

1976 WL 30869 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 23, 1976

*1 Peter D. Hyman, Esquire
County Attorney
Box G
City-County Complex
Florence, South Carolina 29501

Dear Mr. Hyman:

You have requested an opinion from this Office as to the relation of the provisions of Section 14-3715, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), with those of Section 7 of the Florence County Appropriations Ordinance which provides:

No purchase shall be made for Florence County of any kind whatsoever from any member of the County Council or legislative delegation within the sixth degree, nor shall any member of the County Council or legislative delegation, or person related to a member of the County Council or legislative delegation within the sixth degree, enter into any contract by or with Florence County.

In my opinion, both provisions are applicable to the operations of Florence County.

The general rule as to the relation between state-wide legislation and a local ordinance is, in part, as follows:

The mere fact that the state, in the exercise of the police power, has made certain regulations does not prohibit a municipality from exacting additional requirements. So long as there is no conflict between the two, and the requirements of the municipal bylaw are not in themselves pernicious, as being unreasonable or discriminatory, both will stand. The fact that an ordinance enlarges upon the provisions of a statute by requiring more than the statute requires creates no conflict therewith, unless the statute limits the requirement for all cases to its own prescription. Thus, where both an ordinance and a statute are prohibitory and the only difference between them is that the ordinance goes further in its prohibition, but not counter to the prohibition under the statute, and the municipality does not attempt to authorize by the ordinance what the legislature has forbidden or forbid what the legislature has expressly licensed, authorized, or required, there is nothing contradictory between the provisions of the statute and the ordinance because of which they cannot coexist and be effective. Unless legislative provisions are contradictory in the sense that they cannot coexist, they are not deemed inconsistent because of mere lack of uniformity in detail. 56 AM.JUR2d Municipal Corporations § 374 at 408-9. [Emphasis added.]

See also, [McAbee v. Southern Railway Co.](#), 166 S.C. 166, 164 S.E. 444 (1932); [City of Charleston v. Jenkins](#), 243 S.C. 205, 133 S.E.2d 424 (1963); [King v. Arlington County](#), 195 Va. 1084, 81 S.E.2d 587 (1954).

Florence County, then, is prohibited from purchasing directly from a member of the legislative delegation or the County Council or their relatives to the sixth degree by virtue of Section 7 of the County Appropriations Ordinance. In addition, Florence County officers (including Council members) and employees are prohibited from voting on, or otherwise taking part in matters related to, contracts between the County and businesses in which they have a 'substantial financial interest' or in which they personally engage by virtue of Section 14-3715 of the Code.

With kind regards,

*2 Karen LeCraft Henderson
Assistant Attorney General

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