

CHAPTER 141

ORDINANCES

§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. [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. Liberal construction. This section, being necessary for the welfare of the municipalities and their inhabitants, shall be liberally construed to effect its purposes. [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. 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. [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. 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. [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. Penalties accrue to municipality. All penalties established by ordinance 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).

§3002. Enactment procedure

Unless otherwise provided by charter or law, a municipality must enact ordinances by the following procedure. [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. 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. [PL 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. [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. 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.
[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. Application. Subsections 1, 2 and 3 do not apply to ordinances which may be enacted by the municipal officers.
[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 1993, c. 374, §1 (AMD).

§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. [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. "Published" means printed or otherwise reproduced. [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).]

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. [PL 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. [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 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. [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. 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.

[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. 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.

[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 1993, c. 374, §2 (AMD).

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

[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. 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.

[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. 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.

[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. 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.

[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).

§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. [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).

§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. [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).

§3007. Specific ordinance provisions

The power to enact ordinances under section 3001 is subject 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. 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.

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

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. [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. 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. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §27 (AMD); PL 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. [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. Any building existing in violation of such an ordinance is a nuisance. [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 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. A, §27 (AMD); PL 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. [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 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. [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 pension funds held by a municipality or by a board established by it are exempt from attachment or trustee process. [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. Firearms and hunting equipment. 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 adopt or enforce any ordinance prohibited under Title 12, section 13201.

[PL 2013, c. 199, §2 (AMD).]

6. Restriction on nullification of final permit. A municipality may not nullify or amend a municipal land use permit by a subsequent enactment, amendment or repeal of a local ordinance after a period of 45 days has passed after:

- A. The permit has received its lawful final approval; and [PL 2011, c. 63, §1 (NEW).]
- B. If required, a public hearing was held on the permit. [PL 2011, c. 63, §1 (NEW).]

For purposes of this subsection, "municipal land use permit" includes a building permit, zoning permit, subdivision approval, site plan approval, conditional use approval, special exception approval or other land use permit or approval. For the purposes of this subsection, "nullify or amend" means to nullify or amend a municipal land use permit directly or to nullify or amend any other municipal permit in a manner that effectively nullifies or amends a municipal land use permit. This subsection does not alter or invalidate any provision of a municipal ordinance that provides for the expiration or lapse of a permit or approval granted pursuant to that permit following the expiration of a certain period of time.

[PL 2011, c. 63, §1 (NEW).]

7. Restriction on retroactive application. A municipality or a municipal reviewing authority as defined by section 4301, subsection 12 may not enforce or apply a land use ordinance with retroactive effect unless the ordinance includes a provision that expressly states it has retroactive application. A municipality or municipal reviewing authority may not apply a land use ordinance with retroactive effect to a pending permit application for a land use permit that includes a proposal for a development that includes one or more units of residential housing if the proposal date of the ordinance occurred after the application was submitted to the municipality and, notwithstanding Title 1, section 302, the application is deemed complete for processing. For the purposes of this subsection:

A. "Proposal date" means the date on which the proposed land use ordinance or proposed amendment to an ordinance is posted pursuant to section 3002, subsection 1 or the date on which a permit application is filed to circulate a petition for a voter-initiated measure to adopt or amend a land use ordinance; and [PL 2023, c. 598, §1 (NEW).]

B. A permit application is deemed complete for processing when it is submitted to the municipality or municipal reviewing authority and, at the time of submission, the applicant can demonstrate legally enforceable title or right to or interest in all the property proposed for development. [PL 2023, c. 598, §1 (NEW).]

[PL 2023, c. 598, §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, §§A26,27, C8,10 (AMD). PL 1995, c. 266, §1 (AMD). PL 1999, c. 154, §1 (AMD). PL 2003, c. 332, §1 (AMD). PL 2011, c. 63, §1 (AMD). PL 2013, c. 199, §2 (AMD). PL 2023, c. 598, §1 (AMD).

§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; [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. 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; [PL 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; [PL 2023, c. 502, §1 (AMD).]

D. To ensure that all video service providers 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; and [PL 2023, c. 502, §2 (AMD).]

E. Consistent with the applicable requirements of this section, to prohibit a video service provider from offering or providing its services within a municipality unless it has entered into a franchise agreement or contract with the municipality pursuant to this section. [PL 2023, c. 502, §3 (NEW).]

[PL 2023, c. 502, §§1-3 (AMD).]

1-A. Definitions. As used in 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. [PL 2023, c. 502, §4 (AMD).]

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. [PL 2023, c. 502, §4 (AMD).]

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. [PL 2007, c. 548, §1 (NEW).]

D. "Affiliate" means a business entity effectively controlling or controlled by another person or associated with other persons under common ownership or control. [PL 2023, c. 502, §4 (NEW).]

E. "Application" means an interactive computer or software program operating on a device that provides for the reception of transmitted or streamed video, audio or other digital content from a video service provider over the Internet or other electronic communications network in real time or near real time, allowing a user to receive such content on a device without downloading the entire content file. [PL 2023, c. 502, §4 (NEW).]

F. "Facility support transmission equipment" means the equipment associated with the interconnection between public, educational and governmental facility equipment and the headend of a video service provider's system, beginning at the point at which a public, educational and governmental signal enters transmitting equipment, which must be owned, maintained and upgraded for signal quality or another reason by the video service provider. "Facility support transmission equipment" includes, but is not limited to, the equipment and facilities associated with signal transmission and carriage methodologies employed to send, receive, manage, troubleshoot and maintain audio and video signals; all physical wires, fiber lines and related connectivity medium or device; and all equipment associated with the formatting of public, educational and

governmental programming for transmission to a subscriber of the video service provider. [PL 2023, c. 502, §4 (NEW).]

G. "Public, educational and governmental facility equipment" means, with respect to any public, educational and governmental access channel, the equipment used to capture and process programming in the field or in a public, educational or governmental studio, including all equipment used prior to the point at which that signal enters the private network of the video service provider. [PL 2023, c. 502, §4 (NEW).]

H. "Public, educational and governmental programming" means content produced or provided by any person, group or public or private agency or organization that is used in conjunction with public, educational and governmental access channels and facility support transmission equipment. [PL 2023, c. 502, §4 (NEW).]

I. "Public, educational and governmental signal" means any transmission of electromagnetic or optical energy that carries audio or video from one location to another for the purposes of providing public, educational and governmental programming. [PL 2023, c. 502, §4 (NEW).]

J. "Video service provider" means any person that directly or through one or more affiliates sells in the State access to video, audio or computer-generated or computer-augmented entertainment and owns or operates facilities located in whole or in part in a municipality's public rights-of-way that are used to provide those services, irrespective of the technology or application used to deliver such services.

"Video service provider" includes, but is not limited to, a cable system operator and a common carrier that operates a cable television system. "Video service provider" does not include:

- (1) A provider of commercial mobile service, as defined in 47 United States Code, Section 332(d)(1); or
- (2) A provider of an Internet access service, as defined in 47 United States Code, Section 231(e)(4), with respect to the provision of the Internet service by the provider. [PL 2023, c. 502, §4 (NEW).]

[PL 2023, c. 502, §4 (AMD).]

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.

[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. 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. [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. Notwithstanding any provision in a franchise, a video service provider 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 video service provider may not abandon that service without written consent of the municipal officers. Any video service provider 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. [PL 2023, c. 502, §5 (AMD).]

C. Neither the video service provider whose facility support transmission equipment is used to transmit a program produced by a person other than that provider, under Federal Communications Commission regulations or municipal ordinance, nor the officers, directors or employees of that provider are liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when that provider does not originate or produce the program. [PL 2023, c. 502, §6 (AMD).]

D. [PL 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. [PL 2007, c. 548, §1 (AMD).]

F. [PL 2023, c. 502, §7 (RP).]

G. Notwithstanding any provision in a franchise, a video service provider is responsible for all costs associated with public, educational and governmental facility equipment shown by the franchising municipality to be reasonably necessary in light of community needs and interests for the capture, processing and delivery to the video service provider of public, educational and governmental access channels within the franchising municipality, including, but not limited to, technology upgrade costs for signal quality improvement or for other reasons. A video service provider may not offset any such costs through the payment of required fees under subsection 5-A, but may recover such costs from subscribers to the extent permitted by applicable law and as negotiated with the municipality. [PL 2023, c. 502, §8 (NEW).]

H. New facility support transmission equipment installed must be at the current resolution technology afforded to broadcasting stations. [PL 2023, c. 502, §9 (NEW).]

[PL 2023, c. 502, §§5-9 (AMD).]

4. Franchise procedures. Pursuant to subsection 2, a municipality may enact ordinances governing the procedures for granting franchises to video service providers. 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; [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 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; [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. A reasonable opportunity for public input before granting franchises; 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).]

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. [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 2023, c. 502, §10 (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 provided for under this subsection, including the grant of nonexclusive franchises for a period not to exceed 15 years, for the placing and maintenance of cable television systems and appurtenances, or parts thereof, in public ways and including contracts with video service providers that receive the services of television signal transmission offered by any public utilities using public ways for such transmission. A video service provider may not offer or provide its services within a municipality unless it has entered into a franchise agreement or contract with the municipality pursuant to this subsection. A public utility may not be required to contract with the municipal officers under this subsection. Any new, renewed or amended franchise must contain the following provisions:

A. The area or areas to be served; [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 line extension policy, which must specify a minimum density requirement of no more than an average of 15 residences per linear strand mile of aerial cable for areas in which the video service provider will make cable television service available to every residence. A strand mile under this paragraph is measured from the end of the current cable system strand installation.

A video service provider may not establish mandatory preconditions to be met by potential subscribers for the construction of a line extension on a municipal public right-of-way including, but not limited to, a requirement that a potential subscriber sign a contract for service in advance of the construction of the line extension. Nothing in this paragraph prohibits a video service provider from requiring payment of cost sharing from potential subscribers prior to construction of a line extension in accordance with a line extension policy required by this paragraph; [RR 2023, c. 2, Pt. A, §46 (COR).]

C. A provision for renewal, the term of which may not exceed 15 years. A provision for automatic renewal or other provision for extending the initial term is prohibited. Franchise renewal is governed by section 3010, subsection 5-C; [PL 2019, c. 245, §1 (AMD).]

C-1. Provisions regarding the payment or remittance of any franchise fees by the video service provider as may be required under the agreement or contract between the municipality and the video service provider and in accordance with subsection 5-A; [PL 2023, c. 502, §11 (NEW).]

D. Procedures for the investigation and resolution of complaints by the video service provider; [PL 2023, c. 502, §11 (AMD).]

D-1. A provision for the use and support of public, educational and governmental access channels, which must be carried in the same manner and numerical location sequence as are the local broadcast channels originating from the State and carried on the cable television system pursuant to section 3010, subsection 5-A; and [PL 2019, c. 245, §3 (NEW).]

E. Any other terms and conditions that are in the best interests 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).]

[RR 2023, c. 2, Pt. A, §46 (COR).]

5-A. Franchise fees. Any new, renewed or amended franchise agreement or contract between a municipality and a video service provider that includes provisions requiring payment of any franchise fees by the video service provider to the municipality must include the following provisions.

A. The municipality is authorized to use the franchise fees for costs associated with the regulation of the operation of the video service provider within the municipality; to support the provision of

public, educational and governmental programming within the municipality; to offset municipal property taxes; or for any other purpose identified by the municipality. [PL 2023, c. 502, §12 (NEW).]

B. The franchise fees must be paid by the video service provider to the municipality or its designee on a quarterly basis and must be received by the municipality or its designee no later than 45 days after the end of the calendar quarter for which the payment is made. If the video service provider fails to timely pay to the municipality or its designee:

(1) Interest must accrue on the required, unpaid fees at the rate of 12% simple interest per annum; and

(2) The repeated failure to timely pay such fees is a material breach of the terms of the franchise agreement or contract, and the municipality may at its discretion terminate the agreement or contract. [PL 2023, c. 502, §12 (NEW).]

C. Each payment under paragraph B must include a statement prepared by a financial representative or agent of the video service provider, testified and verified as correct, identifying the total amount of gross annual revenue generated by all activities of the provider within the municipality for that payment period and describing the calculations used to determine the amount of the payment. The video service provider shall prepare and maintain the financial information and records necessary to provide the information required under this paragraph in accordance with accounting principles and auditing standards generally accepted within the video service industry. [PL 2023, c. 502, §12 (NEW).]

D. The municipality may request that the information provided by the video service provider pursuant to paragraph C be subject to audit by a qualified 3rd party to be selected by the municipality. The costs of the audit are to be paid by the municipality except when the results of the audit demonstrate that the video service provider underpaid by more than 4% any franchise fees required under the franchise agreement or contract, in which case the video service provider must reimburse the municipality for the costs of the audit. [PL 2023, c. 502, §12 (NEW).]

E. A municipality's or its designee's acceptance of franchise fees paid by the video service provider does not constitute an agreement by the municipality that the amount of the fee is correct unless the municipality has not initiated a process to challenge or audit the amount of the fee paid within 36 months of receipt or, in the case of a fee not accompanied by a statement under paragraph C that is verified as correct, 48 months of receipt. Prior to the expiration of such time period, the municipality may inspect relevant financial information and records of the video service provider and initiate a process to seek compensation for any underpayment. [PL 2023, c. 502, §12 (NEW).]

[PL 2023, c. 502, §12 (NEW).]

6. Current ordinances and agreements.

[PL 2007, c. 548, §1 (RP).]

7. Model franchise agreement. The Department of Administrative and Financial Services, Office of Information Technology, or a successor state agency, referred to in this subsection as "the office," shall develop and may update and amend a model franchise agreement for use by any municipality and any video service provider that mutually choose to adopt the model franchise agreement or any of its provisions. A video service provider may not modify or amend the model franchise agreement without the consent of the municipality. 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; [PL 2007, c. 548, §1 (NEW).]

B. Build-out requirements; [PL 2007, c. 548, §1 (NEW).]

- C. Public, educational and governmental access channels and reasonable public, educational and governmental facility equipment for such channels; [PL 2023, c. 502, §13 (AMD).]
- D. Customer service standards; [PL 2007, c. 548, §1 (NEW).]
- E. The disparate needs of the diverse municipalities in this State; and [PL 2007, c. 548, §1 (NEW).]
- F. The policy goal of promoting competition in the delivery of video service. [PL 2023, c. 502, §13 (AMD).]

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

[PL 2023, c. 502, §13 (AMD).]

8. Authorized judicial actions; statute of limitations. A violation of this section constitutes a violation of the Maine Unfair Trade Practices Act.

A municipality that has suffered an adverse impact due to the action of an entity not in compliance with the requirements of this section may bring an action against that entity to recover any unpaid franchise fees or to enjoin the operation of that entity.

Notwithstanding any provision of law to the contrary, an action brought under this section must be commenced within 7 years of the date that the cause of action arose.

[PL 2023, c. 502, §14 (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 2007, c. 548, §1 (AMD). PL 2019, c. 245, §§1-4 (AMD). PL 2019, c. 308, §1 (AMD). PL 2023, c. 502, §§1-14 (AMD). RR 2023, c. 2, Pt. A, §46 (COR).

§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. [PL 1991, c. 549, §16 (AMD); PL 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. [PL 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;
 - (c-1) To provide for property tax relief;
 - (c-2) To acquire, construct, maintain and operate capital infrastructure projects; 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 in accordance with Title 29-A, section 521, subsection 12. [PL 2023, c. 14, §§1-3 (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. [PL 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 Planning 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. [PL 1995, c. 65, Pt. A, §129 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF); PL 2011, c. 682, §38 (REV).]

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. [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 2023, c. 14, §§1-3 (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.
[PL 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.
[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. 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.
[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. Enforcement of municipal ordinances.

[PL 2005, c. 53, §2 (RP).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A28,C8,C10 (AMD). PL 1989, c. 394, §2 (AMD). PL 1991, c. 549, §16 (AMD). PL 1991, c. 549, §17 (AFF). PL 1995, c. 65, §§A127-129 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1997, c. 60, §1 (AMD). PL 1997, c. 392, §1 (AMD). PL 1997, c. 673, §3 (AMD). PL 1997, c. 750, §A4 (AMD). PL 1999, c. 127, §A45 (AMD). PL 1999, c. 427, §1 (AMD). PL 1999, c. 753, §8 (AMD). PL 2001, c. 151, §2 (AMD). PL 2003, c. 80, §1 (AMD). PL 2003, c. 117, §1 (AMD). PL 2005, c. 53, §2 (AMD). PL 2005, c. 528, §3 (AMD). PL 2011, c. 682, §38 (REV). PL 2019, c. 648, §2 (AMD). PL 2023, c. 14, §§1-3 (AMD).

§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. [PL 2005, c. 53, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 53, §3 (NEW).

§3009-B. Dispute resolution

When there is a dispute between a municipality and a video service provider relating to negotiations of a franchise agreement or contract, the obligations of the parties under the agreement or contract or the obligations of the video service provider under sections 3008 and 3010, the municipality or video service provider may seek resolution under subsection 1 or 2. For purposes of this section, unless the context indicates otherwise, "video service provider" has the same meaning as in section 3008, subsection 1-A, paragraph J. [PL 2023, c. 502, §15 (NEW).]

1. Public Utilities Commission process. The Public Utilities Commission shall adopt a process for dispute resolution between a municipality and a video service provider in accordance with this subsection. The commission shall adopt rules to implement this subsection, except that the commission may not adopt a process that addresses any provision of section 3010 relating to consumer rights and protections. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2023, c. 502, §15 (NEW).]

2. Binding arbitration. A municipality or a video service provider may request binding arbitration by a mutually agreed upon arbitrator from a statewide association of mediators. The arbitration must be conducted consistent with the general procedures set forth in the Uniform Arbitration Act. If the municipality and the video service provider are unable to agree on an arbitrator, they may request that a statewide association of mediators select an arbitrator.

[PL 2023, c. 502, §15 (NEW).]

SECTION HISTORY

PL 2023, c. 502, §15 (NEW).

§3010. Consumer rights and protection relating to services provided by video service providers

This section applies to every franchisee. For purposes of this section, "franchisee" means a video service provider that is granted a franchise by a municipality in accordance with section 3008. For purposes of this section, "cable system operator," "cable television service" and "video service provider" have the same meanings as in section 3008, subsection 1-A, except that "video service provider" includes a cable system operator that is a multichannel video programming distributor as defined in 47 United States Code, Section 522(13). For purposes of this section, "originator" means a local unit of government or the entity to which a local unit of government has assigned responsibility for managing public, educational and governmental access channels. [PL 2023, c. 502, §17 (AMD).]

1. Credits and refunds for interruption of service. Credits and refunds for interruption of video services provided by 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. [PL 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. [PL 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, the movement of a channel to a different location or service tier or the deletion of a channel. [PL 2023, c. 502, §18 (AMD).]
[PL 2023, c. 502, §18 (AMD).]

1-A. Service cancellation. A franchisee must discontinue billing a subscriber for a service within 2 working days after the subscriber requests to cancel that service 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 cancellation of service. A franchisee shall grant a subscriber a pro rata credit or rebate for the days of the monthly billing period after the cancellation of service if that subscriber requests cancellation of service 3 or more working days before the end of the monthly billing period.
[PL 2019, c. 657, §1 (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 video service provider and to the proper municipal official and the Attorney General;
- (2) States the responsibility of the Department of the Attorney General to receive, investigate and resolve consumer complaints or complaints raised by the franchising authority under section 3008 concerning matters other than program choices 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. [PL 2023, c. 502, §19 (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. [PL 2007, c. 548, §2 (AMD).]
[PL 2023, c. 502, §19 (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 or cancellation of service in accordance with subsection 1-A. 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 or service cancellation. The notice must be in nontechnical language, understandable by the general public and printed in a prominent location on the bill in boldface type.
[PL 2019, c. 657, §2 (AMD).]

3. Franchise document clearinghouse.
[PL 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. [PL 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. [PL 2007, c. 548, §2 (AMD).]

[PL 2007, c. 548, §2 (AMD).]

5. Franchises. All franchises must be nonexclusive. All franchises must include provision for access to, and facility support transmission equipment and public, educational and governmental facility equipment necessary 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.

As used in this subsection, "facility support transmission equipment" has the same meaning as in section 3008, subsection 1-A, paragraph F. As used in this subsection, "public, educational and governmental facility equipment" has the same meaning as in section 3008, subsection 1-A, paragraph G.

[PL 2023, c. 502, §20 (AMD).]

5-A. Public, educational and governmental access channels. A video service provider shall carry public, educational and governmental access channels on the provider's basic cable or video service offerings or tiers accessed through a cable television receiver or application. A video service provider may not separate public, educational and governmental access channels numerically from other local broadcast channels carried on the provider's basic cable or video service offerings, tiers or applications and, in the event of a franchise license transfer, shall use the same channel numbers for the public, educational and governmental access channels as used for those channels by the incumbent video service provider, unless prohibited by federal law. After the initial designation of public, educational and governmental access channel numbers, a video service provider may not change the channel numbers without the agreement of the originator, unless the change is required by federal law.

A video service provider shall restore a public, educational or governmental access channel that has been moved without the consent of the originator within the 24 months preceding the effective date of this subsection to its original location and channel number within 60 days after the effective date of this subsection.

As used in this subsection, "application" has the same meaning as in section 3008, subsection 1-A, paragraph E.

[PL 2023, c. 502, §21 (AMD).]

5-B. Transmission.

[PL 2023, c. 502, §22 (RP).]

5-C. Franchise renewals. The franchise renewal process must be conducted in compliance with 47 United States Code, Section 546 and this subsection.

A. A video service provider shall maintain adequate personnel and resources to respond to municipal requests for renewal information in a timely manner. Failure to respond in a timely manner is a violation of the Maine Unfair Trade Practices Act. [PL 2023, c. 502, §23 (AMD).]

B. If an automatic renewal provision exists in a franchise agreement on the effective date of this subsection, the automatic renewal provision remains in effect until that franchise agreement expires. The video service provider shall notify the franchising authority of the automatic renewal no later than 36 months in advance of the expiration of the franchise. [PL 2023, c. 502, §23 (AMD).]

C. A municipality may require maps, diagrams, annual reports and franchise fee statements at renewal, which the video service provider shall make available upon reasonable notice. If information is proprietary, the municipality may execute a nondisclosure agreement with the video service provider. [PL 2023, c. 502, §23 (AMD).]

[PL 2023, c. 502, §23 (AMD).]

5-D. Transmission. A video service provider shall retransmit public, educational and governmental access channel signals in the format in which they are received from the originator and at the same signal quality as that provided to all subscribers of the cable television service for local broadcast channels. A video service provider may not diminish, down convert or otherwise tamper with the signal quality or format provided by the originator. A video service provider shall deliver a public, educational or governmental access channel signal to the subscriber in a quality and format equivalent to the quality and format of local broadcast channel signals carried on the cable television service if provided as such by the originator. A video service provider shall carry each public, educational or governmental access channel in both a high definition format and a standard digital format in the same manner as that in which local broadcast channels are provided, unless prohibited by federal law.

A video service provider, when requested, shall assist in providing the originator with access to the entity that controls the cable television service's electronic program guide so that subscribers may view, select and record public, educational and governmental access channels in the same manner as that in which they view, select and record local broadcast channels. In addition, a video service provider shall identify public, educational and governmental access channels on the electronic program guide in the same manner as that in which local broadcast channels are identified. This subsection does not obligate a video service provider to list public, educational and governmental access channel content on channel cards and channel listings. If channels are selected by a viewer through a menu system, the video service provider shall display the public, educational and governmental access channels' designations in a similar manner as that in which local broadcast channel designations are displayed.

A video service provider shall make available to the originator a toll-free telephone number with a direct line to a service technician who is familiar with the signal path and equipment associated with public, educational and governmental access channels on the cable television system for resolution of a signal quality problem.

[PL 2023, c. 502, §24 (NEW).]

6. Rights of individuals. A video service provider may not deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, ancestry or national origin, age or familial status.

[PL 2023, c. 502, §25 (AMD).]

6-A. Subscriber privacy. A video service provider may not intrude upon the privacy of a subscriber by installing or using any equipment that allows the video service provider 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 video service provider 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 video service provider may make such lists available to persons performing services for the video service provider 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.

[PL 2023, c. 502, §26 (AMD).]

6-B. Late fees. A video service provider 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.

[PL 2023, c. 502, §27 (AMD).]

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

[PL 2007, c. 548, §2 (AMD).]

8. Filing of franchise agreements. A video service provider 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.

[PL 2023, c. 502, §28 (AMD).]

SECTION HISTORY

PL 1989, c. 352 (NEW). PL 1991, c. 358 (AMD). PL 1991, c. 657, §1 (AMD). PL 1993, c. 219, §1 (AMD). PL 1993, c. 513, §1 (AMD). PL 1993, c. 676, §§1,2 (AMD). PL 1999, c. 581, §2 (AMD). PL 2007, c. 104, §1 (AMD). PL 2007, c. 548, §2 (AMD). PL 2019, c. 245, §§5, 6 (AMD). PL 2019, c. 657, §§1, 2 (AMD). PL 2021, c. 348, §48 (AMD). PL 2021, c. 553, §20 (AMD). PL 2023, c. 502, §§16-28 (AMD).

§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.

[PL 1995, c. 231, §2 (NEW).]

2. Limitation. A municipal noise control or other 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, as long as the range conforms to generally accepted gun safety and shooting range operation practices or is constructed in a manner not reasonably expected to allow a projectile to cross the boundary of the range.

[PL 2015, c. 433, §3 (AMD).]

3. Expansion of activity. Nothing in this section limits the ability of a municipality to regulate the location and construction of a new sport shooting range or a substantial change in use of an existing range on or after September 1, 2016.

[PL 2015, c. 433, §3 (AMD).]

4. Maintenance and improvements. A municipality may not restrict a sport shooting range established prior to September 1, 2016 from performing maintenance or otherwise making improvements to the sport shooting range and its buildings, structures and grounds with regard to:

- A. Enhancing public safety and shot containment; [PL 2015, c. 433, §4 (NEW).]
 - B. Providing access for persons with disabilities and providing rest room facilities; [PL 2015, c. 433, §4 (NEW).]
 - C. Otherwise maintaining or improving the habitability of buildings and grounds, if such maintenance or improvements are otherwise in compliance with the municipality's generally applicable building codes and zoning ordinances; and [PL 2015, c. 433, §4 (NEW).]
 - D. Repairing or rebuilding a building or structure damaged by fire, collapse, explosion or an act of God, if such repairs or rebuilding is otherwise in compliance with the municipality's generally applicable building codes and is completed within 2 years of the loss or damage. [PL 2015, c. 433, §4 (NEW).]
- [PL 2015, c. 433, §4 (NEW).]

SECTION HISTORY

PL 1995, c. 231, §2 (NEW). PL 2015, c. 433, §§3, 4 (AMD).

§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. [PL 1999, c. 269, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 269, §1 (NEW).

§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. [PL 2009, c. 273, §1 (NEW).]

REVISOR'S NOTE: §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

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

§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.

[RR 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. [RR 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:

(1) A public or private elementary, middle or secondary school;

(2) A municipally owned or state-owned park, athletic field or recreational facility that is open to the public where children are the primary users; or

(3) A municipally owned or state-owned property leased to a nonprofit organization for purposes of a park, athletic field or recreational facility that is open to the public where children are the primary users. [PL 2017, c. 393, §1 (RPR).]

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. [RR 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. [RR 2009, c. 1, §21 (RAL).]

[PL 2017, c. 393, §1 (AMD).]

SECTION HISTORY

RR 2009, c. 1, §21 (RAL). PL 2013, c. 161, §1 (AMD). PL 2017, c. 393, §1 (AMD).

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