

## **CAN A VILLAGE SET SPEED LIMITS?**

It can if it has jurisdiction over the highway it seeks to regulate. “The legislative body of a municipality may establish, on the basis of an engineering and traffic investigation, a speed limit on all or part of any city, town or village highway within its jurisdiction ...” 23 V.S.A. § 1007(a).

So what exactly constitutes having jurisdiction over a highway? In this context, jurisdiction refers both to a highway that is within a village’s geographical borders and one over which the village has legal responsibility. This is based on a 1990 opinion issued by the Office of the Vermont Attorney General. Although opinions of the Attorney General are advisory and accorded no binding effect upon a court, they do carry persuasive authority. This particular opinion (No. 90-8) dismisses the argument that the phrase “within its jurisdiction” applies in the geographical sense by reasoning that if 23 V.S.A. § 1007(a) (cited above) was intended by the Legislature to grant municipalities the authority to set speed limits on all highways within their geographical borders, then this would not only be in direct conflict with the Vermont Traffic Committee’s authority to regulate speeds on state highways (23 V.S.A. § 1003), but there also would be no reason to grant this authority independently to cities. 23 V.S.A. § 1007(b). Consequently, the opinion concludes that “the term ‘within its jurisdiction’ as applied to municipalities other than cities is intended to apply in the sense of those highways over which the municipality has responsibility. It is not intended to apply in the geographical sense.”

Legal responsibility for highways can be express, as in the case of a village charter, or implied, as in the case of a prolonged pattern of control demonstrated by maintenance, repair and taxing efforts. Typically, however, unless a village charter places the control of highways under the direction of its trustees, it will be the town that is legally responsible for setting the speed limits on the highways within a village’s geographical boundaries.

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