

1977 S.C. Op. Atty. Gen. 211 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-275, 1977 WL 24615

Office of the Attorney General

State of South Carolina

Opinion No. 77-275

September 2, 1977

*1 A City Council has no authority in this state to require a County Treasurer to withhold the issuance of the 406 Form until city taxes are paid.

TO: T. William Hunter, Esq.
Newberry County Attorney

QUESTION

Does the City Council of Whitmire have authority to require the County Treasurer to withhold the issuance of the 406 Form until city taxes are paid?

STATUTES INVOLVED

Sections 56-3-260 and 56-3-250 of the Code of Laws of South Carolina, 1976.

DISCUSSION

Section 56-3-260 of the 1976 Code of Laws requires a license applicant to obtain a statement issued by the County Treasurer (known commonly as the 406 Form) stating that county taxes are paid as condition for the issuance of a vehicle license. Section 56-3-250 further requires an affidavit of the license applicant stating that county and municipal taxes that are due have been paid. The former section does not provide authority for a municipality to require the County Treasurer to verify that municipal taxes have been paid prior to the issuance of his statement.

We have searched for other statutes extending such authority and have found none. It is clear in this state that a municipality can only exercise the authority given by statute or conferred by charter. [Marshall v. Rose](#), 213 S. C. 428, 49 S. E. 2d 720; [Williams v. Wylie](#), 217 S. C. 247, 60 S. E. 2d 586; [White v. City Council of Charleston](#), 2 Hill, 571; [McKenzie v. City of Florence](#), 234 S. C. 428, 108 S. E. 2d 825.

CONCLUSION

We conclude that a City Council has no authority in this state to require a County Treasurer to withhold the issuance of the 406 Form until city taxes are paid.

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