

1984 WL 249835 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 23, 1984

\*1 The Honorable Paul E. Short, Jr.  
Member  
House of Representatives  
126 Main Street  
Chester, South Carolina 29706

Dear Representative Short:

Attorney General Medlock has referred your letter of February 9, 1984, to me for response. By your letter you asked for advice concerning whether a public hearing must be held by Chester County Council before final action is taken to adopt an animal control ordinance.

[Section 4-9-130, Code of Laws of South Carolina](#) (1983 Cum.Supp.) contains the following provisions for public hearings in the process of ordinance adoption:

Public hearings, after reasonable public notice, must be held before final council action is taken to:

- (1) adopt annual operational and capital budgets;
- (2) make appropriations, including supplemental appropriations;
- (3) adopt building, housing, electrical, plumbing, gas and all other regulatory codes involving penalties;
- (4) adopt zoning and subdivision regulations;
- (5) levy taxes;
- (6) sell, lease or contract to sell or lease real property owned by the county.

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(Emphasis added.) Animal control ordinances do not appear in the list. <sup>1</sup>

Use of the term 'must' may be construed as 'shall.' See [Moore v. Waters](#), 148 S.C. 326, 146 S.E. 92 (1928), and cases in 27A Words and Phrases, 'Must' p. 649 et seq. Where statutes use the terms 'must' or 'shall,' such terms connote mandatory compliance with the statutes. 2A [Sutherland Statutory Construction](#) § 57.03. Such a construction imposing mandatory duties is particularly warranted where, as here, the statute's purpose would be protection of a public right. Cf. [South Carolina Wildlife Federation v. Alexander](#), 457 F. Supp. 118 (D.S.C. 1978). Thus, for the six enumerated areas in which an ordinance may be adopted, a public hearing, after reasonable public notice, is required to be held.

Where, as here, the statute contains a list of specific instances in which a public hearing is required to be held, there is an inference that all omissions should be understood as exclusions. 2A [Sutherland Statutory Construction](#) § 47.23. Because animal control ordinance are not included among the specific items listed, it is inferable that a public hearing is not required during the

adoptive process of such an ordinance, unless such an ordinance could be construed as fitting into one of the specific categories. Cf., [Home Building & Loan Assn. v. City of Spartanburg](#), 185 S.C. 313, 194 S.E. 139 (1937).

Based on the above discussion, it is the advice of this Office that Chester County Council is not required by statute to conduct a public hearing prior to final council action on an animal control ordinance, though that body would not be precluded from doing so if desired.

Sincerely,

Patricia D. Petway  
Staff Attorney

Footnotes

- 1 Arguably, an animal control ordinance could be considered a regulatory ordinance under part (3) if a penalty is provided for violation thereof; though legislative intent is not entirely clear, it appears that part (3) refers to such regulatory codes as the Southern Building Code, National Electrical Code, Southern Housing Code, and other similar standard codes as mentioned in [Section 6-9-60 of the South Carolina Code](#). See 2A [Sutherland Statutory Construction](#) § 47.17; [Johnson v. Pratt](#), 200 S.C. 315, 20 S.E. 2d 865 (1942).

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