

1975 WL 28843 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 27, 1975

**\*1 Re: Building Animal Shelter in Anderson County with County Funds.**

The Honorable Fred T. Moore  
Member  
House of Representatives  
The State House  
Columbia, SC 29202

Dear Mr. Moore:

You have requested an opinion from this Office as to whether Anderson County can expend tax funds or alternatively Revenue Sharing funds for the purpose of building and/or supporting an animal shelter. For the following reasons, it is the opinion of this Office that funds cannot be so expended.

First, Anderson County operates under the County Board of Commissioners form of government. See, §§ 14-851, et seq., CODE OF LAWS OF SOUTH CAROLINA (1962). Anderson County does not have the statutory authority to expend funds for the establishment of an animal shelter.

‘Generally speaking, state officers, boards, commissions, and departments have such powers as may have been delegated to them by express constitutional and statutory provisions, or as may properly be implied from the nature of the particular duties imposed on them. This power cannot be varied or enlarged by usage or by administrative construction. Executive and administrative officers, boards, departments, and commissions have no powers beyond those granted by express provision or necessary implication.’ 81 C.J.S. States § 58 at 977-8.

Such an express grant of the power to use tax funds is found in §§ 6-145 et seq., CODE OF LAWS OF SOUTH CAROLINA (1962) (as amended). These provisions allow each county in this State with a population of more than two hundred thousand people to establishing an animal shelter for the purpose of quarantining dogs. Pursuant to Article 10, § 6 of the Constitution of South Carolina, ‘quarantine’ is one of the purposes for which the Legislature can authorize a county to levy a tax. However, since Anderson County does not have a population two hundred thousand, the County may not use § 6-145.2 to authorize estate establishment of an animal shelter.

As to the possibility of using Revenue Sharing funds, § 123(a)(4) of the Revenue Sharing Act, P.L. 92-512, 31 U.S.C. § 1221, et seq., and § 51.40(c) of the regulations provide that a recipient of Revenue Sharing funds spend its funds only in accordance with the laws and procedures applicable to the expenditure of its own revenues. Therefore, if county tax funds cannot be used for an animal shelter in Anderson County, neither can Revenue Sharing funds. If this Office may be of further assistance, please do not hesitate to contact me.

Yours very truly,

M. Elizabeth Crum  
Assistant Attorney General

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