council cannot preclude future councils from amending or repealing an ordinance of the present Council in the absence of a constitutional prohibition; in example, the impairment of a contract. A pledge of a tax levy by the present Council could therefore be changed by a succeeding council.

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