

1984 WL 249962 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 15, 1984

*1 Louis B. Mathis
Mayor
Town of Timmonsville
Post Office Box 29161
Timmonsville, South Carolina 29161

Dear Mayor Mathis:

Mr. Medlock has referred your letter to me regarding the legality of a Timmonsville Town ordinance which was enacted pursuant to the provisions of South Carolina Code of Laws, 1976, Section 5-7-250(b). We requested the views of Mr. McGowan, the Town Attorney, which we have received. It is Mr. McGowan's opinion that the ordinance is 'lawful and proper.'

The ordinance, Ordinance No. 175, provides in pertinent part as follows:

[a]ll actions of Council shall be by a majority of the votes cast by those members present and voting, and abstentions shall not be counted as a vote for or against the motion.

This ordinance appears to follow general parliamentary procedure. In Roberts Rules of Order, Newly Revised, Scott, Foresman and Company, § 44, pages 344-345, it is stated that

[a]lthough it is the duty of every member who has an opinion on a question to express it by his vote, he can abstain, since he cannot be compelled to vote.

See also, § 44, page 354, which provides that

[e]ach member, as his name is called, rises and responds in the affirmative or negative . . . If he does not wish to vote he answers present (or abstain).

Therefore, we would agree with Mr. McGowan that the provisions of the Ordinance appear to be a proper adoption of parliamentary law.

Sincerely,

Treva G. Ashworth
Senior Assistant Attorney General

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