

**CHAPTER 123**  
**MUNICIPAL OFFICIALS**  
**SUBCHAPTER 1**  
**GENERAL PROVISIONS**

**§2601. Appointment and term of officials; generally**

**1. Appointment of officials and employees.** Except where specifically provided by law, charter or ordinance, the municipal officers shall appoint all municipal officials and employees required by general law, charter or ordinance and may remove those officials and employees for cause, after notice and hearing.

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

**2. Term of officials.** Unless otherwise specified, the term of all municipal officials is one year. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**SECTION HISTORY**

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

**§2601-A. Appointment of code enforcement officers**

Municipal officers may appoint code enforcement officers trained and certified in accordance with section 4451 to serve for fixed terms of one year or more, and may remove those code enforcement officers only for cause after notice and hearing. Compensation for code enforcement officers is determined by the municipal officers and paid by the respective municipalities. [PL 1993, c. 222, §1 (NEW).]

Code enforcement officers need not be residents of the municipality for which they are appointed. [PL 1993, c. 222, §1 (NEW).]

**SECTION HISTORY**

PL 1993, c. 222, §1 (NEW).

**§2602. Vacancy in municipal office**

**1. When vacancy exists.** A vacancy in a municipal office may occur by the following means:

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

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

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

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

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

F. Failure to qualify for the office within 10 days after written demand by the municipal officers; [PL 2011, c. 324, §2 (AMD).]

G. Failure of the municipality to elect a person to office; or [PL 2011, c. 324, §3 (AMD).]

H. Recall pursuant to section 2505. [PL 2011, c. 324, §4 (NEW).]  
[PL 2011, c. 324, §§2-4 (AMD).]

**2. Vacancy in office other than selectman or school committee.** When there is a vacancy in a town office other than that of selectman or school committee, the selectmen may appoint a qualified person to fill the vacancy.

[PL 1991, c. 270, §3 (AMD).]

**3. Vacancy in office of selectman.** When there is a vacancy in the office of selectman, the selectmen may call a town meeting to elect a qualified person to fill the vacancy.

[PL 1991, c. 270, §3 (AMD).]

**4. Vacancy in school committee.** A vacancy in a municipality's school committee shall be filled as provided in Title 20-A, section 2305, subsection 4.

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

**5. Person appointed qualifies.** The person appointed to fill a vacant office must qualify in the same manner as one chosen in the regular course of municipal activity.

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

**6. Home rule authority.** Under its home rule authority, a municipality may apply different provisions governing the existence of vacancies in municipal offices and the method of filling those vacancies as follows:

A. Any change in the provisions of this section relating to a school committee must be accomplished by charter; and [PL 1993, c. 369, §1 (AMD).]

B. Any change in the provisions of this section relating to any other municipal office may be accomplished by charter or ordinance. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1993, c. 369, §1 (AMD).]

**7. Authority to act.** Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed municipal or quasi-municipal body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the municipal or quasi-municipal body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken.

[PL 2007, c. 396, §3 (NEW); PL 2007, c. 396, §4 (AFF).]

## SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1991, c. 270, §3 (AMD). PL 1993, c. 369, §1 (AMD). PL 2007, c. 396, §3 (AMD). PL 2007, c. 396, §4 (AFF). PL 2011, c. 324, §§2-4 (AMD).

## §2603. Deputy officials

The clerk, treasurer and collector of a municipality may each appoint in writing one or more qualified persons as deputies. [PL 1995, c. 57, §1 (AMD).]

**1. Sworn and oath recorded.** Before assuming the duties of office, the deputy must be sworn and the fact of the oath recorded as provided in section 2526, subsection 9. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**2. Term; duties.** The deputy serves at the will of the appointing official. The deputy may perform any of the duties of office prescribed by the appointing official. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**3. Bond liability.** The appointing official and the surety on the official's bond are liable for all acts and omissions of the official's deputy. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**4. Absence.** If the clerk, treasurer or tax collector fails to do so, the municipal officers may appoint a deputy to act during any absence. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1995, c. 57, §1 (AMD).

#### §2604. Definitions

As used in section 2605, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Body.** "Body" means the governing unit of a municipality or county, and any subunit of government of a municipality or county, including, but not limited to, agencies, authorities, boards, commissions and offices. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**2. Official.** "Official" means any elected or appointed member of a municipal or county government or of a quasi-municipal corporation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**3. Quasi-municipal corporation.** "Quasi-municipal corporation" means any governmental unit embracing a portion of a municipality, a single municipality or several municipalities which is created by law to deliver public services but which is not a general purpose governmental unit. This definition includes, but is not limited to, utility districts under the jurisdiction of the Public Utilities Commission and school administrative districts. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### §2605. Conflicts of interest

Certain proceedings of municipalities, counties and quasi-municipal corporations and their officials are voidable and actionable according to the following provisions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Voting.** The vote of a body is voidable when any official in an official position votes on any question in which that official has a direct or an indirect pecuniary interest. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**2. Contracts.** A contract, other than a contract obtained through properly advertised bid procedures, made by a municipality, county or quasi-municipal corporation during the term of an official of a body of the municipality, county or quasi-municipal corporation involved in the negotiation or award of the contract who has a direct or an indirect pecuniary interest in it is voidable, except as provided in subsection 4. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**3. Restrain proceedings.** The Superior Court may restrain proceedings in violation of this section on the application of at least 10 residents of the municipality, county or area served by the quasi-municipal corporation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**4. Direct or indirect pecuniary interest.** In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

A. This subsection does not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).] [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**5. Former municipal and county officials.** This subsection applies to former municipal and county officials.

A. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body for one year after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was completed at least one year before the termination of that official's employment or term of office. [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body at any time after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was pending within one year of the termination of the municipal or county official's employment or term of office. [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. This subsection may not be construed to prohibit former municipal or county officials from doing personal business with the municipality or county. This subsection does not limit the application of Title 17-A, chapter 25. [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

For the purpose of this subsection, a municipal or county government body includes an agency, board, commission, authority, committee, legislative body, department or other governmental entity of a municipality or county.

[PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

**6. Avoidance of appearance of conflict of interest.** Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.

[PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

**7. Municipal officers adopt ethics policy.** In their discretion, the municipal officers may adopt an ethics policy governing the conduct of elected and appointed municipal officials.

[PL 1989, c. 561, §19 (NEW).]

#### SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A22,C8,C10 (AMD). PL 1989, c. 561, §19 (AMD).

#### §2606. Prohibited appointments

No municipal officer, during the term for which that officer has been elected and for one year thereafter, may be appointed to any civil office of profit or employment position of the municipality, which was created or the compensation of which was increased by the action of the municipal officers during the officer's term. This section shall not be construed to prohibit actions allowed or required under state or federal law, municipal ordinance or municipal charter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### §2607. Neglect of official duty

A municipal official who neglects or refuses to perform a duty of office commits a civil violation for which a fine of not more than \$100 for each offense may be adjudged, when no other penalty is provided. The fine shall be recovered on complaint to the use of the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

## SUBCHAPTER 2

### TOWN MANAGER PLAN

#### §2631. Town manager plan

**1. Applicable laws.** The form of government provided in this subchapter shall be known as the "town manager plan" and, together with general law not inconsistent, shall govern any town in which the voters have adopted this plan at a meeting held at least 90 days before the annual meeting. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**2. Government.** The government of each town under this subchapter shall consist of a town meeting, an elected board of selectmen, an elected school committee, an appointed town manager and any other officials and employees that may be appointed under this subchapter, general law or ordinance. Other town officials may be elected by ballot, including, but not limited to, moderator, assessors, overseers of the poor, clerk and treasurer. The election of officials at the last annual town meeting shall require that those town offices continue to be filled by election until the town designates otherwise.

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

**3. Duration.** Once adopted, the town manager plan remains in effect until revoked at a town meeting held at least 90 days before the annual meeting unless the voters of the town adopt a charter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### §2632. Qualifications of town manager

**1. Selection by board; professional qualification.** The selectmen shall choose the town manager solely on the basis of executive and administrative qualifications with special reference to actual experience in, or knowledge of, the duties of office under this subchapter.

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

**2. Residency.** The town manager need not be a resident of the town or State when appointed, but, while in office, may reside outside the town or State only with the approval of the board of selectmen. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**3. Prohibited offices.** A town manager may not serve as moderator, selectman, assessor or member of the school committee.

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

#### SECTION HISTORY

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

#### §2633. Term, compensation, removal, suspension

**1. Term.** The town manager shall hold office for an indefinite term unless otherwise specified by contract.

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

**2. Compensation.** The selectmen shall determine the compensation of the town manager.

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

**3. Removal, suspension.** The selectmen may remove or suspend the town manager for cause in accordance with the following procedures.

A. The selectmen shall file a written preliminary resolution with the town clerk stating the specific reasons for the proposed removal. A copy of that resolution shall be delivered to the manager within 10 days of filing. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Within 20 days of receiving the resolution, the manager may reply in writing and request a public hearing. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Upon request for a public hearing, the selectmen shall hold one at least 10 days but not more than 30 days after the request is filed. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. After the public hearing or at the expiration of the time permitted the manager to request the public hearing, if no such request is made, the selectmen may adopt or reject the resolution of removal. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The selectmen may suspend the manager from duty in the preliminary resolution, but the manager's salary may not be affected until the final resolution of removal has been adopted. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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

#### SECTION HISTORY

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

#### §2634. Absence or disability of town manager

The town manager may designate a qualified administrative official of the town to perform the manager's duties during a temporary absence or disability, subject to confirmation by the selectmen. If

the town manager does not make this designation, the selectmen may appoint a town official to perform the manager's duties during the absence or disability and until the manager returns or the disability ceases. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### **§2635. Board of selectmen to act as a body; administrative service to be performed through town manager; committees**

It is the intention of this subchapter that the board of selectmen as a body shall exercise all administrative and executive powers of the town except as provided in this subchapter. The board of selectmen shall deal with the administrative services solely through the town manager and shall not give orders to any subordinates of the manager, either publicly or privately. This section does not prevent the board of selectmen from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any official or department, or any matter relating to the welfare of the town. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### **§2636. Powers and duties of town manager**

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

**1. Executive and administrative officer.** Is the chief executive and administrative official of the town;

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

**2. Administer offices.** Is responsible to the selectmen for the administration of all departments and offices over which the selectmen have control;

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

**3. Execute laws and ordinances.** Shall execute all laws and ordinances of the town;

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

**4. Department head.** Shall serve in any office as the head of any department under the control of the selectmen when directed by the selectmen;

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

**5. Appoint department heads.** Shall appoint, subject to confirmation by the selectmen, supervise and control the heads of departments under the control of the selectmen when the department is not headed by the town manager under subsection 4;

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

**6. Appoint town officials.** Unless otherwise provided by town ordinance, shall appoint, supervise and control all town officials whom the municipal officers are required by law to appoint, except



members of boards, commissions, committees and single assessors; and appoint, supervise and control all other officials, subordinates and assistants, except that the town manager may delegate this authority to a department head and report all appointments to the board of selectmen; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**7. Purchasing agent.** Shall act as purchasing agent for all departments, except the school department, provided that the town or the selectmen may require that all purchases greater than a designated amount must be submitted to sealed bid; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**8. Attend meetings of selectmen.** Shall attend all meetings of the board of selectmen, and the town manager may attend meetings when the manager's removal is being considered; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**9. Make recommendations.** Shall make recommendations to the board of selectmen for the more efficient operation of the town; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**10. Attend town meetings.** Shall attend all town meetings and hearings; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**11. Inform of financial condition.** Shall keep the board of selectmen and the residents of the town informed as to the town's financial condition; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**12. Collect data.** Shall collect data necessary to prepare the budget; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**13. Assist residents.** Shall assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**14. Remove appointments.** Has exclusive authority to remove for cause, after notice and hearing, all persons whom the manager is authorized to appoint and report all removals to the board of selectmen. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

## SECTION HISTORY

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

### §2637. Transitional provisions

The selectmen, by resolve, may provide for the orderly transition of the town government. These resolves may not infringe upon the rights of any official or employee of the town and may not be inconsistent with this subchapter. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C,

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

#### SECTION HISTORY

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

#### §2638. Regional cooperation

**1. Agreement.** Any 2 or more towns may enter into an agreement, not inconsistent with this subchapter, to employ and share a manager.

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

**2. Selection of manager.** The selectmen of the contracting towns shall act as a joint board for the purposes of selecting and removing for cause the manager, provided that each town has a single vote.

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

**3. Compensation.** The agreement must contain a formula establishing the percentage of the manager's compensation to be contributed by each town. The selectmen shall determine the manager's total compensation acting as a joint board, each town having a single vote.

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

**4. Duration.** The agreement must specify the method of partial or complete termination of the agreement.

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

#### SECTION HISTORY

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

#### §2639. Application

All municipalities operating under the repealed Title 30, chapter 213, subchapter II are deemed to have made the adoption under section 2631, subsection 1, as of October 1, 1969. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

### SUBCHAPTER 3

#### MUNICIPAL CLERKS

#### §2651. Bond

A municipality may require its clerk to be bonded according to section 5601, before assuming the duties of office. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

### §2652. Fee schedule

Except as provided in Title 11 and this section, the clerk shall charge for services according to the following fee schedule: [PL 1997, c. 32, §1 (AMD).]

#### 1. Recording; general. Recording the following:

##### A. Administration of an oath, \$1;

(1) The municipality shall pay this fee; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

##### B. A birth, marriage or death as required by Title 19-A, section 654 and Title 22, sections 2702, 2703 and 2763, 50¢;

(1) The municipality shall pay this fee; [PL 1995, c. 694, Pt. D, §55 (AMD); PL 1995, c. 694, Pt. E, §2 (AFF).]

##### C. Affidavit establishing or correcting a record of birth, marriage or death as provided by Title 22, sections 2705 and 2764, \$4;

(1) Issuance of a copy of the record to the applicant, \$15 for the first copy and \$6 for each additional copy; [PL 2009, c. 589, §4 (AMD).]

##### D. Affidavit legitimating a birth as provided by Title 22, section 2765, \$4;

(1) Issuance of a copy of the amended birth record to the applicant, \$15 for the first copy and \$6 for each additional copy; [PL 2009, c. 589, §5 (AMD).]

##### E. Release of an attachment, \$4; [PL 1993, c. 405, §1 (AMD).]

##### F. Certificate of partnership, \$10; [PL 1993, c. 405, §1 (AMD).]

##### G. Certificate of withdrawal of a partner, \$10; [PL 1993, c. 405, §1 (AMD).]

##### H. Certificate of a person engaging in trade under a name, style or designation other than that person's own, \$10; [PL 1993, c. 405, §1 (AMD).]

##### I. Honorable discharge or release papers of veterans of the Armed Forces of the United States of America, \$4;

(1) A copy of such a document attested by the clerk is prima facie evidence of its existence and validity; [PL 1993, c. 405, §1 (AMD).]

##### J. Petition for enforcement of a lien on monumental works, \$4; [PL 1993, c. 405, §1 (AMD).]

##### K. License for clam cultivation or an assignment of it, \$2; and [PL 1993, c. 405, §1 (AMD).]

##### L. Any instrument entitled to be recorded, except those under the Uniform Commercial Code, including an executed assignment attached to or made a part of it before it is received for recording, \$4 for the first page and \$2 for each succeeding page or part of a page;

(1) The acts of any municipality in recording any instrument by microfilm before September 21, 1963 are ratified, confirmed and made effective; [PL 1993, c. 405, §1 (AMD).]

[PL 2009, c. 589, §§4, 5 (AMD).]

**2. Marriage intentions and license.** Recording marriage intentions and issuing a marriage license, \$40, except, when the laws of this State require 2 licenses, the fee is \$20 each; [PL 2009, c. 589, §6 (AMD).]

#### 3. Birth, marriage or death certificates. Issuing the following:

A. Certificate of birth, marriage or death, the clerk may charge up to \$15 for the first copy and \$6 for each additional copy; and [PL 2009, c. 589, §7 (AMD).]

B. Permit for the disposition of human remains, \$20, except that no fee is owed if the disposition of human remains is paid for through the municipal general assistance program under chapter 1161; and [PL 2009, c. 589, §7 (AMD).]

[PL 2009, c. 589, §7 (AMD).]

**4. Marginal release.** Entering in the margin of a record the release of an attachment, no charge;

A. The person making the marginal release must sign it. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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

If a municipality provides for a salary to be paid to the clerk as full compensation, all revenues received by the clerk on behalf of the town accrue to the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

The Department of Health and Human Services, Maine Center for Disease Control and Prevention shall review the fees charged by the clerk under this section every 3 years beginning in 2013. [PL 2009, c. 589, §8 (NEW).]

#### SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 405, §1 (AMD). PL 1995, c. 694, §D55 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 32, §§1,2 (AMD). PL 2005, c. 86, §1 (AMD). PL 2005, c. 112, §§1,2 (AMD). PL 2005, c. 683, §C8 (AMD). PL 2009, c. 589, §§4-8 (AMD).

#### §2653. Expenses

Each municipality shall pay the reasonable expenses of its clerk and deputy clerk incurred in attending the annual meetings of the Maine Municipal Association and the Maine Town and City Clerks' Association. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### §2654. Assistant clerks

The clerk may appoint in writing one or more assistants who shall perform any duties of the office prescribed by the clerk. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Sworn and oath recorded.** Before assuming the duties of office, an assistant clerk must be sworn and the fact of the oath recorded as provided in section 2526, subsection 9.

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

**2. Term.** The assistant clerk serves at the will of the clerk.

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

**3. Bond liability.** The clerk and the surety on the clerk's bond are liable for all acts and omissions of the assistant.

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

#### SECTION HISTORY

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

#### §2655. Prohibition on commingling funds

A clerk is prohibited from commingling personal funds with any funds collected for a municipality while performing the duty of clerk. [PL 2009, c. 193, §1 (NEW).]

#### SECTION HISTORY

PL 2009, c. 193, §1 (NEW).

### SUBCHAPTER 4

#### LAW ENFORCEMENT OFFICERS

#### §2671. Police officers

**1. Appointment.** Except as provided by charter, ordinance or section 2636, subsection 6, the municipal officers may appoint police officers for a definite term, and control and fix their compensation. Police officers, including chiefs of police, may be removed for cause after notice and hearing.

A. Before appointing any law enforcement officer, the municipal officers shall investigate the qualifications and background of any person being considered for appointment. This includes investigating the applicant's abilities, reputation for truthfulness and respect for the law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. An appointed law enforcement officer is subject to the training requirements of Title 25, chapter 341. [PL 1993, c. 349, §64 (AMD).]

C. Notwithstanding section 2526, residency in the State is not a condition of initial or continued appointment as a municipal police officer. [PL 1989, c. 279, §1 (NEW).]  
[PL 1993, c. 349, §64 (AMD).]

**2. Powers.** Police officers may serve criminal and traffic infraction processes and arrest and prosecute offenders of the law. A police officer has all the statutory powers of a constable, unless limited by charter or ordinance. No police officer has any authority in criminal or traffic infraction matters beyond the limits of the municipality in which the officer is appointed, except to:

A. Recapture a prisoner whom the officer has arrested and who has escaped; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Take a person before the District Court; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Execute a mittimus given to the officer by the District Court; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Pursue a person who has gone into another municipality and for whose arrest the officer has a warrant; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Arrest a person who travels beyond the limits of the municipality in which the officer is appointed when in fresh pursuit of that person. This paragraph applies to all crimes and traffic infractions. As used in this paragraph:

(1) With respect to Class A, Class B and Class C crimes, the term "fresh pursuit" is defined in Title 15, section 152; and

(2) With respect to Class D and Class E crimes and traffic infractions, "fresh pursuit" means instant pursuit of a person with intent to apprehend; or [PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 104, Pt. D, §6 (AMD).]

F. As provided for in section 2674. [PL 1989, c. 104, Pt. A, §23 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 104, Pt. C, §23, Pt (AMD); PL 1989, c. 104, Pt. D, §6 (AMD).]

**2-A. Optional powers.** Notwithstanding subsection 2, municipal officers may authorize a municipality's police officers who have met the requirements of Title 25, section 2804-C to perform any of the acts described in Title 17-A, section 15 while the police officers are outside the jurisdiction in which they are appointed if, when possible, the law enforcement agency of a foreign municipality in which the arrest is to be made is notified in advance or, when not possible, the law enforcement agency of the foreign municipality in which the arrest has been made is notified immediately after the arrest.

A. [PL 2003, c. 233, §4 (RP).]

B. [PL 2003, c. 233, §4 (RP).]

[PL 2003, c. 233, §4 (AMD).]

**2-B. Liability.** When a municipal police officer makes an arrest, as authorized in subsection 2-A or subsection 4, outside of jurisdictional limits of the municipality in which the police officer is appointed, that police officer has the same immunity from tort liability and all of the pension, relief, disability, workers' compensation, insurance and any other benefits the police officer enjoys while performing duties within the police officer's appointing municipality.

[PL 2005, c. 320, §1 (AMD).]

**3. Representation of the municipality in District Court.** The municipal officers may authorize a law enforcement officer certified by the Maine Criminal Justice Academy, under Title 25, section 2803-A, subsection 1, to represent the municipality in District Court in the prosecution of alleged violations of ordinances which the officer may enforce. Under this subsection, the municipal officers may delegate their power to authorize law enforcement officers to represent the municipality to the municipality's full-time chief of police.

[RR 2007, c. 1, §16 (COR).]

**4. Multijurisdictional crimes.** If there is probable cause to believe that more than one theft, forgery or negotiation of a worthless instrument committed pursuant to one scheme or course of conduct by the same or several persons has occurred in more than one municipal jurisdiction, a police officer in a municipality in which at least one of the thefts, forgeries or negotiations of worthless instruments was committed may investigate and assist in the prosecution of all the related thefts, forgeries or negotiations of worthless instruments, with the express authorization of the police officer's municipal officers.

[PL 2005, c. 320, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A23,C8,C10 D6 (AMD). PL 1989, c. 279, §1 (AMD). PL 1993, c. 349, §64 (AMD). PL 1993, c. 594, §2 (AMD). PL 2003, c. 233, §4 (AMD). PL 2005, c. 320, §§1,2 (AMD). RR 2007, c. 1, §16 (COR).

### **§2672. Special police officers**

Special police officers of limited jurisdiction may be appointed for a term of not more than one year and as provided in section 2671, subsection 1. These officers have all the powers of a police officer, except as specifically provided by charter, ordinance or the certificate of appointment. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

### **§2673. Constables**

Constables shall be appointed in the same manner and with the same effect as special police officers under section 2672. Persons injured by the neglect or misdoings of a constable have the same remedy by preliminary action and action of the constable's bond, as in the case of a sheriff's bond. For services which may be performed either by a deputy sheriff or a constable, the constable is allowed the same fees as a deputy sheriff, unless otherwise provided. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Carrying weapons.** A constable's certificate of appointment shall state whether or not the constable is allowed to carry a weapon, concealed or unconcealed, in the performance of duties. If a constable is restricted in carrying a weapon, this prohibition is not affected by any weapons license the individual may possess.

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

#### SECTION HISTORY

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

### **§2674. Aid to other law enforcement agencies**

Except as otherwise provided by municipal charter or ordinance, the municipal officers may authorize the chief of police or other designee to request other municipalities to provide law enforcement officers to assist the requesting municipality. The county commissioners may authorize the sheriff or other designee to request a municipality to provide law enforcement officers to assist the requesting county. The municipal officers may authorize the chief of police or other designee to provide law enforcement officers to assist other municipalities or counties when so requested by a properly authorized chief of police, sheriff or other designee of the requesting municipality or county. [PL 2013, c. 261, §2 (AMD).]

The authorizations of the municipal officers or county commissioners must be accompanied by an agreement between the requesting municipality or county and the responding municipality or county that specifies which governmental entity is liable, if any liability is determined to exist, for personal injury or property damage caused by or occurring to the law enforcement officers of the responding municipality or county in the course of assisting the requesting municipality or county. [PL 2013, c. 261, §2 (AMD).]

If the request for assistance is for a major unplanned incident that jeopardizes the health and welfare of the citizens of the requesting municipality or county and when delay may cause further jeopardy to life or property or in the case of jointly planned collaborative activity, the police chief of any municipality or sheriff of any county or the chief's or sheriff's designee may request assistance from or provide assistance to another municipality or law enforcement agency whether or not an agreement between the 2 parties exists. Each law enforcement department shall assume its own liability to a 3rd party, except for liability incurred by the command or operational decisions made by the requesting department, which must be assumed by the requesting department. For the purposes of this paragraph, "major unplanned incident" means an extraordinary emergency to which a law enforcement agency is unable to adequately respond that presents a substantial and imminent danger to the public safety and that necessitates the cooperation or assistance of other law enforcement agencies. [PL 2013, c. 261, §2 (AMD).]

The law enforcement officers of the responding municipality or county or law enforcement agency have the same authority as law enforcement officers within the limits of the requesting municipality or county, except as to the service of civil process, and, when assisting other municipalities, have the same privileges and immunities as when acting within their own jurisdiction. [PL 2013, c. 261, §2 (AMD).]

Notwithstanding section 501 and except as otherwise provided by municipal charter or ordinance, the municipal officers may authorize the chief of police or other designee to request a county sheriff to appoint as a deputy sheriff a municipal law enforcement officer who has satisfied the training requirements of Title 25, sections 2804-C and 2804-E. The authorization of the municipal officers must be accompanied by an agreement between the requesting municipality and the respective county that specifies the purpose and time period for which the authorization is granted and which governmental entity is liable, if any liability is determined to exist, for personal injury or property damage caused by or occurring to law enforcement officers of the municipality in the course of exercising their authority as deputy sheriffs. A municipal law enforcement officer appointed pursuant to this paragraph has the same authority as a deputy sheriff within the respective county, except as to the service of civil process, and has the same privileges and immunities as when acting within the officer's own jurisdiction. [PL 2015, c. 419, §1 (NEW).]

#### SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1999, c. 654, §1 (AMD). PL 2001, c. 65, §1 (AMD). PL 2013, c. 261, §2 (AMD). PL 2015, c. 419, §1 (AMD).

#### **§2675. Wearing of uniforms or badges; labor disputes**

No municipal police officer, special police officer, constable or other municipal law enforcement officer may wear or display a uniform or badge that identifies the officer as a public law enforcement officer at the site of a labor dispute, strike or lockout, except while on active duty in the public service and while traveling to and from public work. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### **§2676. Interstate police assistance**

A duly authorized police officer of a neighboring state may exercise all statutory authority under section 2671 within this State, provided that the chief law enforcement officer of the requesting municipality has executed with the chief law enforcement officer of the responding municipality a



written agreement which sets forth the terms and conditions under which assistance may be requested or rendered. [PL 1989, c. 279, §2 (NEW).]

The executed agreement shall constitute authorization for every request for assistance, and for any assistance rendered in accordance with the terms and conditions of the written agreement, regardless of whether the responding police officer is named in the agreement. In an emergency situation, the ranking on-duty law enforcement officer of the requesting municipality is authorized to make an oral request for assistance to the ranking on-duty law enforcement officer in the responding municipality, subject to the terms and conditions of the written agreement, and the responding police officer may exercise all statutory authority under section 2671. [PL 1989, c. 279, §2 (NEW).]

The written agreement shall remain in full force and effect until terminated by the mutual consent of the chief law enforcement officers in each municipality or until 10 days after the chief law enforcement officer of one municipality has received notification from the chief law enforcement officer of the other municipality of that officer's intentions to terminate. [PL 1989, c. 279, §2 (NEW).]

#### SECTION HISTORY

PL 1989, c. 279, §2 (NEW).

#### **§2677. Health insurance; retired employee**

Notwithstanding section 2671, a municipality shall keep a retired municipal employee formerly employed by the municipality in that municipality's health care plan as long as the retired employee continues to pay the health insurance group rate premiums required for that retired employee. [PL 1997, c. 419, §1 (NEW).]

#### SECTION HISTORY

PL 1997, c. 419, §1 (NEW).

#### **§2678. Death of a person in custody**

When a person in custody dies, an examination and inquest must be held, and the chief of police shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "custody" means custody pursuant to an arrest, confinement in a local lockup or when the person is on the way to or from a courthouse or a local lockup while in the custody of a local law enforcement officer. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed. [PL 2011, c. 420, Pt. D, §4 (NEW); PL 2011, c. 420, Pt. D, §6 (AFF).]

#### SECTION HISTORY

PL 2011, c. 420, Pt. D, §4 (NEW). PL 2011, c. 420, Pt. D, §6 (AFF).

### SUBCHAPTER 5

#### BOARD OF APPEALS

#### **§2691. Board of appeals**

This section governs all boards of appeals established after September 23, 1971. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Establishment.** A municipality may establish a board of appeals under its home rule authority. Unless provided otherwise by charter or ordinance, the municipal officers shall appoint the members of the board and determine their compensation.

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

**2. Organization.** A board of appeals shall be organized as follows.

A. The board shall consist of 5 or 7 members, serving staggered terms of at least 3 and not more than 5 years, except that municipalities with a population of less than 1,000 residents may form a board consisting of at least 3 members. The board shall elect annually a chairman and secretary from its membership. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the board. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue shall be decided by a majority vote of the members, excluding the member who is being challenged. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The municipal officers may dismiss a member of the board for cause before the member's term expires. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Municipalities may provide under their home rule authority for a board of appeals with associate members not to exceed 3. If there are 2 or 3 associate members, the chairman shall designate which will serve in the place of an absent member. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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

**3. Procedure.** The following provisions govern the procedure of the board.

A. The chairman shall call meetings of the board as required. The chairman shall also call meetings of the board when requested to do so by a majority of the members or by the municipal officers. A quorum of the board necessary to conduct an official board meeting must consist of at least a majority of the board's members. The chairman shall preside at all meetings of the board and be the official spokesman of the board. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The secretary shall maintain a permanent record of all board meetings and all correspondence of the board. The secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the board. All records to be maintained or prepared by the secretary are public records. They shall be filed in the municipal clerk's office and may be inspected at reasonable times. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The board may provide, by regulation that must be recorded by the secretary, for any matter relating to the conduct of any hearing, except that the chair may waive any regulation upon good cause shown. Unless otherwise established by charter or ordinance, the board shall conduct a de novo review of any matter before the board subject to the requirements of paragraph D. If a charter

or ordinance establishes an appellate review process for the board, the board shall limit its review on appeal to the record established by the board or official whose decision is the subject of the appeal and to the arguments of the parties. The board may not accept new evidence as part of an appellate review. [PL 2017, c. 241, §1 (AMD).]

D. The board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, together with all papers and requests filed in the proceeding, constitute the public record. All decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. Notice of any decision must be mailed or hand delivered to the petitioner, the petitioner's representative or agent, the planning board, agency or office and the municipal officers within 7 days of the board's decision. [PL 1991, c. 234 (AMD).]

F. The board may reconsider any decision reached under this section within 45 days of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. The board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

Notwithstanding paragraph G, appeal of a reconsidered decision must be made within 15 days after the decision on reconsideration or within the applicable time period under section 4482-A if the final municipal review of the project is by a municipal administrative review board other than a board of appeals. [PL 2017, c. 241, §2 (AMD).]

G. Any party may take an appeal, within 45 days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury. [PL 1991, c. 234 (AMD).]

H. For purposes of this section, a decision of the board is a final decision when the project for which the approval of the board is requested has received all required municipal administrative approvals by the board, the planning board or municipal reviewing authority, a site plan or design review board, a historic preservation review board and any other review board created by municipal charter or ordinance. If the final municipal administrative review of the project is by a municipal administrative review board other than a board of appeals, the time for appeal is governed by section 4482-A. Any denial of the request for approval by the board of appeals is considered a final decision even if other municipal administrative approvals are required for the project and remain pending. A denial of the request for approval by the board of appeals must be appealed within 45 days of the date of the board's vote to deny or within 15 days of final action by the board on a reconsideration that results in a denial of the request. [PL 2017, c. 241, §3 (NEW).]

[PL 2017, c. 241, §§1-3 (AMD).]

**4. Jurisdiction.** Any municipality establishing a board of appeals may give the board the power to hear any appeal by any person, affected directly or indirectly, from any decision, order, regulation or failure to act of any officer, board, agency or other body when an appeal is necessary, proper or required. No board may assert jurisdiction over any matter unless the municipality has by charter or

ordinance specified the precise subject matter that may be appealed to the board and the official or officials whose action or nonaction may be appealed to the board. Absent an express provision in a charter or ordinance that certain decisions of its code enforcement officer or board of appeals are only advisory or may not be appealed, a notice of violation or an enforcement order by a code enforcement officer under a land use ordinance is reviewable on appeal by the board of appeals and in turn by the Superior Court under the Maine Rules of Civil Procedure, Rule 80B. Any such decision that is not timely appealed is subject to the same preclusive effect as otherwise provided by law. Any board of appeals shall hear any appeal submitted to the board in accordance with Title 28-A, section 1054. [PL 2013, c. 144, §1 (AMD).]

#### SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A24,C8,C10 (AMD). PL 1991, c. 234 (AMD). PL 2003, c. 635, §1 (AMD). PL 2013, c. 144, §1 (AMD). PL 2017, c. 241, §§1-3 (AMD).

### SUBCHAPTER 6

#### MUNICIPAL EMPLOYMENT

##### §2701. Employee probation periods

Except as specifically provided otherwise by charter or ordinance, any reference to cause and hearing in this Part only applies to an employee who has completed a reasonable probation period established by the municipality. Periods of probation may not exceed 6 calendar months or the length of time in effect in a municipality on January 1, 1984, whichever is greater, except in the case of police officers, who upon being hired shall complete an employment probationary period that lasts for at least one year after graduation from the Maine Criminal Justice Academy or the date the board waives the basic training requirement. [PL 1993, c. 744, §15 (AMD).]

#### SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A25,C8,C10 (AMD). PL 1991, c. 182 (AMD). PL 1993, c. 744, §15 (AMD).

##### §2702. Personnel records

**1. Confidential records.** The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the municipality for use in the examination or evaluation of applicants for positions as municipal employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by

this subsection must remain confidential and are not open to public inspection; [PL 2019, c. 451, §3 (AMD).]

B. Municipal records pertaining to an identifiable employee and containing the following:

- (1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
- (2) Performance evaluations and personal references submitted in confidence;
- (3) Information pertaining to the creditworthiness of a named employee;
- (4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;
- (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

- (a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

- (6) Personal information, including that which pertains to the employee's:
  - (a) Age;
  - (b) Ancestry, ethnicity, genetic information, national origin, race or skin color;
  - (c) Marital status;
  - (d) Mental or physical disabilities;
  - (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
  - (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
  - (g) Religion;
  - (h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or
  - (i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and [PL 2019, c. 451, §3 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]  
[PL 2019, c. 451, §3 (AMD).]

**1-A. Investigations of deadly force or physical force by law enforcement officer.** The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

A. The use of deadly force by a law enforcement officer; or [PL 1991, c. 729, §7 (NEW).]

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [PL 1991, c. 729, §7 (NEW).]

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

[PL 1991, c. 729, §7 (NEW).]

**2. Employee right to review.** On written request from an employee or former employee, the municipal official with custody of the records shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the municipal official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the municipal official may possess. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

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

**3. Constitutional obligations of a prosecutor.** Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[PL 2013, c. 201, §3 (NEW).]

#### SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 402, §3 (AMD). PL 1991, c. 229, §3 (AMD). PL 1991, c. 729, §7 (AMD). PL 1997, c. 770, §3 (AMD). PL 2013, c. 201, §3 (AMD). PL 2019, c. 451, §3 (AMD).

#### §2703. Residency requirement; ordinances and collective bargaining

A municipality may not enact any ordinance which requires employees to reside within the boundaries of the municipality as a condition of employment, nor may collective bargaining agreements contain these strict requirements. A municipality may negotiate collective bargaining agreements or, if the municipality does not engage in collective bargaining, enact ordinances that require employees to reside within a specified distance or a specific response time of a facility where those provisions represent a legitimate job requirement, and provided that the ordinances do not apply to employees already employed when the ordinance takes effect. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

This section applies only to public employees, as defined in Title 26, section 962, subsection 6. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### §2704. Mandatory retirement age prohibited

**1. Legislative findings and intent.** The legislative findings and intent for this section are the same as the findings and intent specified in Title 5, section 4575, subsection 1. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**2. Prohibition.** A municipality may not enact any ordinance or adopt any regulation which requires a municipal employee, as a condition of employment, to retire at or before a specified age or after completion of a specified number of years of service. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**3. Criteria and standards.** A municipality may establish reasonable criteria and standards of job performance to be used for the purpose of determining when the employment of municipal employees should be terminated. These criteria and standards are subject to all of the provisions included under Title 5, section 4575, subsection 2. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**4. Normal retirement age.** This section shall not be construed to prohibit the use of a "normal retirement age," as defined in the United States Employee Retirement Income Security Act of 1974, Public Law 93-406, as amended, in computing pension or retirement benefits, provided that normal retirement age and the accrual or awarding of pension or retirement benefits may not be used in any way to require the retirement of an employee or to deny employment to a person. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**5. Federal requirements.** This section shall not be construed to affect or limit any power or duty relating to pension or retirement plans which the Federal Government reserves to itself. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

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

#### §2705. Municipal employee participation in disaster relief

In order to participate in specialized disaster relief services for the American Red Cross, a municipal employee who is a certified disaster service volunteer of the American Red Cross, upon the request of the American Red Cross and with the approval of the legislative body of the municipality or the municipal officers, may: [PL 1997, c. 600, §2 (NEW).]

**1. Paid leave.** Be granted a leave not to exceed 15 days in each year without loss of pay, vacation time, sick leave or earned overtime accumulation; [PL 1997, c. 600, §2 (NEW).]

**2. Use of compensated time off.** Be granted a leave using that employee's compensated time off, with the consent of the employee; or [PL 1997, c. 600, §2 (NEW).]

**3. Combination.** Be granted a leave using a combination of paid leave and compensated time off authorized in subsections 1 and 2. [PL 1997, c. 600, §2 (NEW).]

This section applies only to relief services related to a disaster declared by the governor of a state or territory or by the President of the United States. [PL 1997, c. 600, §2 (NEW).]

#### SECTION HISTORY

PL 1997, c. 600, §2 (NEW).

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