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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

July 29, 2005

Mark W. Tollison, Esquire
Greenville County Attorney
County Square
301 University Ridge, Suite 2400
Greenville, South Carolina 29601

Dear Mr. Tollison:

In a letter to this office you referenced that in Opinion No. 93-58 this office determined that county code enforcement officers commissioned pursuant to S.C. Code Ann. § 4-9-145 could use blue lights on their county vehicles. That opinion noted the provisions of S.C. Code Ann. § 56-5-4700 which provided that it is unlawful to utilize a flashing or oscillating blue light on a vehicle "except one used primarily for law enforcement purposes." Such statute further stated that "...all police vehicles when used as an authorized emergency vehicle shall then be equipped with dome-mounted, oscillating, rotating or flashing blue lights." S.C. Code Ann. § 56-5-170 defined the term "authorized emergency vehicle" as used in Section 56-5-4700. Included in the term "authorized emergency vehicle" were "police vehicles"

The referenced 1993 opinion noted that

(p)ursuant to Section 4-9-145 county code enforcement officers are granted law enforcement authority inasmuch as these officers are granted "all the powers and duties conferred by law upon constables." ...Presumably, therefore, the vehicles used by these officers would qualify as vehicles used "primarily for law enforcement purposes" or as "police vehicles".

The opinion concluded that consistent with the law enforcement authority granted county code enforcement officers, these officers would then be allowed to use blue lights on their county vehicles.

In 2004, S.C. Code Ann. § 56-5-170 was amended to state that

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(A) Authorized emergency vehicles for purposes of this section include the following:

(1) fire department vehicles; (2) police vehicles; (3) ambulances and rescue squad vehicles which are publicly owned; (4) vehicles of coroners and deputy coroners of the forty-six counties as designated by the coroners; (5) emergency vehicles designated by the fire department or the chief of police of a municipality; (6) county government litter enforcement vehicles used by certified law enforcement Class 3 litter control officers; (7) Department of Natural Resources vehicles, federal natural resources vehicles, and forestry commission vehicles when being used in the performance of law enforcement duties; (8) public and private vehicles while transporting individuals actually engaged in emergency activities because one or more occupants belong to a fire department, volunteer fire department, police department, sheriff's office, authorized county government litter enforcement office, rescue squad, or volunteer rescue squad; (9) county or municipal government jail or corrections vehicles used by certified jail or corrections officers, and emergency vehicles designated by the Director of the South Carolina Department of Corrections; (10) vehicles designated by the Commissioner of the Department of Health and Environmental Control when being used in the performance of law enforcement or emergency response duties; and (11) federal law enforcement, military, and emergency vehicles.

(B) Only authorized emergency vehicles and private security patrol vehicles regulated by the State Law Enforcement Division are allowed use or display of any blue lights or red lights. This includes light bars and smaller lights such as dash, deck, or visor lights. To "display" means to be seen, whether activated or not.

In your letter to this office you noted that county code enforcement officers are not specifically referenced in the provisions of Section 56-5-170 and questions have been raised as to the continued authority for these officers to use blue or red lights on their county vehicles. You have specifically asked whether animal control officers, county fire code officials, and building code officials can continue to use blue or red lights on their vehicles.


In our telephone conversation you indicated that the animal control officers, county fire code officials and building code officers referenced in your letter are commissioned pursuant to Section 4-9-145. As noted above, pursuant to such provision, these officers have "all the powers and duties conferred by law upon constables". Noting such law enforcement authority, consistent with the referenced 1993 opinion of this office, the vehicles used by these officials could then qualify as vehicles used "primarily for law enforcement purposes" or as "police vehicles".

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As noted above, included in the definition of "authorized emergency vehicles" as set forth by Section 56-5-170 are "police vehicles". Such provision further provides that "authorized emergency vehicles" are allowed to use or display blue lights or red lights. Consistent with such, in my opinion, the vehicles used by the animal control officers, the county fire code officials, and the building code officials referenced by you who are commissioned pursuant to Section 4-9-145 would be allowed to use or display blue or red lights on their county vehicles.

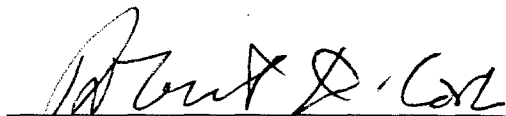
If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General