



LIZ MURRILL
ATTORNEY GENERAL

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 94005
BATON ROUGE, LA
70804-9005

September 18, 2024
OPINION 24-0056

Honorable Mandy Green
Mayor of Village of Elizabeth
210 E. Main St.
P.O. Box 457
Elizabeth, LA 70638

71 Municipalities

La. R.S. 2461, et seq

La. R.S. 33:361

R.S. 33:4001

Public animal shelters owned and operated by municipality do not have to comply with the minimum standards set forth in La. R.S. 3:2461, et seq.

Dear Mayor Green:

We received your request regarding the relocation of the Village of Elizabeth's (the "Village") animal shelter/holding facility. In a phone call with this office you stated that the facility is located at the Village-owned sewage plant. You further state in your request that the facility was originally established by the Village's police department but is now run and maintained by the Village, including its labor and expenses.¹ According to your request, the space occupied by the current facility is required for an expansion or refurbishment of the Village's sewer system, which has prompted the consideration for relocation. You have asked two questions with regard to this facility, which we will answer in turn.

1.) Does a public animal shelter/holding facility operated by a municipality have to comply with the minimum standards for animal shelters provided for in state law?

Louisiana Revised Statute 3:2461 is entitled, "Part V. Minimum Standards for Animal Shelters," and provides, "In addition to and supplemental with any other authority granted to parish governing authorities by law, a parish governing authority may adopt an ordinance establishing minimum standards for animal shelters within the parish consistent with the provisions of this Part." As a preliminary matter, we note that the statute is directed to the parish governing authority, not the municipality. Thus, unless the governing authority of Allen Parish has passed an ordinance mandating certain standards for animal shelters within the parish, the Village is not required to comply with any minimum standards, except those established to prevent cruelty to animals found in the Louisiana

¹ According to your request, the police department established the facility in 1987, and the Village took over the facility in 2017.

Criminal Code.² This is in line with our previous opinion on this issue, which addressed the issue of whether the parish governing authority was required to follow the minimum standards set forth in La. R.S. 3:2461, *et seq.*³

2.) In the event the Village elects to close its public animal shelter/holding facility, would the police department have to agree with its closure or does the Village have the unilateral authority to close the public animal shelter/holding facility?

In response to your second question as to whether it is necessary for the Village's police department to agree to the closure or relocation of the animal shelter, we must examine the municipality's authority as provided by law in light of the facts we have been presented. According to the information you have provided this office, the shelter is located on Village-owned property. It has always been on property owned by the Village, even when it was run by the police; however, since 2017, the shelter has been run and maintained directly by the Village.

The Village is a Lawrason Act municipality.⁴ Pursuant to La. R.S. 33:361, a municipality has the power to perform any function necessary, requisite, or proper for the management of its affairs not denied by law. This office has previously held that towns and villages have full power and authority with respect to the care, management, and control of publicly-owned property, and any action taken with respect thereto must be after authorization by the Board of Alderman.⁵ Additionally, La. R.S. 33:4001 provides that any municipal corporation may maintain within and without its corporate limits, a sewerage system, sewerage collection system, sewage treatment plant, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations and all other appurtenances necessary for the collection, treatment, purification and disposal in a sanitary manner of the liquid and solid waste and sewage of the municipal corporation.⁶

Under the facts presented in your request, it is the opinion of this office that the Village, acting upon the authorization of the Board of Alderman, has the authority with respect to the care, management, and control of the animal shelter/holding facility as it is publicly-owned property.⁷ The Village also has the responsibility and authority to manage and maintain the sewer system within its municipal limits. We conclude that the sewer system is required to be maintained and, according to your request, expanded as a necessary function for the municipality. As such, it is the opinion of this office that the Village is

² Louisiana Revised Statute 14:102.1 prohibits cruelty to animals, which includes the failure to provide an animal in your care, custody, or possession with proper food, proper drink, proper shelter, or proper veterinary care. "Proper shelter" is defined as "providing each animal with adequate shelter from the elements as required to prevent unnecessary or unjustifiable suffering by the animal." La. R.S. 14:102(5).

³ See La. Atty. Gen. Op. No. 00-261; *see also Legis. in Support of Animals v. Vermilion Par. Police Jury*, 617 So. 2d 1243, 1246 (La. App. 3 Cir. 1993).

⁴ La. R.S. 33:321 – 463.

⁵ La. Atty. Gen. Op. No. 98-300.

⁶ La R.S. 33:4001.

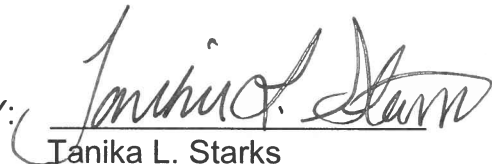
⁷ The use of the property is, of course, subject to any existing servitudes, encumbrances, or ordinances.

authorized to relocate or close the animal shelter/holding facility without the authorization of the Village's police department due to the need to expand or refurbish the Village's sewer system.

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

LIZ MURRILL
ATTORNEY GENERAL

BY: 
Tanika L. Starks
Assistant Attorney General

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