

1978 WL 35171 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 17, 1978

*1 Honorable Gilbert E. McMillan
Senator
510 Gressette Building
Columbia, South Carolina

Dear Senator McMillan:

You have requested an opinion as to whether or not the Aiken County Council (Council) has the authority to enact an ordinance prohibiting the display of pornographic material. In my opinion, the Council is not so authorized as hereinafter discussed.

[Section 4-9-30\(14\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, empowers county governing bodies: to enact ordinances for the implementation and enforcement of the powers granted in this section and provide penalties for violations thereof not to exceed the penalty jurisdiction of magistrates' courts of the county No ordinance including penalty provisions shall be enacted with regard to matters provided for by the general law, except as specifically authorized by such general law;

The general law with respect to pornography is set forth in Sections 16-15-150 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976; nowhere in those provisions is a county authorized to enact ordinances relating thereto. In fact, as to legislation concerning pornography, the State has most probably preempted the field, thereby precluding the passage of any local ordinances with respect to the subject. See generally, 6 McQUILLIN MUNICIPAL CORPORATIONS §§ 23.01 et seq.; cf., id., § 24.113; see also, [Tacoma v. Naubert](#), 5 Wash.App. 856, 491 P.2d 652; [Greenville v. Bryant](#), 257 S.C. 448, 186 S.E.2d 236 (1972).

With kind regards

Karen LeCraft Henderson
Senior Assistant Attorney General

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