

1975 WL 29623 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 26, 1975

*1 George F. Coleman, Esquire
Attorney
Town of Ridgeway
Bank of Fairfield Building
Winnsboro, South Carolina 29180

Dear Mr. Coleman:

Deputy Attorney General J. C. Coleman has referred your letter of February 26 to me for research and reply.

You have inquired as to whether the Town of Ridgeway, may by ordinance, incorporate by reference the Code of Laws of South Carolina. The two proposed ordinances also have saving clauses in the event an inconsistency with the Constitution or other law exists. The intent of the saving clauses is obviously to retain the remaining portion of the Code as ordinance albeit the fact that another portion was disallowed.

The case of [Town of Conway v. Lee](#), 209 S.C. 11, 38 S.E.2d 914 (1946) dealt with a similar ordinance. There, the town made any violation of common or statutory law of the State also a violation of the town's ordinances. In striking down a conviction of a state liquor law by a municipal court the Supreme Court had this to say:

Criminal ordinances are, of course to be strictly construed and a defendant has a right to know just wherein he is charged with the commission of a crime and not be faced with a blanket ordinance which, in effect, says that everything which is a violation of the law within this State, both by statute and common law, is a violation of the city ordinance, no adequate reference being made to any specific statute this Court is of the opinion that the ordinance is void because of uncertainty. p. 917 of 38 S.E.2d. See also: Concurring opinion, [Bourne v. Graham](#), 260 S.C. 554, 197 S.E.2d 674 (1973).

Due to the holding in the Lee case it would seem quite apparent that the blanket ordinances proposed by the Town of Ridgeway would be void for uncertainty. As is stated in 5 McQuillin, Municipal Corporations (1969 Ed.) Section 16.12: Generally speaking, incorporation by reference of a standard ordinance or code, without more, cannot constitute the effective and valid enactment of an ordinance. See also: 56 Am.Jur.2d, Municipal Corporations Sections 374-377.

Very truly yours,

Cameron B. Littlejohn, Jr.
Law Clerk

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