CHAPTER 49

South Carolina Mountain Ridge Protection Act of 1984

**SECTION 48‑49‑10.** Short title.

 This chapter known and may be cited as the South Carolina Mountain Ridge Protection Act of 1984.

HISTORY: 1984 Act No. 444, Section 1.

Library References

Environmental Law 44.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 167, 173.

**SECTION 48‑49‑20.** Legislative findings.

 The General Assembly finds that the construction of tall or major buildings and structures on the ridges and higher elevations of South Carolina’s mountains can cause unusual problems and hazards to the residents of and to visitors to the mountains. Supplying water to, and disposing of the sewage from, buildings at high elevations with significant numbers of residents may infringe on the groundwater rights and endanger the health of those persons living at lower elevations. Providing fire protection may be difficult given the lack of water supply and pressure and the possibility that fire will be fanned by high winds. Extremes of weather can endanger buildings, structures, vehicles, and persons. Tall or major buildings and structures located on ridges are a hazard to air navigation and persons on the ground and detract from the natural beauty of the mountains. Finally, the construction of tall buildings or structures within or in visible proximity to any such mountain ridges would mar, destroy, or greatly damage their natural beauty and greatly reduce their attractiveness to both the citizens of this State and to visitors to our State. For these reasons, it is imperative that the State protect this unique, valuable, and enduring asset against the consequences of this unsightly construction.

HISTORY: 1984 Act No. 444, Section 2.

Library References

Environmental Law 44.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 167, 173.

**SECTION 48‑49‑30.** Definitions.

 The following words unless the context clearly indicates otherwise have the following meanings:

 (1) “Person” has that meaning as found in Section 2‑7‑30 of the 1976 Code but also includes the State of South Carolina and its political subdivisions. A person doing business in or maintaining an office within a county or municipality is deemed to be a resident thereof for purposes of this chapter.

 (2) “Tall building or structure” means any building or structure or portion of any building or structure, any part of which has, or would have upon construction, a height of more than forty‑two feet measured from the highest elevation of the natural surface of the land on or over which the building or structure is constructed. This definition also includes any building or structure, regardless of where it is located, if any part of it extends more than forty‑two feet above the lowest point of the protected mountain ridge located closest to the building or structure. “Tall buildings or structures” do not include:

 (a) Water, radio, telephone or television towers, or any equipment for the transmission of electricity or communications or both.

 (b) Structures of a relatively slender nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires, or windmills.

 (c) Buildings and structures on the National Register of Historic Places.

 (3) “Construction” means and includes reconstruction, alteration, or expansion.

 (4) “Ridge” means the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain and includes all land within one hundred feet below the elevation of any portion of such line or surface along the crest.

 (5) “Protected mountain ridges” means all ridges whose elevation is two thousand five hundred feet above sea level or more.

 (6) “Crest” means the uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to a lower elevation or elevations.

HISTORY: 1984 Act No. 444, Section 3.

CROSS REFERENCES

Applicability of this section to the identification of protected mountain ridge crests, see Section 48‑49‑70.

**SECTION 48‑49‑40.** Authorization by county or municipality for construction of tall buildings or furnishing of utility services.

 (a) No county or municipality may authorize the construction of, and no person may construct, a tall building or structure on any protected mountain ridge.

 (b) No county or municipality may authorize the providing of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system.

HISTORY: 1984 Act No. 444, Section 4.

Library References

Environmental Law 44.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 167, 173.

**SECTION 48‑49‑50.** Previously existing buildings.

 Section 48‑49‑40 applies to buildings that existed upon the effective date of this chapter as follows:

 (1) No reconstruction, alteration, or expansion may aggravate or intensify a violation by an existing building or structure that did not comply with Section 48‑49‑40 upon its effective date.

 (2) No reconstruction, alteration, or expansion may cause or create a violation by an existing building or structure that did comply with Section 48‑49‑40 upon its effective date.

HISTORY: 1984 Act No. 444, Section 5.

Library References

Environmental Law 44.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 167, 173.

**SECTION 48‑49‑60.** Violations; penalties; civil remedies.

 (a) A person violating the provisions of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty‑five thousand dollars or imprisoned not more than three years, or both. In addition, any county or municipality is authorized to seek injunctive relief enjoining violations of this chapter.

 (b) Any person injured by a violation of this chapter or any person who resides in the county in which the violation occurred may bring a civil action against the person alleged to be in violation. The action may seek:

 (1) Injunctive relief; or

 (2) An order enforcing the provision violated; or

 (3) Damages caused by the violation; or

 (4) Both damages and injunctive relief; or

 (5) Both damages and an enforcement order; or

 (6) Both an enforcement order and injunctive relief.

 If actual damages as found by the court or jury in suits brought under this subsection are five hundred dollars or less, the plaintiff must be awarded not less than five hundred dollars; if the amount of actual damages as found by the court or jury is greater than five hundred dollars, the plaintiff shall receive damages in the amount so found. Injunctive relief or an enforcement order under this subsection must be based upon a threatened injury, an actual injury, or both.

 Civil actions under this subsection must be brought in the circuit court of the county in which the alleged violation occurred. The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation, including reasonable attorney and expert‑witness fees, to any party, whenever it determines that such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security, the amount of such bond or security to be determined by the court. Nothing in this section shall restrict any right which any person or class of persons may have under the common law or under any statute to seek injunctive or other relief.

HISTORY: 1984 Act No. 444, Section 6; 1993 Act No. 184, Section 244.

Library References

Environmental Law 46, 740.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 150, 156, 160, 167, 173.

LAW REVIEW AND JOURNAL COMMENTARIES

Recovery of Attorneys’ Fees as Costs or Damages in South Carolina. 38 S.C. L. Rev. 823.

**SECTION 48‑49‑70.** Identification of protected mountain ridge crests.

 (a) The Department of Parks, Recreation and Tourism shall identify the protected mountain ridge crests in each county by showing them on a map or drawing, describing them in a document, or any combination thereof. These maps, drawings, or documents shall identify the protected mountain ridges as defined in Section 48‑49‑30 and such other mountain ridges as any county may request, and shall specify those protected mountain ridges that serve as all or part of the boundary line between two counties. By January 1, 1985, the map, drawing, or document tentatively identifying the protected mountain ridge crests of each county must be filed with the governing body of that county, with the municipal governing body of each municipality that requests it, and with the register of deeds or the clerk of court in the county where the land lies, and made available for inspection at the Department’s offices in Columbia.

 (b) Determinations by the Department of elevations under this section are conclusive in the absence of fraud.

HISTORY: 1984 Act No. 444, Section 7; 1997 Act No. 34, Section 1.

Code Commissioner’s Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

Library References

Environmental Law 44.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 167, 173.

**SECTION 48‑49‑80.** Power of counties or municipalities to enact ordinances restricting construction on mountain ridges.

 Nothing in this chapter shall prevent any county or municipality from enacting ordinances pursuant to law to prohibit or restrict development or construction on any mountain ridge regardless of elevation, but in no event shall any such ordinance result in less stringent protection than that provided for in this chapter.

HISTORY: 1984 Act No. 444, Section 8.

Library References

Environmental Law 44.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 167, 173.