

October 22, 2007

Bob Schowalter, State Forester  
South Carolina Forestry Commission  
P. O. Box 21707  
Columbia, South Carolina 29221

Dear Mr. Schowalter:

In a letter to this office you referenced a recent Allendale County Ordinance imposing a fire and rescue protection fee on all real property in the county. Such ordinance states:

[t]he owner of real property shall pay annually to the County Treasurer at the same time he pays his Real Property tax bill a fire and rescue protection fee of \$.50 per acre on all real property in Allendale County.

The Allendale county Auditor is hereby authorized and directed to levy upon each parcel of land in Allendale County and the Allendale County Treasurer is directed to collect a fire and rescue protection fee of \$.50 per or any fraction thereof, which shall be used to supplement the County Fire Department.

You stated that “[s]ince this ordinance appears to cover fire protection on agricultural and forest lands, in addition to structures, our Commissioners questioned whether this ordinance conflicts with state statutes that govern the Forestry Commission.”

I am unaware of any provision that would prohibit Allendale County from imposing such a fee as outlined above. Generally, pursuant to S.C. Code Ann. § 4-21-10,

[t]he governing body of any county may by ordinance or resolution provide that the county shall provide fire protection services, ambulance services and medical clinic facilities. Services may be provided by use of county employees and equipment or by contract with municipalities or private agencies. Counties may contract with water and sewer authorities to make provision for fire protection services...A special tax, fee or service charge may be levied against property or occupants thereof in areas receiving such services. Proceeds of such taxes, fees or service charges shall

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be used to defray the cost of providing the particular service for which they are levied, including the fulfillment of contract obligations with municipalities and private agencies. (emphasis added).

Consistent with the above, in the opinion of this office, Allendale County would be authorized to impose the referenced fee on property in that County. I am unaware of any provision which states categorically that a county is preempted by any statute pertaining to the Forestry Commission from providing fire protection.

If there are any questions, please advise.

Sincerely,

Henry McMaster  
Attorney General

By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

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Robert D. Cook  
Assistant Deputy Attorney General