

1981 WL 158108 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 12, 1981

***1** Mayor Edgar L. Powell
The Town of Ridge Spring
Post Office Box 444
Ridge Spring, South Carolina 29129

Dear Mayor Powell:

In a letter to this office, you questioned whether there is any authority for issuing a municipal ticket to an individual arrested for a nontraffic offense. I am interpreting your request to mean that an arrest warrant would not be issued in addition to such municipal tickets.

Please be advised that I am unaware of any authority for the utilization of a municipal ticket as described above. The only tickets that are statutory authorized are the uniform traffic tickets which are authorized pursuant to [Section 56-7-10, Code of Laws of South Carolina](#), 1976. This office in an opinion dated April 27, 1977, stated:

‘when an individual is arrested for a misdemeanor violation other than a traffic offense, . . . , the criminal offence may not be properly disposed of by the Court unless and until an arrest warrant has been issued and served on the arrestee or is in the possession of the magistrate when the trial is held. The warrant serves a variety of purposes. It informs the arrested person of the charge against him. A warrant is necessary in cases triable by a magistrate because the warrant constitutes the charging paper, and the defendant must be informed of the charges against him.’

The above would also be applicable to a criminal offense tried by a municipal recorder. Therefore, as to all non-traffic criminal offenses, an arrest warrant must be issued prior to the matter coming to trial. Again, there is no authority for any type municipal traffic ticket to be used in lieu of an arrest warrant.

In your second question, you asked whether the collection of bail money and fines by your municipal law enforcement officers is proper. Please be advised that I am unaware of any authority which permits the setting and collecting of bail by municipal police officers or the collection of fines by such officers. There are state statutes which specifically authorize the acceptance of money as bail by certain other officers in lieu of bringing an individual before a magistrate or other judicial authority to enter into formal recognizance or directly deposit a sum of money in lieu of recognizance or incarceration.

[Section 23-5-50, Code of Laws of South Carolina](#), 1976, specifically authorizes a highway patrolman to accept money as bail from an individual charged with the violation of any traffic or other law in lieu of bringing such person before a judicial officer. Similarly [Section 50-3-410, Code of Laws of South Carolina](#), 1976, authorizes such a practice for state game wardens as to individuals charged with violating fish or game laws. Cash bonds similarly may be accepted from violators of litter statutes pursuant to [Section 16-11-710, Code of Laws of South Carolina](#), 1976. In 1972, the legislature enacted Act 1151 which permits the Richland County Sheriff or any of his deputies to accept a cash bond from a traffic offender in lieu of bringing such person before a judicial officer.

***2** A previous opinion of this office, 1976 Ops. Att’y. Gen. No. 2298, p. 118, indicated that the issuance of a uniform traffic ticket does not authorize a law enforcement officer to set and accept a cash bail. Instead, the opinion stated, ‘since the setting of bail is a judicial function, this authority can be granted to police officers only by action of the General Assembly.’ As referenced, I am unaware of any authority granted to municipal police officers to accept fines or to set and accept a cash bail.

If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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