



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 11, 2022

The Honorable Michelle Douglas
Mayor, Village of Satartia
100 Richards Avenue
Satartia, Mississippi 39162

Re: Authority of Town to Enforce Speeding and Other Moving Violations

Dear Mayor Douglas:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. How does the Village of Satartia enforce municipal speeding and other municipal moving violations?
2. How do we obtain ticket books and set fines?
3. Does the Village have to have a municipal judge?

Brief Response

1. The governing authorities of a municipality have the power to pass and enforce ordinances and to employ a police force and/or elect or appoint a town marshal to enforce ordinances related to speeding and other moving violations.
2. The municipal court clerk is responsible for issuing ticket books to municipal police officers, and the municipal governing authorities have the power to set the fines by ordinance.
3. State law does not require municipalities with a population of less than ten thousand (10,000), according to the latest available federal census, to appoint a municipal judge. However, without a municipal judge, the Village of Satartia will not be able to enforce its ordinances.

Applicable Law and Discussion

In response to your first question, Mississippi Code Annotated Section 21-13-1 authorizes the governing authorities of municipalities to pass and enforce ordinances. Section 21-21-3 provides that the governing authority of a municipality has the power to employ, regulate and support a sufficient police force or night marshals, define their duties, and furnish and supply all suitable and necessary equipment. The Village of Satartia (the “Village”) does not have a police force, but a town marshal was elected for the very first time in 2021. In accordance with Section 21-21-1, the town marshal shall be the chief law enforcement officer of the municipality.

Section 45-6-11 requires all appointed and employed law enforcement officers to be certified, and Section 45-6-17(1) prohibits full-time and part-time law enforcement officers from exercising their powers generally, particularly the power of arrest, if they are not in compliance with the statutory training requirements. We have previously opined that an individual serving as town marshal would be required to meet the training requirements if he falls within the definition of a “law enforcement officer” as defined in Section 45-6-3. MS AG Op., *Hutcherson* at *1 (Jan. 3, 1991). Section 45-6-3(c) provides that “law enforcement officer” shall not mean or include any elected official. Because the Village’s town marshal is an elected official, he may apply for certification in accordance with Section 45-6-11(5), but he is not required to. Therefore, the fact that he will not attend law enforcement training and be certified until January of 2023 will not hinder his ability to execute his duties in the meantime. We note, however, that Section 21-21-1 requires the town marshal, before performing any of the duties of his office, to “give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in an amount to be determined by the municipal governing authority (which shall not be less than Fifty Thousand Dollars (\$50,000.00)).”

In response to your second question, Section 63-9-21(3)(a) requires all traffic tickets issued by municipal police officers for any violation of traffic or motor vehicle laws to be issued on the uniform traffic ticket, and the municipal court clerk shall issue traffic ticket books to each municipal police officer in accordance with Section 63-9-21(4). Further, Section 21-13-1 states that the governing authorities of municipalities may enforce its ordinances by fines not exceeding One Thousand Dollars (\$1,000.00) or imprisonment not exceeding ninety (90) days, or both.

Finally, and in response to your third question, while Section 21-23-1 requires all municipalities in the state to establish a municipal court, whether or not a municipality requires a municipal judge depends on its population as of the latest available federal census in accordance with Sections 21-23-3 and 21-23-5. Section 21-23-5 states that “[i]n any municipality having a population of less than ten thousand (10,000) according to the latest available federal census, it shall be discretionary with the governing authorities of the municipality as to whether or not a municipal judge or a prosecuting attorney, or both, shall be appointed.”

In this instance, the Village needs a municipal judge in order to enforce its ordinances regarding traffic violations and other misdemeanors because the municipal judge “*shall have the jurisdiction to hear and determine, without a jury and without a record of the testimony, all cases charging violations of the municipal ordinances and state misdemeanor laws made offenses against the municipality and to punish offenders therefor as may be prescribed by law.*” Miss. Code Ann. §

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21-23-7 (emphasis added). We have previously opined that “a municipality with a population of less than ten thousand may choose not to appoint a municipal judge to manage a municipal court. However, without a municipal judge, a town cannot enforce its municipal ordinances.” MS AG Op., *Hatcher* at *1 (Sept. 24, 1999). Accordingly, whether to appoint a municipal judge is discretionary for the Village, but it remains the opinion of this office that if it does not appoint one, the Village will be unable to enforce its ordinances. If the Village does appoint a municipal judge, according to Section 21-23-5, the judge must be either an attorney that is licensed in the State of Mississippi or a justice court judge of the county in which the municipality is located.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Abigail C. Overby*

Abigail C. Overby

Special Assistant Attorney General

OFFICIAL OPINION