

1978 WL 207610 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 25, 1978

*1 Mr. W. Wayne Gray
Director
Santee-Lynches
Council for Governments
Post Office Box 1837
Sumter, South Carolina 29150

Dear Mr. Gray:

You have requested an opinion from this Office as to whether or not the Sumter County Council is authorized to adopt and enforce a historic preservation zoning ordinance for the rural area of Sumter County and, if so, whether or not the “areas of impact” can be decided on a case by case basis rather than being specifically included in the zoning ordinance.

The Sumter County Council is empowered to adopt zoning ordinances pursuant to [Section 4-9-30\(9\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, which requires that, in providing for land use and promulgating regulations pursuant thereto, the county governing body must follow the provisions of [Sections 6-7-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976. Those provisions require, *inter alia*, that any zoning ordinances adopted must be part of a “comprehensive plan” of land use within the county. [Section 6-7-710 of the 1976 Code](#) grants the power to zone to the governing authorities of municipalities and counties “in order to protect, promote and improve the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare” and, in connection therewith, provides that “regulations shall be made in accordance with the comprehensive plan for the jurisdiction.” If the zoning ordinances enacted by the Sumter County Council are in fact part of a comprehensive land use plan as contemplated by [Sections 6-7-10 et seq.](#), then I think that the Council would be authorized to adopt and enforce a historic preservation zoning ordinance effective in the rural area of Sumter County. [Section 6-7-710](#) specifies that such regulations are to be designed: ... to promote the public health and the general welfare, ...; to protect scenic areas; Such regulations shall be made with reasonable consideration, among other things, of the character of each area and its peculiar suitability for particular uses, and with a view to ... conserving the value of land and buildings, and encouraging the most appropriate use of land and buildings and structures.

This language is most probably broad enough to include regulations which preserve, promote and protect the historic character of a specific area.

As to whether or not a historic preservation zoning ordinance can provide that the “areas of impact” are to be determined on a case by case basis, [Section 6-7-720 of the 1976 Code](#) requires the county governing body to “create zoning districts of such number, shape and size as it may determine to be best suited to carry out the purposes;” because of this language, I think that the perimeters of a historic preservation district must be specified in the regulation or ordinance which creates it.

With kind regards,

Karen LeCraft Henderson

*2 Senior Assistant Attorney General

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