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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
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May 30, 2024
OPINION 24-0065

The Honorable Larry W. Alexander
Mayor, Town of Oberlin
103 East 6th Avenue
Oberlin, LA 70655

Dear Mayor Alexander:

You requested an opinion of this office regarding whether 1) the mayor of the Town of Oberlin may hire an individual in the position of code enforcement officer for the purpose of enforcing the municipal ordinance regarding speed enforcement devices; and 2) if the Town of Oberlin is permitted to hire a code enforcement officer, whether the code enforcement officer would be under the authority and administration of the chief of police or the mayor.

The Town of Oberlin enacted an ordinance to utilize a speed enforcement device and would like to hire an individual as a code enforcement officer to operate the speed enforcement device pursuant to La. R.S. 32:1, *et seq.* You indicated that the speed enforcement device to be utilized by the Town of Oberlin is a handheld camera. You additionally indicated that Town of Oberlin would like to hire an individual that is currently employed as a law enforcement officer for a different municipality to operate the handheld speed safety camera.

For the reasons that follow, we find that the Town of Oberlin may hire a law enforcement officer to the position of code enforcement officer for the purpose of enforcing the town's municipal ordinance regarding speed enforcement devices. In addition, we determine that the code enforcement officer would be under the authority and administration of the chief of police.

The Town of Oberlin is a Louisiana municipality governed by the Lawrason Act, La. R.S. 33:321, *et seq.* The chief of police of the Town of Oberlin is an elected official. Louisiana Revised Statutes 33:404(A)(1) provides that the mayor of a Lawrason Act municipality has the power:

[t]o supervise and direct the administration and operation of all departments, offices, and agencies, other than a police department with an elected chief of police, in conformity with ordinances and law; no ordinance, however,

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La. R.S. 32:1, <i>et seq.</i>	La. R.S. 33:404
La. R.S. 32:41	La. R.S. 33:423
La. R.S. 32:45	La. R.S. 33:4891
La. R.S. 33:321, <i>et seq.</i>	

The Town of Oberlin may hire a law enforcement officer to the position of code enforcement officer to enforce the speed enforcement device ordinance enacted by the Town. The code enforcement officer would be under the authority and administration of the chief of police.

may limit the authority granted to the mayor by this provision. All administrative staff members are subordinate to the mayor.

A code enforcement officer is defined in La. R.S. 33:4891(A)(1) as:

Any employee of a local governmental subdivision or any of its districts, agencies, or departments who is authorized to make inspections, issue violation notices or summonses, or who is otherwise authorized to enforce the ordinances of the local governmental subdivision, including animal control officers. The term "code enforcement officer" shall not include building or zoning inspectors.

Code enforcement officers enforce ordinances and may issue violation notices or summonses for administrative penalties. While a code enforcement officer is permitted to enforce the ordinances in a local governmental subdivision, the law and policy regarding speed enforcement devices contemplates that an authorized law enforcement officer operate the speed enforcement device and issue a traffic citation.

Louisiana Revised Statutes 32:45 permits local municipal authorities or local parish authorities to utilize mobile speed cameras on roadways other than interstate roadways within their territorial limits, and requires these authorities to post signs indicating the presence of the mobile speed cameras

Louisiana Revised Statutes 32:41(A) sets forth the police power of a municipality to adopt ordinances with respect to highways other than state maintained highways, and provides, in pertinent part, the following (emphasis added):

A. Except as otherwise provided by law, this Chapter shall not be deemed to prevent local municipal authorities, with respect to highways other than state maintained highways within their corporate limits, from adopting ordinances:

* * *

(2) Enforcing the provisions of this Chapter, regulations of the department and of the commissioner and local regulation adopted pursuant hereto, by means of *police officers* or by the use of traffic-control devices approved by the department.

* * *

(13) Creating additional regulations controlling traffic upon non-state maintained highways within their corporate limits under their general police power so long as such regulations do not modify, or conflict with, the provisions of this Chapter or regulations of the department and the commissioner adopted pursuant hereto.

Louisiana Revised Statutes 32:41(A)(2) requires that ordinances adopted by a municipality regarding highways be enforced by police officers or by the use of traffic-control devices.¹ Accordingly, the code enforcement officer must also be a law enforcement officer to operate the handheld speed safety camera.

Regarding the hiring of police officers, La. R.S. 33:404 provides that the mayor has the responsibility of appointing and removing municipal employees, "other than the employees of a police department with an elected chief of police." Louisiana Revised Statute 33:423(A) provides that the chief of police "shall make recommendations to the mayor and board of aldermen for appointment of police personnel, for the promotion of officers, to effect disciplinary action, and for dismissal of police personnel."

The elected chief of police has the inherent authority to control or administer the day to day operations of the police department, including equipment and work schedules, within the confines of the adopted budget. *Cogswell v. Town of Logansport*, 321 So.2d 774, 779 (La.App.1975). "This office has repeatedly recognized that in a Lawrason Act municipality, the elected chief of police has supervisory power and authority over police department personnel." La. Atty. Gen. Op. No. 93-386. This supervisory power of the elected chief of police would extend to a law enforcement officer serving as code enforcement officer that utilizes a speed enforcement device to enforce municipal traffic speed ordinances.

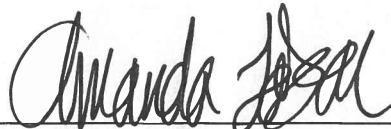
Accordingly, it is the opinion of this office that the Town of Oberlin may hire a law enforcement officer to the position of code enforcement officer to enforce the speed enforcement device ordinance enacted by the Town. The code enforcement officer would be under the authority and administration of the chief of police.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

LIZ MURRILL
ATTORNEY GENERAL

BY: _____



Amanda M. LaGroue
Assistant Attorney General

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¹ Louisiana Revised Statutes 32:1(97) defines "traffic control devices" as "all signs, signals, markings, and devices, not inconsistent with this Chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic."