

6483 Liberty



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

April 21, 1998

Greg Holland, Chief of Police  
Jonesville Police Department  
P. O. Box 785  
Jonesville, South Carolina 29353

**Re: Informal Opinion**

Dear Chief Holland:

You have asked for an opinion as to whether a municipal police officer can enforce county ordinances. You provide the following by way of background:

[r]ecently, the Jonesville Police Department has begun a fairly active drug interdiction program. The Town, in and of itself, does not have a "drug paraphernalia" ordinance, nor do we wish to utilize the State's statute, since it is a civil statute.

However, Union County does have an ordinance making the possession of drug paraphernalia a criminal offense, punishable by "any court of competent jurisdiction." The Jonesville Police Department has been making arrests for violations of this ordinance when applicable.

Although we have not been challenged in our Municipal Court, one of the Union County Magistrates, as well as some members of the Union County Sheriff's Department have questioned our legal authority to make such cases.

I have personally queried the Sixteenth Circuit Solicitor's Office as well as the [legal] ... staff at the S.C. Criminal

*Request Letter*

Justice Academy. Both of those offices seem to feel that we do, indeed, have the right and legal authority to enforce Union County Statutes.

I personally would make the "common sense" argument that municipal officers are entitled to enforce Federal and State laws without special permission, and that since Jonesville is situated in Union County, and its citizens are bound to obey Union County laws, the Jonesville Police Department can therefore enforce those laws.

It has been suggested that the Jonesville Town Council adopt in toto the Union County Ordinance Book, and incorporate it into the Town's statutes. I feel, however, that such is unnecessary. The town has adopted the State's traffic law section, but no other section of the S.C. Code. If such an argument were carried to its logical conclusion, our officers could not charge a murderer with murder because the Town has not adopted the entire Code. Such a requirement would be, in my opinion, ludicrous.

#### Law / Analysis

Your question is answered by an Informal Opinion, dated May 20, 1996, which I am enclosing for your review. There, we presumed that the Town of Pickens had not adopted an identical ordinance to that adopted by the county. While we recognized, based upon previous opinions, that a county ordinance was governing only in the unincorporated areas of the County, we also concluded that "a county ordinance could be made applicable to an incorporated area ... by virtue of an agreement between the to political subdivision[s], to the effect that county ordinances are applicable within the city limits." Thus, we agreed with your position that it was not necessary to incorporate the county ordinance within the City Code. The Opinion stated as follows:

[t]he foregoing authorities would indicate that the Sheriff could enforce the ordinance pursuant to any intergovernmental agreement between the City of Pickens and Pickens County. Such agreement is the recognized mechanism for enforcing a county ordinance in the city limits. While our Supreme Court has not given its approval to such agreements in this context, and only a court can decide the matter with

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finality ... it would appear to me that the municipal authorities could also enforce the county ordinance.

We also noted that "a municipality possesses the authority to assign additional duties to its police officers. Accordingly, it would appear that a municipality, through implementation of an agreement between the city and county as outlined above, could assign its police officers the additional duty of enforcing the county ordinance made applicable to the city pursuant to the agreement."

Accordingly, we agree with your position that a county ordinance does not have to be incorporated in the City Code to be enforceable by municipal police officers. This Office believes such ordinance could be enforced by means of a simple agreement between the City and County for joint administration of services. I would suggest that the City Attorney and County Attorney be consulted in this regard concerning the potential execution of such agreement.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy 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 kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/an  
Enclosure