



HENRY McMASTER  
ATTORNEY GENERAL

July 10, 2009

Joseph L. Mathis, Esquire  
Cherokee County General Counsel  
210 South Limestone Street, Suite 1  
Gaffney, South Carolina 29340-3014

Dear Mr. Mathis:

In a letter to this office you indicated that Cherokee County operates an animal shelter and there have been discussions regarding an agreement pursuant to S.C. Code Ann. § 47-3-480(A)(2). That provision states that

(A) [a] public or private animal shelter, animal control agency operated by a political subdivision of this State, humane society, or public or private animal refuge shall make provisions for the sterilization of all dogs or cats acquired from the shelter, agency, society, or refuge by:

(1) providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or

(2) entering into a written agreement with the person acquiring the animal guaranteeing that sterilization will be performed by a licensed veterinarian within thirty days after acquisition of a sexually mature animal or no later than six months of age except upon a written statement issued by a licensed veterinarian stating that such surgery would threaten the life of the animal.

You have questioned to what extent, if any, does the County remain involved or responsible if an agreement is made pursuant to Section 47-3-480(A)(2)? In other words, do the provisions of that section which allow an agreement to be made, relieve the County of all responsibility and liability once the animals are released to an agency or person through an agreement entered pursuant to that provision? Additionally, you question whether if the County is relieved at the point of release

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pursuant to such an agreement, does the County have any further responsibility to insure compliance with Section 47-3-480(A)(2) or S.C. Code Ann. § 47-3-480(D) by the person or agency acquiring the animals? The latter provision states that

[a] person acquiring an animal from a shelter, an agency, a society, or a refuge which is not sterile at the time of acquisition shall submit to the shelter, agency, society, or refuge a signed statement from the licensed veterinarian performing the sterilization required by subsection (A) within seven days after sterilization attesting that the sterilization has been performed.

In the opinion of this office, the provisions of Section 47-3-480(A)(2) in allowing an agreement to be made with the person acquiring the animal which guarantees sterilization will be performed within the specified time limit relieves the County of all responsibility and liability once the animal is released. Support for such construction is found in the provisions of S.C. Code Ann. § 47-3-490 which state that

[a] person who fails to comply with Section 47-3-480(A)(2) or 47-3-480(D) must forfeit ownership of the dog(s) or cat(s) acquired from the shelter, agency, society, or refuge which adopted the animal to the owner. In addition to forfeiting ownership, the person who acquired the animal must pay to the shelter, agency, society, or refuge the sum of \$200.00 as liquidated damages. Such remedies shall be in addition to any other legal or equitable remedies as may be available to the shelter, agency, society, or refuge for breach of the written agreement as provided for in Section 47-3-480(A)(2) or failure to comply with Section 47-3-480(D).

Such construction is consistent with a prior opinion of this office dated June 23, 2009, a copy of which is enclosed, dealing with the release of animals to a Humane Society.

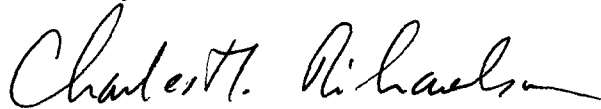
You further questioned whether if the County is relieved at the point of release pursuant to such an agreement, does the County have any further responsibility to insure compliance with Section 47-3-480(A)(2) or S.C. Code Ann. § 47-3-480(D) by the person or agency acquiring the animals? Based upon review of the provisions of S.C. Code Ann. §§ 47-3-470 et seq., in the opinion of this office, the County would not have any further responsibility to insure compliance with the referenced statutes. In the opinion of this office, the statutory requirements of a written agreement by the person acquiring the animal guaranteeing sterilization, as set forth in Section 47-3-480(A)(2) and the requirement of subsection (D) of such provision requiring the submission of a signed statement from a veterinarian performing the sterilization, in addition to the penalty of Section 47-3-490 for failure to comply, would appear to absolve the County of any further responsibility to insure compliance with the referenced provisions.

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With kind regards, I am,

Very truly yours,

Henry McMaster  
Attorney General

A handwritten signature in black ink, appearing to read "Charles H. Richardson". The signature is fluid and cursive, with a long horizontal stroke at the end.

By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in black ink, appearing to read "Robert D. Cook". The signature is cursive and somewhat stylized, with a horizontal line drawn underneath it.

Robert D. Cook  
Deputy Attorney General