

1981 WL 158092 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 19, 1981

*1 Richard S. Campbell, P. E.
SC State Fire Marshall
1109 Belleview Street
Columbia, South Carolina 29201

Dear Mr. Campbell:

In response to your request for an opinion from this Office regarding a municipality's authority to enforce those provisions of the Standard Fire Prevention Code that ban the possession, sale and use of fireworks in light of [Sections 23-35-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, and Rules 19-60 [et seq.](#) of the State Budget and Control Board, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended (Vol. 23), my opinion is that it is not so authorized. I am enclosing copies of earlier opinions which discuss the invalidity of municipal ordinances which seek to prohibit the sale of fireworks expressly allowed to be sold by State law. Inasmuch as a municipality cannot do by indirection that which it cannot do directly [81A C.J.S. [States](#) § 36], it cannot by the adoption of a code pursuant to [Section 5-7-280, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, thereby prohibit within the municipal limits the sale of fireworks permitted to be sold throughout South Carolina by State law.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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