

1979 WL 42942 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 18, 1979

*1 The Honorable Dixie S. Robinson
Post Office Box 464
Beaufort, South Carolina 29902

Dear Judge Robinson:

You have asked the opinion of this Office as to whether certain ordinances enacted by the Beaufort County Council concerning animal control and parking are lawful. Furthermore, you have asked whether a county summons can be used in lieu of an arrest warrant to bring an accused before your court for trial.

As to your question of whether the service of a county summons would be sufficient to give your court jurisdiction to consider a case brought pursuant to the above ordinances, [Section 22-3-710 of the 1976 Code](#) of Laws states:

(a) All proceedings before magistrates in criminal cases shall be commenced on information under oath, plainly and substantially setting forth the offense charged, upon which, and only which, shall a warrant of arrest issue.

In association with such provision, this Office has stated in a previous opinion, 1970 Op. Att'y Gen. No. 3845, p. 77, that: where an arrest has been made without a warrant, the obtaining of an arrest warrant is necessary to vest a magistrate's court with jurisdiction over the offense as charged—exception in case of official summons.

Therefore, there are certain exceptions to the warrant requirement. The opinion referenced the fact that state highway patrolmen and game wardens are authorized to issue summons which give a judicial officer jurisdiction to dispose of the matter for which the summons was issued. (See [Sections 50-3-410](#) and [23-5-50 of the 1976 Code](#) of Laws). Similarly, pursuant to [Section 56-7-10 of the 1976 Code](#) of Laws, the service of a uniform traffic ticket vests all traffic courts with jurisdiction to consider the charge for which the ticket was issued.

With reference to the above, it is the opinion of this Office that even though a county summons may be issued in citing a particular violation, a subsequent arrest warrant must be issued to vest a magistrate with jurisdiction to consider such a case.

As to the remaining questions regarding the propriety of the referenced county ordinance, inasmuch as that portion of the ordinance dealing with animal control is quite broad and covers a multitude of areas, in providing an answer, I am seeking assistance from the Wildlife Department as well as the Department of Health and Environmental Control. I had anticipated being able to answer all portions of your request by this time but have been unable to do so. However inasmuch as the question regarding the use of the county summons was quite evident, I thought it best to respond to that particular question at this time. I will be responding to your questions regarding the ordinance in the immediate future.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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