

1976 WL 30919 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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***1** A municipality may require under the authority of Section 47-271 of the Code that all delinquent taxes be paid as a condition to the renewal of a business license.

Honorable James W. Smith
Mayor
City of Abbeville

QUESTION

May a South Carolina municipality require payment of taxes as a condition precedent to the renewal of a municipal business license?

STATUTE

Section 47-271, Code of Laws of South Carolina, 1962.

DISCUSSION

In this opinion we shall presume that the tax required as a condition precedent to the renewal of a license is the business license tax which is imposed under the authority of Section 47-271 relating to municipalities with a population of more than 1,000.

It is a well-established principle and rule that municipal corporations acquire their powers, including the power to levy business license taxes, from the South Carolina Constitution and the power granted by statute. This has been stated in the cases of [Forest Lake v. Forest Acres](#), 227 S. C. 163, 87 S. E. 2d 587, and [Wood-Mendenhall Co. v. Greer](#), 88 S. C. 249, 70 S. E. 724, which are both annotated under Section 47-271. The license requirement authorized under this section is subject only to the limitations found in the guarantees of due process and equal protection of the laws. [Bradley v. Richmond](#), 227 U. S. 477, 57 L. Ed. 603, 33 S. Ct. 318.

Specific reference is made to the last paragraph of Section 47-271:

‘The city or town council may punish persons who are delinquents in paying any such license tax levied hereunder.’

The authority granted under this provision and under the provisions of the first paragraph of Section 47-271 in our opinion allows a municipality to provide by ordinance the terms under which a license shall be issued and when the same shall be refused. Included in this authority is the right to refuse to renew if a person has failed to comply with the licensing ordinance for previous years. It is suggested, however, that in drafting such an ordinance, that the same should spell out that failure to pay the tax required by the license or to comply with the ordinance constitutes a ground for refusing to renew the license.

CONCLUSION

A municipality may by ordinance require as a condition precedent to the renewal of a license that all delinquent license taxes be paid.

G. Lewis Argoe, Jr.
Assistant Attorney General

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