

1979 WL 43042 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 1, 1979

\*1 Albert M. Sparrow, Jr., Esquire  
City Attorney  
311 Washington Street  
Abbeville, South Carolina 29620

Dear Mr. Sparrow:

You have recently requested the opinion of this Office on whether the special election required by [§ 5-7-200\(b\)](#), [Code of Laws of South Carolina](#), 1976, can be waived. As I understand the facts stated in your request, a member of the Town Council of Calhoun Falls has resigned or will resign, and the vacancy created thereby occurred or will occur at least 200 days prior to the next general municipal election.

Subsection (b) of [§ 5-7-200](#) provides:

A vacancy in the office of . . . council shall be filled for the remainder of the unexpired term at the next regular election or at a special election if the vacancy occurs one hundred eighty days or more prior to the next general election. [Emphasis Added]

This language is unequivocal and is clearly intended to be mandatory. Therefore, it cannot be waived.

Based on the foregoing, it is the opinion of this Office that if a vacancy occurs on a municipal council one hundred eighty days or more prior to the next general municipal election, the vacancy must be filled at a special election which cannot be waived.

Sincerely,

James M. Holly  
State Attorney

1979 WL 43042 (S.C.A.G.)

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.