

1978 WL 34982 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 14, 1978

*1 The Honorable James M. Waddell, Jr.

Senator

Senatorial District No. 15

Box 1026

Beaufort, South Carolina 29902

Dear Senator Waddell:

You have requested an opinion whether Beaufort County Council can amend an ordinance relating to appropriations without going through the same process by which the original ordinance became law. In our opinion, an amendment to any ordinance must likewise be made by ordinance. However, there need not be a public hearing on the amendment ordinance.

In this State, an ‘. . . ordinance cannot be amended or repealed by mere resolution. To accomplish that result, a new ordinance must be passed. Some jurisdictions, moreover, have held that the same formalities necessary to the enactment of an ordinance must be observed in its repeal or amendment.’ [Central Realty Corp. v. Allison](#), 218 S.C. 435, 446, 63 S.E.2d 153 (1951), quoting 37 Am.Jr. 835. Although the case law requires the amendment to be an ordinance, the Home Rule Act appears not to require a public hearing prior to the enactment of the amendment ordinance. § 4-9-130, S.C. CODE, 1976. The hearing required by that code section to be held prior to adoption of the annual budget would already have been held prior to the adoption of the original budget. Therefore, the ordinance relating to appropriations may be amended only by ordinance; however, there appears to be no requirement for a public hearing on that amendment ordinance.

Sincerely yours,

David C. Eckstrom

Staff Attorney

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