

The State of South Carolina



Office of the Attorney General

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October 19, 1988

Forrest W. Compton, Jr., Esquire
Lincolntonville Town Attorney
Post Office Box 1032
Charleston, South Carolina 29402

Dear Forrest:

By your letter of September 12, 1988, you advised that an ordinance of the Town of Lincolntonville requires that nine persons be appointed to the Town's Planning and Zoning Commission. You indicated that it would be desirable to reduce this number to perhaps five members and inquired about how to accomplish the reduction. The Town's Board of Adjustment has five members, and a reduction to three members would be desirable; this Board is also included in the ordinance covering the Planning and Zoning Commission.

The Planning and Zoning Commissions have been combined to a single body, as is permitted by Section 5-23-60, Code of Laws of South Carolina. As you point out, Section 5-23-420 of the Code limits the maximum number of members on a planning commission to nine; no lower limit is set, nor are the number of members for a zoning commission specified. Thus, a combined commission such as is operative in the Town of Lincolntonville may have no more than nine members.

The Board of Adjustment, by Section 5-23-70 of the Code, "shall consist of not less than three nor more than seven members... ." To reduce the number of members from five to three on the Town's Board of Adjustment would be permitted by Section 5-23-70 of the Code.

Each of these entities was established in a comprehensive zoning ordinance, you have advised this Office. To amend an ordinance, another ordinance would be necessary. 6 McQuillin, Municipal Corporations, §21.04. Whether to amend the current comprehensive zoning ordinance or to adopt a new ordinance which would reference the

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comprehensive ordinance and repeal a portion thereof would be a policy decision for the Town Council of Lincolnville, since no state law specifically provides for the form of an amendatory ordinance.

The opinion referenced in your letter, Op. Atty. Gen. No. 77-129, dated April 29, 1977 (copy enclosed), would be inapplicable in this situation. The plan under consideration therein was to abolish a town water commission and vest its powers, functions, and assets in the municipal governing body. Here, neither entity is being abolished with a view toward Town Council assuming the respective functions of either entity.

I trust that the foregoing will be helpful to the Town of Lincolnville. Please advise if you need clarification or further assistance.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP:sds

REVIEWED AND APPROVED BY:



ROBERT D. COOK
EXECUTIVE ASSISTANT FOR OPINIONS

Enclosure