

1978 WL 207596 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 22, 1978

*1 Mr. Robert E. Barker
Executive Director
Georgetown County Water and Sewer District
Post Office Box E
Georgetown, South Carolina 29440

Dear Mr. Barker:

This is in response to your request of May 8th, concerning the validity of a regulation requiring all properties to which sewer service is available to utilize the district's sewage collection facilities. Such a regulation does fall within the authority of a special purpose or public service district as to sewage collection and disposal.

According to [S.C. Code § 6-11-1230](#), “[e]ach commission shall be empowered ... [t]o prescribe and enforce regulations (a) requiring all persons to whom it shall be available to make use of any sewer system which the district shall from time to time operate; and (b) generally with respect to the discharge of sewage and the use of privies, septic tanks and any other type of sewage facilities within the district.” The provisions of the District's Sewer Use Ordinance are consonant with the powers granted by Act # 733 of 1967 and Chapter 11, Article 7 and Chapter 15 of Title 6 of the S.C. Code. It should be borne in mind, however, that the pollution control regulations are not to be construed “in derogation of the powers of the Department of Health and Environmental Control.” [S.C. Code § 6-11-1210](#).

The procedure required for implementation of a “mandatory usage” regulation is also enunciated in [S.C. Code § 6-11-1230 \(3\)](#). “Any such regulations shall ... become effective only after they have been adopted by resolution of the commission, a certified copy thereof has been recorded in the office of the register of mesne conveyances, or, if none, in the office of the clerk of court of common pleas for each county in which such sewer system lies, a copy posted in the courthouse of each such county, and notice of the adoption of such resolution has been published at least once a week for three successive weeks in a newspaper having general circulation in the district. The published notice shall specify in brief the scope of the regulations and shall state the date on which the same shall become effective. Prior to the adoption of the aforesaid resolution, the commission shall give public notice of a meeting to be held to consider its adoption and the notice shall appear in a newspaper having general circulation in the district at least once not less than seven days prior to the occasion fixed for the holding of such meeting. Any person affected may attend such meeting and express his views on the proposed regulations. The provisions of this paragraph prescribing conditions upon the effectiveness of the regulation specified above in this paragraph shall not be deemed to impose mandatory conditions upon the exercise of any other power or the adoption of any other type of regulation authorized by this article or otherwise.” This procedure is self-explanatory.

I hope this is responsive to your questions; if you have any further problems, please do not hesitate to contact this office.
Sincerely,

*2 Karen LeCraft Henderson
Senior Assistant Attorney General

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