

1983 S.C. Op. Atty. Gen. 94 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-60, 1983 WL 142731

Office of the Attorney General

State of South Carolina

Opinion No. 83-60

August 18, 1983

*1 Richard Ruhle, Esquire
Attorney and Counsellor at Law
Post Office Box 107
Anderson, South Carolina 29622

Dear Mr. Ruhle:

This letter is in response to your request for an opinion on behalf of the City of Anderson. You have inquired if the provisions of SOUTH CAROLINA CODE OF LAWS, 1976, Section 4-9-90, as amended, which concerns reapportionment applies to only counties or if it would also apply to municipalities.

The section to which you refer provides that:

... districts shall be reapportioned as to population by the county council within a reasonable time prior to the next scheduled general election which follows the adoption by the State of each federal decennial census. The population variance between defined election districts shall not exceed ten percent.

This provision obviously does not specifically refer to municipalities nor is there any similar provision in the Code requiring municipalities to reapportion at a specific time or within a specific percentage. However, it has been the prior oral opinion of this Office that although this statute is not mandatory as to municipalities it would be advisable for municipalities to follow this provision.

Under the provisions of [Reynolds v. Sims](#), 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed. 2d 506 (1964) and the cases that have followed this decision one of the paramount requirements of election law is that every electors vote is entitled to the same weight of every other electors vote. This requirement mandates periodic reapportionment of district lines at every level, including municipal. [Avery v. Midland County, Texas](#), 390 U.S. 474, 20 L.Ed. 2d 45, 88 S.Ct. 1114 (1968); [Ellis v. Mayor and City Council of Baltimore](#), 352 F. 2d 123 (4th Cir. 1965). To insure against malapportionment, reapportionment should be accomplished at least after every census. For municipalities the ten percent variation would be a reasonable, although not mandatory, figure for which to aim.

Additionally, you have inquired if [Section 7-7-80 of the Code](#) applies to municipal ward line changes. [Section 7-7-80](#) establishes the precinct lines for Anderson County. Any changes in these lines would have to be made by the General Assembly. SOUTH CAROLINA CODE OF LAWS, 1976, Section 7-7-10. However, from reading Dr. Woodruff's letter that you attached, it would appear your real question is whether or not the municipality would have the power to draw ward lines for purposes of reapportionment.

Section 5-15-50, as amended, of the Code authorizes the municipality to establish ward lines. Assuming the ward lines are district lines only for purposes of establishing districts from which candidates will reside, the municipality could draw these lines. However, I feel a duty to emphasize these lines cannot change the precinct lines, only the district lines for candidates. Additionally, any changes made to the district lines would, of course, have to be submitted to the United States Department of Justice for their review under the Voting Rights Act.

Sincerely,

*2 Treva G. Ashworth
Senior Assistant Attorney General

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