

1975 S.C. Op. Atty. Gen. 27 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3954, 1975 WL 22252

Office of the Attorney General

State of South Carolina

Opinion No. 3954

January 28, 1975

\*1 Mr. S. E. Rogers

Town Attorney

P. O. Box 161

Summerton, South Carolina 29148

Dear Mr. Rogers:

You have requested an opinion from this office as to whether the statutory police power granted to the governing bodies of South Carolina towns and cities under Section 47–61 of the Code of Laws of South Carolina, 1962, is broad enough to authorize such governing bodies to enact ordinances or regulations meeting the requirements of the National Flood Insurance Act of 1968, as amended, (42 U.S.C. 4001–4127) and the ‘Flood Disaster Protection Act of 1973’ (Public Law 93–234), and the regulations issued by the Department of Housing and Urban Development pursuant thereto.

In the opinion of this office, Section 47–61 grants to town and city councils in South Carolina the authority to enact ordinances or rules complying with these federal acts and regulations. That Section states that municipal governments have power and authority to make, ordain, and establish all such rules, bylaws, regulations and ordinances, not inconsistent with the laws of this State, respecting the roads, streets, markets, police, health and order of such cities and towns or respecting any subject as shall appear to them necessary and proper for the security, welfare and convenience of such cities and towns or for preserving health, peace, order and good government within them.

Flood control regulations clearly seem to be included within the scope of this general power.

... the police power with reference to health and sanitary regulations is, as in other connections, a power to anticipate and to prevent dangers to come and to exercise an earnest and active effort to protect the inhabitants of the community. 7 McQUILLIN, § 24.222 at 54.

In the absence of a statute inconsistent with the authority sought to be exercised by the governing body of Summerton, the opinion of this office is that Section 47–61 authorizes the enactment of an ordinance or resolution incorporating the requirements of the pertinent federal acts. Any such ordinance must not, of course, in any way derogate from the duties and responsibilities imposed upon municipal officials by the Civil Defense and Disaster Control Law, Sections 44–311, et seq. of the South Carolina Code of Laws.

With kind regards,

Karen LeCraft Henderson

Assistant Attorney General

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