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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

July 17, 2001

The Honorable Davis R. Parkman  
Chief Magistrate, Edgefield County  
P.O. Box 664  
Edgefield, South Carolina

**Re: Your Letter of June 19, 2001  
Town Ordinances - Traffic Regulation**

Dear Magistrate Parkman:

In your above-referenced letter, you "request a written opinion on Towns that have passed city ordinances on speed restrictions or careless driving." By way of background, you indicate that "... three towns within close proximity of Edgefield County have town ordinances that they use at their discretion rather than charging an individual under the state code 56-5-1520." Your question relates to the propriety of such ordinances in light of the general statewide requirements concerning speed limits as set out in §56-5-1520.

Pursuant to S.C. Code Ann. § 5-7-30, municipalities are authorized to enact ordinances "... not inconsistent with the Constitution and general law of this State, including the exercise of such powers in relation to roads, streets, ... law enforcement ...." As a general rule, an ordinance of a municipality will be presumed valid in the same way that a statute enacted by the General Assembly is entitled to a presumption of correctness. As this Office stated in an Opinion dated May 23, 1995:

[a]ny municipal ordinance adopted pursuant to Section 5-7-30 [of the Code] is presumed to be valid. Town of Scranton v. Willoughby, 306 S.C. 421, 412 S.E.2d 424 (1991).

Thus, an ordinance will not be declared invalid unless clearly inconsistent with the general law. See Hospitality Ass'n of S.C. v. County of Charleston, 320 S.C. 219, 224, 464 S.E.2d 113, 116 (1995).

In an opinion dated February 16, 1988 (copy enclosed), this Office issued an opinion on

*Respectfully,  
Charlie Condon*

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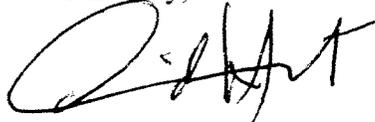
virtually the same issue raised in your letter. In reviewing a Florence municipal ordinance concerning "careless operation" of a vehicle, this Office recognized the authority of the municipality to enact ordinances in relation to roads and streets, but also noted that Chapter 5 of Title 56 of the Code is the "Uniform Act Regulating Traffic on Highways" and that §56-5-30 provides:

(t)he provisions of this chapter shall be applicable and uniform throughout this State and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance, rule or regulation in conflict with the provisions of this chapter unless expressly authorized herein. Local authorities may, however, subject to the limitations prescribed in § 56-5-930, adopt additional traffic regulations which are not in conflict with the provisions of this chapter.

The February 16, 1988 opinion concluded that, while municipal ordinances which avoid the assessment of administrative penalties such as those imposed by §56-5-720 (uniform point system) appear to conflict with state law regulating the operation of motor vehicles, it could not be definitively said that the "ordinance is so inconsistent with state statutory provisions regulating traffic as to preclude enforcement of such ordinance." The opinion went on to state that perhaps judicial review is necessary to "determine the issue ... with finality." Given the presumption of validity assigned to such ordinances, this remains the opinion of this Office.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant  
Assistant Attorney General

DKA/an  
Enclosure