

88916 Library



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

January 26, 2006

R. Allen Young, Esquire  
Mount Pleasant Town Attorney  
Post Office Box 745  
Mount Pleasant, South Carolina 29485

Dear Mr. Young:

In a letter to this office you indicated that the Town of Mount Pleasant is considering an ordinance requiring smoke free restaurants within the corporate limits of the Town. You referenced the requirements of this State's "Clean Indoor Air Act", S.C. Code Ann. §§ 44-95-10 et seq., where pursuant to Section 44-95-20

It is unlawful for a person to smoke or possess lighted smoking material in any form in the following public indoor areas, except where a smoking area is designated as provided for in this section....

Thereafter, certain areas are particularly designated "public indoor areas" in which it is unlawful to smoke. You have questioned whether a privately owned restaurant fits within the definition of a "public indoor area" for purposes of such Act and whether further municipal action is preempted by such legislation.

Section 44-95-20 specifically designates certain facilities or areas as locations in which it is unlawful to smoke except where a smoking area is designated as set forth by such provision. The locations specified are:

(1) public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held including libraries. Private offices and teacher lounges which are not adjacent to classrooms or libraries are excluded. However, this exclusion does not apply if the offices and lounges are included specifically in a directive by the local school board. This section does not prohibit school district boards of trustees from providing for a smoke-free campus;

*Request*

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the corporate limits as restaurants are not specifically provided as locations in which smoking is prohibited.

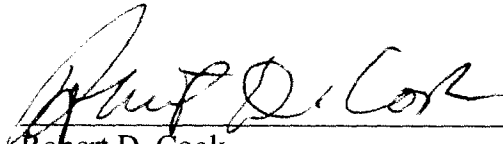
If there are any questions, please advise.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Richardson".

Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in cursive script, appearing to read "Robert D. Cook".

Robert D. Cook  
Assistant Deputy Attorney General