

1975 WL 29812 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 15, 1975

\*1 Stephen E. Darling, Esquire  
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Attorneys at Law  
Post Office Box 340  
Charleston, South Carolina 29402

Dear Mr. Darling:

Mr. McLeod has referred your letter regarding the adoption of the uniform Municipal Election Law by Hanahan to me for reply. The only question I have concerning your letter to Mr. Smith is your statement on page three that the Terms of office for the mayor and councilmen elected under the provisions of this ordinance shall commence on July 1, immediately subsequent to the elections previously held.

From what I understand the election will be held pursuant to South Carolina Code of Laws, 1962, as amended, Section 47-57.14 on the first Tuesday in May and you are counseling that the elected officials will not take office until July. I have no knowledge as to whether or not Hanahan has also adopted the Municipal Nominations and Elections provisions found at Section 47-57 *et seq.*; however, if they have the elections would expressly come within the provisions of Section 47-215. Section 47-215 states in part:

... the newly elected officers shall not qualify within forty-eight hours after the closing of the polls, and in case a contest is filed, the old officers shall hold over until the contest is finally determined.

It would appear that the meaning of this statute is that the newly elected officers are to take office forty-eight hours after the closing of the polls and the old officers shall hold-over only in the event of a contest. If Hanahan has not adopted this specific provision it may still be expressly applicable to Hanahan pursuant to Section 47-57.16. Additionally, the generally accepted rule is that officers will assume office as soon as they do qualify. I only raise this question in case it is a point you had not considered. However, it is equally true that certain statutes expressly set dates for assuming a specified office subsequent to the election, i.e., constitutional officers.

Very truly yours,

Treva G. Ashworth  
Assistant Attorney General

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