

1979 WL 43590 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 18, 1979

*1 George R. Hundley, Esquire
Staff Attorney
Municipal Association of SC
Post Office Box 11558
Columbia, South Carolina 29211

Dear Mr. Hundley:

In response to your request on behalf of the Mayor of the Town of Bamberg, South Carolina, for an opinion from this Office relating to the enactment of an ordinance by the Bamberg County Council requiring a building permit for construction within the Town of Bamberg when the Town itself requires such a permit pursuant to its building code, I agree with your conclusion that such an ordinance is authorized only if it is conditioned upon the consent or agreement of the Town of Bamberg.

As you note in your letter, all of the relevant statutory provisions either require a municipality's concurrence in order for county-required building permits related to planning, zoning or subdivision regulations to be effective within its incorporated limits [§§ 4-27-90 and 6-7-330, [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended] or prohibit certain county-required building permits from being operative within a municipality if that municipality already has a building code in effect and issues building permits pursuant thereto [§§ 4-25-20 and 4-25-210, [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended] or expressly limit the applicability of a county-required building permit to the unincorporated areas of the county. § 6-9-50, [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended. Moreover, while the provisions of Act No. 283 of 1975, the 'home rule' legislation, authorize a county council to engage in 'planning, [and] regulatory code enforcement' [§ 4-9-30(5), [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended] and in 'land use' [§ 4-9-30(9), [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended], their implementation must be undertaken 'subject to the general law of this State.' § 4-9-30, [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended. In the case of land use, a county council is empowered to provide for it 'subject to the provisions of Chapter 7 of Title 6' [§ 4-9-30(9), [CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended] which, as discussed above, require municipal concurrence.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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