1976 WL 30626 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
January 27, 1976

***1** Albert E. Wheless, Esquire
Town Attorney
Post Office Box 1038
North Myrtle Beach, SC 29582

Dear Mr. Wheless:
Your letter regarding the authority of the Town of North Myrtle Beach to enact and enforce an ordinance requiring all existing dwellings to tie into the existing water system within a two-year period has been referred to me by Ms. Crum for a response. I have no direct authority on point. However, the Town has broad 'police power' to protect the health, safety and welfare of the community. An ordinance that plainly purports to be enacted in the interest of public health, safety or welfare is presumed valid and enacted in good faith and may be declared invalid only when it clearly appears that the ordinance does not tend in any appreciable degree to that end or that the power to legislate has been exercised arbitrarily in the enactment of an ordinance which is plainly unreasonable. McQuillan Section 15.23.

While the police power of the municipality can not be invoked merely as a means of increasing the profitability of the municipal water system [City of Midway v. Midway Nursing and Convalescent Center, Inc., 230 Ga. 77, 195 S.E.2d 452 (1973)], it may be that continued reliance on well water within a locality would cause problems; waste may be encouraged, a decrease in water pressure may result, and in coastal areas the reduction of the water table may result in salt contamination. All of which are developments the police power should seek to prevent.

In conclusion, the authority of the Town of North Myrtle Beach to require residents to tie into the existing water system depends upon the purpose and intent of the ordinance, i.e. a question of fact.

I hope these observations will be helpful.
Sincerely,

Kenneth L. Childs
Staff Attorney

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