

**Maine Revised Statute Title 30-A, Chapter 141: ORDINANCES**

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## 30-A §3001. ORDINANCE POWER

Any municipality, by the adoption, amendment or repeal of ordinances or bylaws, may exercise any power or function which the Legislature has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution of Maine, general law or charter. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Liberal construction.** This section, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect its purposes.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Presumption of authority.** There is a rebuttable presumption that any ordinance enacted under this section is a valid exercise of a municipality's home rule authority.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Standard of preemption.** The Legislature shall not be held to have implicitly denied any power granted to municipalities under this section unless the municipal ordinance in question would frustrate the purpose of any state law.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**4. Penalties accrue to municipality.** All penalties established by ordinance shall be recovered on complaint to the use of the municipality.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## 30-A §3002. ENACTMENT PROCEDURE

Unless otherwise provided by charter or law, a municipality must enact ordinances by the following procedure. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Posted.** The proposed ordinance must be attested and posted in the manner provided for town meetings. If a proposed ordinance or comprehensive plan exceeds 10 pages in length, it is sufficient to satisfy this posting requirement that the warrant and the warrant article related to the adoption of the ordinance or plan includes a statement that copies of the text of the ordinance or plan and map, if any, are available from the town clerk.

[ 1993, c. 374, §1 (AMD) .]

**2. Certification.** The municipal officers shall certify one copy of the proposed ordinance to the municipal clerk at least 7 days before the day of meeting. The clerk shall keep that copy as a public record and shall make copies available for distribution to the voters from the time of certification. Copies shall be made available at the town meeting.

A. No ordinance of any municipality subject to this subsection may be held invalid due to the municipality's failure to comply with this subsection unless the plaintiff is prejudiced or harmed by that failure. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Question.** The subject matter of the proposed ordinance shall be reduced to the question: "Shall an ordinance entitled ' ' be enacted?" and shall be submitted to the town meeting for action either as an article in the warrant or a question on a secret ballot.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**4. Application.** Subsections 1, 2 and 3 do not apply to ordinances which may be enacted by the municipal officers.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 374, §1 (AMD).

### 30-A §3003. ADOPTION OF CODES BY REFERENCE

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Code" means any published compilation of regulations or enforceable standards which has been prepared by any association or organization that is nationally recognized for establishing standards in the areas set out below, or any department or agency of the Federal Government or the State, and includes:

- (1) Building codes;
- (2) Plumbing codes;
- (3) Electrical wiring codes;
- (4) Health or sanitation codes;

(5) Fire prevention codes;

(6) Inflammable liquids codes; and

(7) Any other code which embraces regulations pertinent to a subject which is a proper municipal legislative matter. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. "Published" means printed or otherwise reproduced. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Adoption and amendment of codes by reference.** Any ordinance adopted or repealed by a municipality under its home rule authority may incorporate by reference any code or portions of any code, or any amendment of such a code, properly identified as to date and source, without setting forth the provisions of the code in full.

A. At least one copy of the code, portion or amendment that is incorporated or adopted by reference must be filed in the office of the municipal clerk and kept there available for public use, inspection and examination. The required copy of the codes, portion or amendment or public record must be filed with the municipal clerk for 30 days before the adoption of the ordinance that incorporates the code, portion or amendment by reference. [1993, c. 374, §2 (AMD).]

B. If such a code, portion or amendment is promulgated by a metropolitan or regional agency, the adopting municipality must be within the territorial boundaries of the agency. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The filing requirements for ordinances adopted under Title 38, sections 435 to 447, are deemed to be met if the codes were on file in the clerk's office by July 1, 1974. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1993, c. 374, §2 (AMD) .]

**3. Posting and publication of adopting ordinance.** This section does not relieve any municipality of the requirement of posting or publishing in full the ordinance which adopts a code, portion or amendment by reference. All provisions applicable to that publication shall be fully and completely carried out as if no code, portion or amendment were incorporated in the ordinance.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**4. Adoption of penalty clauses.** Any ordinance adopting a code, portion or amendment by reference shall state the penalty for violating the code, portion or amendment separately. No part of any such penalty may be incorporated by reference.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 374, §2 (AMD).

### 30-A §3004. REVISION, CODIFICATION AND PUBLICATION

A municipality may revise, codify and publish from time to time in book or pamphlet form all or part of its ordinances arranged in appropriate classifications excluding the titles, signatures and other formal parts of the enacting legislation for the purpose of producing a complete, accurate code of the ordinances in force. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Enactment.** The revised code shall be enacted by one ordinance entitled "An ordinance to revise and codify ordinances of the City (or Town) of .....".

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Repeals; vested rights.** The revised code is a repeal of all ordinances in conflict with it, but all ordinances in force before its adoption continue in force for the sole purpose of preserving vested rights acquired under the former provisions.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Admissible in evidence; revision.** When adopted, the revised code becomes law and is admissible in all courts without further proof as prima facie evidence of its existence and validity.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**4. Revision of ordinance.** In the process of codifying a municipality's ordinances, an ordinance may be revised only by following the procedure required for its original enactment. This subsection does not require the individual enactment of changes in each ordinance which is to be codified by a municipality except when the enactment procedure to be followed requires it.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### 30-A §3005. ORDINANCES AVAILABLE

Every ordinance of a municipality shall be on file with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to any member of the public, at reasonable cost, at the expense of the person making the request. Notice that the ordinances are available shall be posted. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### 30-A §3006. PROOF OF ORDINANCES

The submission to any court or administrative tribunal of a municipal ordinance, bylaw, order or resolve of the legislative body or municipal officers of a municipality, when the ordinance, bylaw, order or resolve has been certified over the signature of the municipal clerk, is prima facie proof of the validity of that ordinance, bylaw, order or resolve. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### 30-A §3007. SPECIFIC ORDINANCE PROVISIONS

The power to enact ordinances under section 3001 is subject to the following provisions. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Limitation on affecting municipal officials.** No change in the composition, mode of election or terms of office of the municipal legislative body, the mayor or the manager of any municipality may be accomplished by bylaw or ordinance.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Buildings, structures, mobile homes, travel trailers and related equipment.** The following provisions apply to any ordinance enacted by a municipality concerning buildings, structures, mobile homes, travel trailers intended to be used for human habitation and all related equipment.

A. Any building, structure, mobile home or travel trailer intended to be used for human habitation and travel trailer parking facility or any related equipment existing in violation of such an ordinance is a nuisance. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD); 1989, c. 104, Pt. A, §26 (RPR).]

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD); 1989, c. 104, Pt. A, §26 (RPR) .]

**3. Falling ice and snow.** The following provisions apply to any ordinance enacted by a municipality to protect persons and property from injury by requiring building owners or lessees to install roof guards to prevent the fall of snow and ice from the roofs of their buildings.

A. The municipal officers shall send a written notice to the owner or lessee who fails to comply with such an ordinance. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. If the owner or lessee does not install effective roof guards within 14 days after notice is sent, the owner or lessee is absolutely liable for all injury caused by failure to do so. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. A, §27 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. After the 14-day period expires, the municipal officers may have proper roof guards installed at the municipality's expense, the reasonable charges for which may be recovered from the owner or lessee by special assessment as provided by Title 25, section 2393. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Any building existing in violation of such an ordinance is a nuisance. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. A, §27 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**4. Pension system.** The following provisions apply to any ordinance enacted by a municipality to establish and maintain a general system of contributory pensions for the benefit of its officials and employees.

A. Money appropriated by any municipality for the operation of a pension system together with money contributed by any person eligible to participate in the system shall be administered by a board created for that purpose and shall be kept in a separate fund to be invested and disbursed by the board. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A municipality which establishes such a system may contract with any insurance company licensed to do business in the State for the payment of pension benefits. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any pension funds held by a municipality or by a board established by it are exempt from attachment or trustee process. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**5. Firearms and bows and arrows.** A municipality shall consult with the Department of Inland Fisheries and Wildlife during the process of the consideration of the adoption or amendment of a firearm discharge ordinance. The area in which the discharge of firearms is prohibited by a firearm discharge ordinance must be described in the ordinance using clearly defined physical boundaries as points of reference. For purposes of this subsection, the term "clearly defined physical boundaries" includes but is not limited to roads, waterways and utility corridors. After January 1, 2000, a municipality that adopts or amends a firearm discharge ordinance shall provide the Commissioner of Inland Fisheries and Wildlife with a copy of the new or amended firearm discharge ordinance and a copy of any maps that show the areas in the municipality affected by the new or amended ordinance within 30 days from the date that the ordinance is enacted or amended. A municipality may not include bows and arrows in any firearms discharge ordinance.

[ 2003, c. 332, §1 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A26,A27,C8 C10 (AMD). 1995, c. 266, §1 (AMD). 1999, c. 154, §1 (AMD). 2003, c. 332, §1 (AMD).

## 30-A §3008. ORDINANCES RELATING TO CABLE TELEVISION SYSTEMS

**1. State policy.** It is the policy of this State, with respect to cable television systems:

A. To affirm the importance of municipal control of franchising and regulation in order to ensure that the needs and interests of local citizens are adequately met; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. That each municipality, when acting to displace competition with regulation of cable television systems, shall proceed according to the judgment of the municipal officers as to the type and degree of regulatory activity considered to be in the best interests of its citizens; [2007, c. 548, §1 (AMD).]

C. To provide adequate statutory authority to municipalities to make franchising and regulatory decisions to implement this policy and to avoid the costs and uncertainty of lawsuits challenging that authority; and [2007, c. 548, §1 (AMD).]

D. To ensure that all cable television operators receive the same treatment with respect to franchising and regulatory processes and to encourage new providers to provide competitive pressure on the pricing of such services. [2007, c. 548, §1 (NEW).]

[ 2007, c. 548, §1 (AMD) .]

**1-A. Definitions.** For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Cable system operator" has the same meaning as "cable operator," as that term is defined in 47 United States Code, Section 522(5), as in effect on January 1, 2008; [2007, c. 548, §1 (NEW) .]

B. "Cable television service" has the same meaning as "cable service," as that term is defined in 47 United States Code, Section 522(6), as in effect on January 1, 2008; and [2007, c. 548, §1 (NEW) .]

C. "Cable television system" has the same meaning as "cable system," as that term is defined in 47 United States Code, Section 522(7), as in effect on January 1, 2008. [2007, c. 548, §1 (NEW) .]

[ 2007, c. 548, §1 (NEW) .]

**2. Ordinances.** A municipality may enact any ordinances, not contrary to this chapter, governing franchising and regulation of cable television systems using public ways. Systems located in accordance with those ordinances, franchises and regulations are not defects in public ways.

The municipal officers of municipalities have the exclusive power to enact all ordinances authorized by this section. They shall give 7 days' notice of the meeting at which those ordinances are to be proposed in the manner provided for town meetings. Those ordinances take effect immediately.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. General requirements.** The following requirements apply generally to cable television systems governed by this section.

A. Any cable television system must be constructed and operated in accordance with Federal Communications Commission regulations. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Notwithstanding any provision in a franchise, a cable system operator may not abandon service or a portion of that service without having given 6 months' prior written notice to the franchising municipality, if any, and to the municipalities affected by that abandonment. When abandonment of any service is prohibited by a municipal franchise, a cable system operator may not abandon that service without written consent of the municipal officers. Any cable system operator that violates this paragraph commits a civil violation for which a fine of \$50 a day for each day that the violation continues may be adjudged. [2007, c. 548, §1 (AMD).]

C. Neither the cable system operator whose facilities are used to transmit a program produced by a person other than that operator, under Federal Communications Commission regulations or municipal ordinance, nor the officers, directors or employees of any such cable system operator are liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when that cable system operator does not originate or produce the program. [2007, c. 548, §1 (AMD).]

D. [2007, c. 548, §1 (RP).]

E. A municipality is entitled to injunctive relief in addition to any other remedies available by law to protect any rights conferred upon the municipality by this section or any ordinances enacted under this section or section 3010. [2007, c. 548, §1 (AMD).]

[ 2007, c. 548, §1 (AMD) .]

**4. Franchise procedures.** Pursuant to subsection 2, a municipality may enact ordinances governing the procedures for granting franchises to cable system operators. These ordinances must be enacted before granting any such franchise or franchises and must be designed to ensure that the terms and conditions of a franchise will adequately protect the needs and interests of the municipality. The ordinances must include, but are not limited to, provisions for the following:

A. A mechanism for determining special local needs or interests before issuing a request for proposals, whether by actively seeking to determine those needs or interests or by allowing a period for public comment on a proposed request for proposals; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The filing of franchise applications and related documents as public records, with reasonable notice to the public that the records are open to inspection during reasonable hours; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A reasonable opportunity for public input before granting franchises; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The assessment of reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the municipality in acting upon applications. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 2007, c. 548, §1 (AMD) .]

**5. Franchise agreements or contracts.** The State specifically authorizes municipal officers pursuant to ordinances to contract on such terms and conditions and impose such fees as are in the best interests of the municipality, including the grant of exclusive or nonexclusive franchises for a period not to exceed 15

years, for the placing and maintenance of cable television systems and appurtenances, or parts thereof, along public ways and including contracts with cable system operators that receive the services of television signal transmission offered by any public utilities using public ways for such transmission. A public utility may not be required to contract with the municipal officers under this subsection. Each franchise must contain the following provisions:

- A. The area or areas to be served; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- B. A line extension policy; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- C. A provision for renewal, the term of which may not exceed 15 years; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
- D. Procedures for the investigation and resolution of complaints by the cable system operator; and [2007, c. 548, §1 (AMD).]
- E. Any other terms and conditions that are in the best interests of the municipality. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 2007, c. 548, §1 (AMD) .]

#### **6. Current ordinances and agreements.**

[ 2007, c. 548, §1 (RP) .]

**7. Model franchise agreement.** The Department of Administrative and Financial Services, Office of Information Technology, referred to in this subsection as "the office," shall develop a model franchise agreement for use by any municipality and any cable system operator that mutually choose to adopt the model franchise agreement or any of its provisions. The office shall make the model franchise agreement available on its publicly accessible website. In the development of the model franchise agreement, the office shall, at a minimum, consider the following issues:

- A. Franchise fees; [2007, c. 548, §1 (NEW).]
- B. Build-out requirements; [2007, c. 548, §1 (NEW).]
- C. Public, educational and governmental access channels and reasonable facility support for such channels; [2007, c. 548, §1 (NEW).]
- D. Customer service standards; [2007, c. 548, §1 (NEW).]
- E. The disparate needs of the diverse municipalities in this State; and [2007, c. 548, §1 (NEW).]
- F. The policy goal of promoting competition in the delivery of cable television service. [2007, c. 548, §1 (NEW).]

This subsection does not allow the office to establish prices for any cable television service or to regulate the content of cable television service.

[ 2007, c. 548, §1 (NEW) .]

#### **SECTION HISTORY**

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 2007, c. 548, §1 (AMD).

## 30-A §3009. AUTHORITY OF MUNICIPAL OFFICERS TO ENACT ORDINANCES

**1. Exclusive authority.** The municipal officers have the exclusive authority to enact all traffic ordinances in the municipality, subject to the following provisions.

A. The municipal officers may regulate pedestrian traffic in the public ways, including, but not limited to, setting off portions of a municipality's public ways for sidewalks and regulating their use; providing for the removal of snow and ice from the sidewalks by the owner, occupant or agent having charge of the abutting property; and establishing crosswalks or safety zones for pedestrians.

- (1) The violation of any ordinance authorized by this paragraph is a civil violation.
- (2) The municipal officers may establish a method by which persons charged with the violation of ordinances governing pedestrian traffic on the public ways may waive all court action by payment of specified fees within stated periods of time. [1991, c. 549, §16 (AMD); 1991, c. 549, §17 (AFF).]

B. The municipal officers may regulate the operation of all vehicles in the public ways and on publicly owned property.

- (1) The violation of any ordinance authorized by this paragraph is a civil violation.
- (2) A municipality may not adopt or enforce an ordinance authorized by this paragraph that is the same as or conflicts with any speed or other traffic control limits imposed by the Department of Transportation pursuant to Title 23 or 29-A. [1999, c. 753, §8 (AMD).]

C. The municipal officers may regulate the parking of motor vehicles on any public way or public parking area, including, but not limited to, providing for the installation of parking meters, providing the fact that any vehicle is illegally parked or is in a metered space when the time signal on the parking meter for that space indicates no parking permitted without the deposit of a coin or coins is prima facie evidence that the vehicle has been parked illegally by the person in whose name the vehicle is registered, and establishing reasonable charges for metered parking.

- (1) Illegal parking of a vehicle in violation of any ordinance authorized by this paragraph is a civil violation.
- (2) The municipal officers may establish a method by which persons charged with the violation of parking regulations may waive all court action by payment of specified fees within stated periods of time.
- (3) The revenue collected from parking meters must be used:
  - (a) To purchase, maintain and police the meters;
  - (b) To construct and maintain public ways;
  - (c) To acquire, construct, maintain and operate public parking areas; and
  - (d) For no other purpose.
- (4) A vehicle that exhibits a permanent placard, a temporary placard or a disability registration plate issued under Title 29-A, section 521 may park at a parking area with a meter without a charge and may park a length of time that does not exceed twice the time limit otherwise allowed. [2001, c. 151, §2 (AMD).]

D. The following provisions apply to the establishment and policing of parking spaces and access aisles for disabled persons.

- (1) Municipal public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter 5. The municipality shall post a sign adjacent to and visible from each disability parking space established by the municipality. The sign must display the international symbol for accessibility.

(2-A) Enforcement of disability parking restrictions must be in accordance with Title 29-A, section 521, subsection 9-A.

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a disability parking space and that does not bear a special registration plate or placard issued under Title 29-A, section 521 or 523, or a similar plate issued by another state, must be cited for a fine of not less than \$200 and not more than \$500. "Clearly marked" includes painted signs on pavement and vertical standing signs that are visible in existing weather conditions.

(4) The municipal officers may establish and enforce the time limit for use of a parking space reserved as a disability parking space on a public way or public parking area. [ 2005, c. 528, §3 (AMD) . ]

E. The municipal officers may provide for the regulation of motor vehicles as defined in Title 29-A, section 101, subsection 42 on icebound inland lakes during the hours from sunset to sunrise of the following day. The Maine Land Use Regulation Commission shall regulate motor vehicles on icebound inland lakes that are completely encompassed by unorganized territories. Motor vehicles on icebound inland lakes that are abutted by an unorganized territory and either one or more municipalities, village corporations or plantations, in any combination, are regulated by those municipalities, village corporations or plantations, as provided in subparagraphs (1) and (2).

No ordinance authorized by this paragraph is valid unless:

(1) Each municipality abutting a lake has enacted an identical local ordinance, in which case the ordinance of any municipality is in effect on the entire lake and any law enforcement officer from any of those municipalities may enforce the ordinance on any portion of the lake; or

(2) In cases where a lake is divided by an easily identifiable boundary into 2 or more nearly separate bodies, each municipality abutting one of the distinguishable portions of the lake has enacted an identical local ordinance. The ordinance of any municipality is in effect only on that distinguishable portion of the lake and any law enforcement officer from any of those municipalities may enforce the ordinance anywhere on that portion of the lake. [ 1995, c. 65, Pt. A, §129 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) . ]

F. The municipal officers may regulate or establish a licensing authority which may regulate rates of fare, routes and standing places of vehicles for hire, except where jurisdiction rests with the Public Utilities Commission and may require an owner or operator of a vehicle for hire to carry a liability insurance policy in amount and form satisfactory to the licensing authority as a condition precedent to the granting of a license to operate. [ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) . ]

[ 2005, c. 528, §3 (AMD) . ]

**1-A. Transfer of mobile home or modular construction home.** To ensure the fair and efficient administration of property taxation, municipal officers may enact an ordinance requiring the owner of a mobile home or modular construction home to notify the municipal assessor, according to such reasonable terms as the ordinance may establish, upon the transfer of a mobile home or modular construction home when that mobile home or modular construction home is situated on land that is not owned by the mobile home or modular home owner.

[ 1999, c. 427, §1 (NEW) . ]

**2. Powers of village corporation.** The officers of a village corporation have the same powers and duties as municipal officers under this section.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Method of enactment; effective date.** When enacting ordinances under this section, the municipal officers shall give 7 days' notice of the meeting at which the ordinances are to be proposed in the manner provided for town meetings. Unless otherwise provided, these ordinances take effect immediately.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### **4. Enforcement of municipal ordinances.**

[ 2005, c. 53, §2 (RP) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A28,C8,C10 (AMD). 1989, c. 394, §2 (AMD). 1991, c. 549, §16 (AMD). 1991, c. 549, §17 (AFF). 1995, c. 65, §§A127-129 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1997, c. 60, §1 (AMD). 1997, c. 392, §1 (AMD). 1997, c. 673, §3 (AMD). 1997, c. 750, §A4 (AMD). 1999, c. 127, §A45 (AMD). 1999, c. 427, §1 (AMD). 1999, c. 753, §8 (AMD). 2001, c. 151, §2 (AMD). 2003, c. 80, §1 (AMD). 2003, c. 117, §1 (AMD). 2005, c. 53, §2 (AMD). 2005, c. 528, §3 (AMD).

### **30-A §3009-A. ENFORCEMENT OF MUNICIPAL ORDINANCES**

A municipality lacking an organized police department may contract with the State Police, pursuant to Title 25, section 1502, or a sheriff's department for law enforcement services, including, but not limited to, enforcement of ordinances enacted by the municipality. State police officers and deputy sheriffs are authorized to enforce municipal ordinances as agreed to in the contract. [2005, c. 53, §3 (NEW) .]

#### SECTION HISTORY

2005, c. 53, §3 (NEW) .

### **30-A §3010. CONSUMER RIGHTS AND PROTECTION RELATING TO CABLE TELEVISION SERVICE**

This section applies to every franchisee. For purposes of this section, "franchisee" means a cable system operator that is granted a franchise by a municipality in accordance with section 3008. For purposes of this section, "cable system operator" and "cable television service" have the same meanings as in section 3008. [2007, c. 548, §2 (AMD) .]

**1. Credits and refunds for interruption of service.** Credits and refunds for interruption of cable television service of a franchisee must be as follows.

A. In the event service to any subscriber is interrupted for 6 or more consecutive hours in a 30-day period, the franchisee will, upon request, grant that subscriber a pro rata credit or rebate. [2007, c. 548, §2 (AMD) .]

B. An office of the franchisee must be open during usual business hours, have a listed toll-free telephone and be capable of receiving complaints, requests for adjustments and service calls. [2007, c. 548, §2 (AMD).]

C. The franchisee shall provide subscribers with 30 days' advance written notice of an increase in rates, changes in billing practices or the deletion of a channel. [2007, c. 548, §2 (AMD).]

[ 2007, c. 548, §2 (AMD) . ]

**1-A. Service disconnection.** A franchisee must discontinue billing a subscriber for a service within 10 working days after the subscriber requests that service disconnection unless the subscriber unreasonably hinders access by the franchisee to equipment of the franchisee on the premises of the subscriber to which the franchisee must have access to complete the requested disconnection.

[ 2007, c. 548, §2 (AMD) . ]

**2. Notice to subscribers regarding quality of service.** Notice to subscribers regarding quality of service must be as follows.

A. For each new subscriber, and annually thereafter, every franchisee shall cause to be mailed to each of its subscribers a notice that:

- (1) Informs subscribers of how to communicate their views and complaints to the cable system operator, the proper municipal official and the Attorney General;
- (2) States the responsibility of the Department of the Attorney General to receive consumer complaints concerning matters other than channel selection and rates;
- (3) States the policy regarding and method by which subscribers may request rebates or pro rata credits as described in subsection 1, paragraph A; and
- (4) Informs subscribers of their right to request basic-tier, nonpremium programming service and the cost of that service. [2007, c. 548, §2 (AMD).]

B. The notice must be in nontechnical language, understandable by the general public and in a convenient format. On or before January 30th of each year, the franchisee shall certify to the franchising authority and to the Department of the Attorney General that it has distributed the notice during the previous calendar year as required by this section. [2007, c. 548, §2 (AMD).]

[ 2007, c. 548, §2 (AMD) . ]

**2-A. Notice on subscriber bills; credits and refunds.** Every franchisee shall include on each subscriber bill for service a notice regarding the subscriber's right to a pro rata credit or rebate for interruption of service upon request in accordance with subsection 1. The notice must include a toll-free telephone number and a telephone number accessible by a teletypewriter device or TTY for contacting the franchisee to request the pro rata credit or rebate for service interruption. The notice must be in nontechnical language, understandable by the general public and printed in a prominent location on the bill in boldface type.

[ 2007, c. 104, §1 (NEW) . ]

### **3. Franchise document clearinghouse.**

[ 1999, c. 581, §2 (RP) . ]

**4. Recording subscriber complaints.** Recording subscriber complaints must be as follows.

A. Every franchisee shall keep a record or log of all written complaints received regarding quality of service, equipment malfunctions, billing procedure, employee attitude and similar matters. These records must be maintained for a period of 2 years. [2007, c. 548, §2 (AMD).]

B. The record must contain the following information for each complaint received:

- (1) Date, time and nature of the complaint;
- (2) Name, address and telephone number of the person complaining;
- (3) Investigation of the complaint;
- (4) Manner and time of resolution of the complaint;
- (5) If the complaint regards equipment malfunction or the quality of reception, a report indicating corrective steps taken, with the nature of the problem stated; and
- (6) Consistent with subscriber privacy provisions contained in the Cable Communications Policy Act of 1984, Public Law 98-549, every franchisee shall make the logs or records of complaints available to any authorized agent of any franchising authority having a franchise with that franchisee or any authorized agent of a municipality considering a franchise with that franchisee upon request during normal business hours for on-site review. [ 2007, c. 548, §2 (AMD) . ]

[ 2007, c. 548, §2 (AMD) . ]

**5. Franchises.** All franchises must be nonexclusive. All franchises must include provision for access to, and facilities to make use of, one or more local public, educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 or related requirements or regulations of the Federal Communications Commission.

[ 2007, c. 548, §2 (AMD) . ]

**6. Rights of individuals.** A cable system operator may not deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of age, race, religion, sex, physical handicap or country of natural origin.

[ 2007, c. 548, §2 (AMD) . ]

**6-A. Subscriber privacy.** A cable system operator may not intrude upon the privacy of a subscriber by installing or using any equipment that allows the cable system operator to observe or to listen to what is occurring in an individual subscriber's household or to monitor the viewing habits of the subscriber without express, prior written consent of the subscriber. A cable system operator may not sell, disclose or otherwise make available, or permit the use of, lists of the names or addresses of its subscribers, or any list or other information that identifies by name or address subscribers or subscriber viewing habits, to any person or agency for any purpose whatsoever without the prior written consent of the subscriber except that the cable system operator may make such lists available to persons performing services for the cable system operator in connection with its business or operations, such as a billing service, when the availability of such lists is necessary to the performance of such services if, in either case, the persons or entity receiving such lists agree in writing that they will not permit them to be made available to any other party.

[ 2007, c. 548, §2 (AMD) . ]

**6-B. Late fees.** A cable system operator may not charge a late fee or other penalty or charge for late payment of any bill that exceeds 1.5% per month of the amount due in the bill. If the bill includes separate charges for different levels of service, a late fee or other penalty or charge must be calculated on the total amount overdue for all levels of service and may not be calculated separately for each level of service. A payment is not late under this subsection until at least 30 days after those services to which the late fee applies have been received by the consumer.

[ 2007, c. 548, §2 (AMD) . ]

**7. Penalty.** A violation of any provision of this section is a violation of Title 5, chapter 10.

[ 2007, c. 548, §2 (AMD) .]

**8. Filing of franchise agreements.** A cable system operator that maintains a publicly accessible website shall post on that website a copy of the most recently executed franchise agreement for each franchise that it has been granted by a municipality in the State.

[ 2007, c. 548, §2 (NEW) .]

#### SECTION HISTORY

1989, c. 352, (NEW). 1991, c. 358, (AMD). 1991, c. 657, §1 (AMD). 1993, c. 219, §1 (AMD). 1993, c. 513, §1 (AMD). 1993, c. 676, §§1,2 (AMD). 1999, c. 581, §2 (AMD). 2007, c. 104, §1 (AMD). 2007, c. 548, §2 (AMD).

### 30-A §3011. REGULATION OF SPORT SHOOTING RANGES

**1. Definition.** As used in this section, "sport shooting range" means an area designed and used for archery, skeet and trap shooting or other similar shooting sports and the shooting of rifles, shotguns and pistols.

[ 1995, c. 231, §2 (NEW) .]

**2. Limitation.** A municipal noise control ordinance may not require or be applied so as to require a sport shooting range to limit or eliminate shooting activities that have occurred on a regular basis at the range prior to the enactment date of the ordinance.

[ 1995, c. 231, §2 (NEW) .]

**3. Expansion of activity.** Nothing in this section limits the ability of a municipality to regulate noise produced by the expansion of activity at a sport shooting range.

[ 1995, c. 231, §2 (NEW) .]

#### SECTION HISTORY

1995, c. 231, §2 (NEW).

### 30-A §3012. RADIO ANTENNA TOWERS; CONSTRUCTION IN CONFORMANCE WITH FEDERAL REQUIREMENTS

A municipality may not adopt or enforce any ordinance or regulation that is preempted by a Federal Communications Commission regulation that states that local regulations that involve placement, screening or height of radio antennas based on health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur radio communications and to represent the minimum practicable regulation to accomplish the municipality's legitimate purpose. [1999, c. 269, §1 (NEW).]

#### SECTION HISTORY

1999, c. 269, §1 (NEW).

### 30-A §3013. SOLAR ENERGY DEVICES; ORDINANCES

A municipal ordinance, bylaw or regulation adopted after September 30, 2009 that directly regulates the installation or use of solar energy devices on residential property must comply with the requirements of Title 33, chapter 28-A. For the purposes of this section, "solar energy device" has the same meaning as in Title 33, section 1421, subsection 5. [2009, c. 273, §1 (NEW).]

*§3013. Ordinances regarding residency restrictions for sex offenders*

*(As enacted by PL 2009, c. 351, §1 is REALLOCATED TO TITLE 30-A, SECTION 3014)*

#### SECTION HISTORY

2009, c. 273, §1 (NEW). 2009, c. 351, §1 (NEW). RR 2009, c. 1, §21 (RAL).

### 30-A §3014. ORDINANCES REGARDING RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

*(REALLOCATED FROM TITLE 30-A, SECTION 3013)*

**1. Application and scope.** The State intends to occupy and preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction. Except as provided in this section, a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in this State or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in this State or in another jurisdiction. As used in this section, "convicted of a sex offense in this State or in another jurisdiction" means a conviction for any current or former Maine crime listed in former Title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

[ 2009, c. 1, §21 (RAL) .]

**2. Residency restriction ordinance.** A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense. Any such ordinance is limited as follows.

A. An ordinance may restrict only residence. It may not impose additional restrictions or requirements, including, but not limited to, registration and fees. [2009, c. 1, §21 (RAL).]

B. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned property where children are the primary users. [2009, c. 1, §21 (RAL).]

C. An ordinance may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance. [2009, c. 1, §21 (RAL).]

D. An ordinance may not be premised on a person's obligation to register pursuant to Title 34-A, chapter 15. [2009, c. 1, §21 (RAL).]

[ 2009, c. 1, §21 (RAL) .]

#### SECTION HISTORY

RR 2009, c. 1, §21 (RAL).

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