

The State of South Carolina



Office of the Attorney General

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September 8, 1986

John T. Gentry, Esquire
Easley City Attorney
P. O. Box 481
Pickens, South Carolina 29671

Dear Mr. Gentry:

In a letter to this Office you requested clarification of Section 23-1-15 of the Code which states:

(a)ny real property which is used as a parking lot and is open to use by the public for motor vehicle traffic shall be within the police jurisdiction with regard to the unlawful operation of motor vehicles in such parking lot.

Such parking lots shall be posted with appropriate signs to inform the public that the area is subject to police jurisdiction with regard to unlawful operation of motor vehicles. The extension of police jurisdiction to such areas shall not be effective until the signs are posted.

In any such area, the law enforcement agency concerned shall have the authority to enforce all laws or ordinances relating to the unlawful operation of motor vehicles which such agency has with regard to public streets and highways immediately adjoining or connecting to the parking area.

On behalf of your city council, you particularly questioned whether pursuant to such provision, the owner of a private parking lot has the option of requesting jurisdiction by local

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law enforcement officers. You noted that the provision requiring posting prior to the exercise of jurisdiction by law enforcement officers is clear, but the question remains as to whether such posting is optional with a landowner.

In your letter you stated that it was your conclusion that the decision as to whether to bring a private parking lot under police jurisdiction remains with the property owner and that for local police to exercise jurisdiction pursuant to Section 23-1-15, the owner must give his consent. You indicated that it was your opinion that a city has no authority to post such property without the owner's consent.

I have checked but have been unable to locate any prior opinions of this Office which deal specifically with your question as to whether the posting of a private parking lot pursuant to Section 23-1-15 is optional and within a landowner's discretion. Such provision arguably is somewhat ambiguous in such regard but it is my opinion that you are correct in your conclusion that any posting within Section 23-1-15 is solely within the discretion of the property owner. I am unaware of any authority which has interpreted such statute as indicating that a city may post such property without the owner's consent. Moreover, it is my understanding that the present interpretation of Section 23-1-15 by municipalities and owners of private parking lots is consistent with your conclusion.

If there is anything further, please advise.


Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions