

1980 S.C. Op. Atty. Gen. 109 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-66, 1980 WL 81949

Office of the Attorney General

State of South Carolina

Opinion No. 80-66

June 10, 1980

***1 SUBJECT: Dogs**

It is not a violation of § 47–3–50 for a dog owner or other keeper of a dog to allow his dog to run at large off the property owned, rented, or controlled by him in unincorporated sections of York County.

TO: Solicitor
Sixteenth Judicial Circuit

QUESTIONS:

1. Is it unlawful under § 47–3–50 of the 1976 Code of Laws of South Carolina for a dog owner or other keeper of a dog to allow his dog to run at large off the property owned, rented, or controlled by him in unincorporated sections of York County?

STATUTES AND CASES:

Sections 47–3–20 and 47–3–50 of the 1976 Code of Laws of South Carolina; York County Council Ordinance dated January 7, 1980, regarding the establishment of a County Animal Shelter and other matters including the restraint and confinement of certain animals.

DISCUSSION:

You have asked whether it is unlawful for a dog owner or keeper of a dog to allow his dog to run at large off the property owned, rented, or controlled by him in unincorporated sections of York County. It is our opinion that it is not.

Section 47–3–50 of the 1976 Code of Laws of South Carolina provides, in pertinent part:

'It shall be unlawful in any county adopting penalty provisions pursuant to the provisions of this article for any dog owner or other keeper of a dog to:

(a) Allow his dog to run at large off property owned, rented, or controlled by him;

Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars.' (Emphasis added.)

You have advised that on January 7, 1980, the York County Council passed an ordinance concerning the establishment of a York County Animal Shelter and other matters including the restraint and confinement of certain animals. That ordinance in Article XIII provides for a penalty of one hundred dollars or thirty days imprisonment to be imposed for violation of its

provisions. Since the penalty provisions of the statute and the ordinance are different, it must be concluded that the provisions of § 47-3-50(a), supra, which makes it unlawful for any dog owner or keeper to allow his dog to run at large off of property owned, rented, or controlled by him, cannot be applied to unincorporated areas of York County.

It appears that York County has elected to adopt a specific ordinance as permitted by § 47-3-20 in lieu of adopting the penalty provisions provided in § 47-3-50. However, it appears from a reading of the ordinance that no prohibition similar to that contained in § 47-3-50(a) was embodied in the ordinance which, in this regard, appears only to prohibit female dogs in heat, vicious dogs, uninoculated dogs, unlicensed dogs, or dogs which are deemed a public nuisance, from running at large in the county.

CONCLUSION:

Therefore, it is our opinion that it is not unlawful in York County for the owners or keepers of dogs to allow their animals to run at large off of property owned, rented, or controlled by them, but they must comply with the terms of the county ordinance.

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