

1977 WL 37427 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 19, 1977

*1 Joseph T. McElvern, Jr.
Bryan, Bahnmuller, King, Goldman & McElveen
Sumter County Attorney
Post Office Box 2038
Sumter, South Carolina 29150

Dear Mr. McElveen:

In response to your request for an opinion from this Office as to whether or not the Sumter County Council can enact an ordinance regulating junkyards where no comprehensive zoning plan is in effect, I agree in general with the conclusions reached in your memorandum, a copy of which was attached to your request. While the Sumter County Council most probably cannot enact a zoning ordinance regulating junkyards unless it is done pursuant to the provisions of Chapter 7 of Title 6 of the Code of Laws of South Carolina, 1976 [see, § 4-9-30(9)], which require a 'comprehensive plan of land use,' I do think that the Council can achieve the desired goal through its express power to provide for the public health, safety and sanitation [see, § 4-9-30(5)] and to enact ordinances for the implementation and enforcement of powers granted it [see, § 4-9-30(14)]. I also agree with your own conclusion that the 'home rule' legislation has not expressly granted to counties the police power as it has to municipalities. At least, that was my opinion two years ago when I wrote the opinion, a copy of which is herewith enclosed. Whether or not the language of Article VIII, Section 17 can be construed to include a grant of the police power remains to be seen.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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