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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

June 2, 1997

Amelia R. Linder, Legal Counsel and Director  
Berkeley County Planning and Codes Enforcement  
223 North Live Oak Drive  
Moncks Corner, South Carolina 29461-3707

Re: Informal Opinion

Dear Ms. Linder:

Your opinion request has been forwarded to me for reply. You ask whether a citizen must be notified before a County Council initiates a zoning reclassification.

Berkeley County initially adopted its Zoning and Development Standards Ordinance (Ordinance) in September of 1987 and has amended the Ordinance on various occasions since that time. The Ordinance was enacted pursuant to Section 6-7-730 of the South Carolina Code of Laws. See, Article 1 of the Ordinance. Section 6-7-730 provides that:

Before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing thereon, which shall be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of such public hearing shall be given in a newspaper of general circulation in the municipality or county.

The Ordinance itself establishes notice procedures. Pursuant to Section 14.3 of the Ordinance, prior to enacting an amendment, County Council shall hold a public hearing thereon, at least fifteen days notice of the time and place of which shall be published in a newspaper of general circulation in the County.

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While both Section 14.3 of the Ordinance and Section 6-7-730 of the Code require that notice by publication be given, neither specifies the particular content for public notices relating to zoning amendments. The South Carolina Court of Appeals has found that subject to general principles of due process, notice must fairly and reasonably apprise those whose rights may be affected of the nature and character of the action. Brown v. County of Charleston/Charleston County Council, 303 S.C. 245, 399 S.E.2d 784 (Ct.App. 1990). No court in South Carolina has addressed whether personal notice is required prior to enacting or amending zoning regulations. However, courts in other states have found that notice by publication of zoning amendment proceedings is proper and adequate insofar as the requirements of procedural due process and equal protection are concerned. Wilson v. City of Snellville, 352 S.E.2d 758 (Ga. 1987); Turner v. City of Atlanta, 357 S.E.2d 802 (Ga. 1987); Village of Riverwoods v. County of Lake, 237 N.E.2d 547 (Ill. 1968); Wells v. Village of Libertyville, 505 N.E.2d 740 (Ill. 1987); Bedford Residents v. Bedford Planning Board, 547 A.2d 225 (N.H. 1988).

To summarize the foregoing, Section 14.3 of the Ordinance and Section 6-7-730 of the Code require that prior to enacting a zoning amendment, notice by publication must be given regarding the holding of a public hearing thereon. This notice must fairly and reasonably apprise those whose rights may be affected of the nature and character of the action.

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 questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch  
Assistant Attorney General