

1974 WL 27848 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 9, 1974

***1 Re: Municipal Election Laws.**

Mrs. Mary Dusenberry
11 Lakeview Circle
Clemson, South Carolina

Dear Mary:

You have requested that this Office advise you as to the following:

1. Can the municipality of Clemson adopt an ordinance providing for municipal elections, other than in accordance with the provisions of Section 47-57.11 Code of Laws of South Carolina, 1973, Cum. Supp. commonly known as Uniform Municipal Election Law?
2. After the initial election what offices are filled immediately, and who is entitled or eligible to participate in the run-off election?

In answer to your first question, it is the established law of this State that a municipal ordinance may validly be enacted so long as the same does not conflict with the applicable State law. [Law vs. City of Spartanburg, 148 S.C. 229, 146 S.E. 12; Tate vs. Solomon 245 S.C. 550; 141 S.E. 2d 818.](#)

Inasmuch as the State law does expressly provide for a uniform municipal election process through the provisions of Section 47-57.11 it is necessarily the opinion of this Office that a municipal ordinance in conflict therewith can not validly co-exist, and if such were enacted it would be invalid.

As to your second question, Section 47-57.14, pertaining to second elections state that each office in which a candidate did not receive a majority of the votes cast, the second election shall be between the two candidates receiving the highest number of votes which were cast. This in effect means that those candidates which received 51% or more of the votes cast in the initial election will be elected at that time. The remaining candidates which will qualify for the second election will be twice the number of candidates as there are seats available, so that there will be two candidates running for each available seat. The candidates running in the second election will be those which have the highest number of votes cast in the initial election.

Mary, I have enclosed Section 47-57 through Section 47-57.6 of the Code of Laws which you requested. I hope this will be of some assistance to you.

I apologize for the delay in answering your request for an opinion, and the difficulty we discussed concerning this has been cleared.

I enjoyed seeing you when you were in Columbia, and I look forward to the time in which I can say that I am friends with the first lady mayor for the Town of Clemson.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

1974 WL 27848 (S.C.A.G.)

End of Document

© 2019 Thomson Reuters. No claim to original U.S. Government Works.