

The State of South Carolina



Office of the Attorney General

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March 28, 1990

T. W. Horton, Jr., Captain
Irmo Fire District
Post Office Box 31
Irmo, South Carolina 29063

Dear Captain Horton:

By your letter of March 13, 1990, you have asked whether the Irmo Fire District may adopt the Southern Building Code Congress' Standard Fire Prevention Code. You have advised that the Irmo Fire District is under contract with the Town of Irmo and Lexington County to provide fire protection services in the relevant portion of Lexington County. While the Town of Irmo has adopted the 1988 Fire Prevention Code, Lexington County has apparently not done so; the enforcement of fire prevention codes by your fire department is thus made more difficult.

The adoption of standard codes by counties and municipalities is authorized in Chapter 9 of Title 6 of the South Carolina Code of Laws (1976 & 1989 Cum. Supp.). In particular, Section 6-9-60 of the Code provides in relevant part:

Municipalities or counties are authorized to adopt by reference only the latest editions of the following nationally known codes for regulation of construction within their respective jurisdictions: ...Standard Fire Prevention Code... .

Counties and municipalities are specifically mentioned, with respect to adoption of such codes, in Sections 6-9-10, 6-9-20, 6-9-30, 6-9-40, 6-9-60, 6-9-80, 6-9-90, 6-9-100, and 6-9-110. Thus, it must be determined whether the Irmo Fire District would be a county or municipality which would be authorized to adopt a standard code such as the Fire Prevention Code.

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The Irmo Fire District was created pursuant to Act No. 387 of 1963 to provide fire protection services in a specified portion of Lexington County. Review of Act No. 387 of 1963 makes it clear that the Irmo Fire District is neither a county nor a municipality. Thus, the District would not be among the entities authorized to adopt standard codes. Further review of the District's enabling act does not reveal any other authority for the District's governing body to adopt such a code, notwithstanding Section 6-9-10 et seq. Thus, it must be concluded that the Irmo Fire District is without authorization to adopt the Standard Fire Prevention Code.

One possible solution would be to approach Lexington County Council to have that body adopt, for that unincorporated area of Lexington County located in the Irmo Fire District, the Standard Fire Prevention Code, pursuant to Section 6-9-50 of the Code. Such adoption would be by reference only to the latest edition of the Standard Fire Prevention Code (i.e., adoption in its entirety, without modification by Lexington County Council). Further, as provided in the standard code, any appendices to the standard code must be adopted separately and by name; appendices are not automatically adopted by reference to the standard code.

We trust that the foregoing has satisfactorily responded to your inquiry. If clarification or additional information should be needed, please advise.

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/nnw

REVIEWED AND APPROVED BY:

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cc: Gary F. Wiggins, Director
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