

1977 S.C. Op. Atty. Gen. 26 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-17, 1977 WL 24360

Office of the Attorney General

State of South Carolina

Opinion No. 77-17

January 12, 1977

*1 Representative George Wilson

State House

Columbia, South Carolina

Dear Representative Wilson:

In response to your request for an opinion from this Office as to the procedures to be followed by the town of Hopkins, South Carolina, in order to become an incorporated municipality, Sections 47-1 through 47-10.1, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), govern the incorporation of a formerly unincorporated town. In my opinion, however, there is a defect or gap in the provisions of those Code sections in that there is no provision made for determining the method of electing the municipal governing body nor for determining the number of and terms of office of the members of the governing body. For that reason, although the election to determine whether to incorporate or not, the name of the incorporated municipality and the form of municipal government can be held and the results certified to the Secretary of State pursuant to Sections 47-1 through 47-10.1 of the Code, the incorporated municipality can go no further than that in establishing its municipal government due to the aforementioned defect. My understanding is that the General Assembly intends to correct that defect by legislation during this session.

With kind regards,

Karen LeCraft Henderson

Assistant Attorney General

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