

# Title 25: INTERNAL SECURITY AND PUBLIC SAFETY

## Chapter 313: MUNICIPAL INSPECTION OF BUILDINGS

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## Maine Revised Statutes

### Title 25: INTERNAL SECURITY AND PUBLIC SAFETY

#### Chapter 313: MUNICIPAL INSPECTION OF BUILDINGS

##### **§2351. BUILDING OFFICIAL; COMPENSATION; JURISDICTION; DEPUTY (REPEALED)**

In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting of the corporation, the municipal officers shall annually in the month of April appoint a building official, who must be a person skilled in the construction of buildings, and shall determine the building official's compensation. The municipal officers shall define the limits within which the building official has jurisdiction, which includes the thickly settled portion of each such city or of each village in each such city or town. Whenever the building official becomes incapacitated, the municipal officers may appoint or authorize the building official to appoint a deputy building official, who shall serve until removed by the municipal officers, but in no event beyond the term for which the building official was appointed. The deputy building official shall perform such duties as may be required of the deputy building official by the building official. The compensation of the deputy building official is determined by the municipal officers. [2009, c. 261, Pt. B, §1 (RPR).]

This section is repealed December 1, 2010. [2009, c. 261, Pt. B, §1 (NEW).]

##### SECTION HISTORY

RR 1995, c. 2, §56 (COR). 2007, c. 699, §7 (AMD). 2007, c. 699, §26 (AFF). 2009, c. 261, Pt. B, §1 (RPR). MRSA T. 25, §2351 (RP).

##### **§2351-A. BUILDING OFFICIAL; COMPENSATION; DEPUTY**

In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting of the corporation, the municipal officers shall annually in the month of April appoint a building official and shall determine the building official's compensation. If a building official is appointed by a municipality that has adopted or is enforcing the Maine Uniform Building and Energy Code or a portion of the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724, that building official must be certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E. Whenever the building official becomes incapacitated, the municipal officers may appoint or authorize the building official to appoint a deputy building official, who shall serve until removed by the municipal officers, but in no event beyond the term for which the building official was appointed. The deputy building official shall perform such duties as may be required of the deputy building official by the building official. The compensation of the deputy building official is determined by the municipal officers. [2011, c. 582, §3 (AMD).]

##### SECTION HISTORY

2009, c. 261, Pt. B, §2 (NEW). 2011, c. 582, §3 (AMD).

##### **§2352. RIGHT TO ENTER BUILDINGS**

A building official in the performance of the building official's official duty may enter any building for the purpose of making the inspection required by chapters 313 to 321. [2009, c. 261, Pt. B, §3 (AMD).]

##### SECTION HISTORY

1975, c. 623, §34 (AMD). 2009, c. 261, Pt. B, §3 (AMD).

## **§2353. DUTY TO INSPECT BUILDINGS UNDER CONSTRUCTION**

*(REPEALED)*

### SECTION HISTORY

0, c. 0, §0 (AFF). 2007, c. 699, §8 (AMD). 2007, c. 699, §26 (AFF). 2009, c. 261, Pt. A, §10 (RPR). MRSA T. 25, §2353 (RP).

## **§2353-A. DUTY TO INSPECT BUILDINGS UNDER CONSTRUCTION**

The building official shall inspect each building during the process of construction so far as may be necessary to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread, and may give such directions in writing to the owner or contractor as the building official considers necessary concerning the construction of the building so as to render the building safe from the catching and spreading of fire. For a building official in a municipality that is enforcing the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724, unless the municipality is enforcing that code by means of 3rd-party inspectors pursuant to section 2373, subsection 4, the building official shall inspect each building during the process of construction for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103. [2011, c. 582, §4 (AMD).]

### SECTION HISTORY

2009, c. 261, Pt. B, §4 (NEW). 2011, c. 582, §4 (AMD).

## **§2354. INSPECTION OF BUILDINGS BEING REPAIRED**

Subject to Title 32, chapter 139, the building official shall inspect all buildings while they are in process of being repaired and see that all reasonable safeguards are used against the catching and spreading of fire and that the chimneys and flues are made safe. The building official may give directions in writing to the owner as necessary concerning such repairs to render the building safe from the catching and spreading of fire. [2009, c. 652, Pt. A, §36 (RPR).]

### SECTION HISTORY

1991, c. 198, §1 (AMD). 1991, c. 714, §6 (AMD). 2009, c. 261, Pt. B, §5 (AMD). 2009, c. 344, Pt. D, §1 (AMD). 2009, c. 344, Pt. E, §2 (AFF). 2009, c. 652, Pt. A, §36 (RPR).

## **§2355. INSPECTION OF CHIMNEYS, FURNACES, BOILERS AND THE LIKE**

*(REPEALED)*

### SECTION HISTORY

1987, c. 35, §1 (RP).

## **§2356. APPEALS**

Unless an alternative appeal process has been established by ordinance pursuant to Title 10, section 9724, subsection 5, an appeal in writing may be taken from any order or direction of the building official to the municipal officers, whose order thereon is final. [2011, c. 582, §5 (AMD).]

### SECTION HISTORY

2009, c. 261, Pt. B, §6 (AMD). 2011, c. 582, §5 (AMD).

**§2357. NO OCCUPANCY WITHOUT CERTIFICATE; APPEAL***(REPEALED)*

Subject to the provisions of Title 10, chapter 951, a new building may not be occupied until the building official has given a certificate that the same has been built in accordance with section 2353, and so as to be safe from fire. The inspector of buildings may issue the certificate of occupancy upon receipt of an inspection report by a certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353, an appeal may be taken to the municipal officers and, if on such appeal it is decided by them that the section has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official. [2009, c. 261, Pt. A, §11 (RPR).]

This section is repealed December 1, 2010. [2009, c. 261, Pt. A, §11 (NEW).]

## SECTION HISTORY

1987, c. 192, §4 (AMD). 1989, c. 502, §A101 (AMD). 1999, c. 725, §5 (AMD). 2007, c. 699, §9 (AMD). 2007, c. 699, §26 (AFF). 2009, c. 261, Pt. A, §11 (RPR). MRSA T. 25, § 2357 (RP).

**§2357-A. NO OCCUPANCY WITHOUT CERTIFICATE; APPEAL**

A building in a municipality of more than 2,000 inhabitants may not be occupied until the building official has given a certificate of occupancy for compliance with the inspections required by section 2353-A. A building in a municipality of more than 2,000 inhabitants that has adopted or is enforcing the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724 may not be occupied until the building official has given a certificate of occupancy for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103, and in accordance with the required enforcement and inspection options provided in section 2373. The building official may issue the certificate of occupancy upon receipt of an inspection report by a certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353-A, an appeal may be taken pursuant to Title 30-A, section 4103, subsection 5 or through an alternative appeal process that has been established by ordinance pursuant to Title 10, section 9724, subsection 5. If on such appeal it is decided that section 2353-A has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official. [2011, c. 582, §6 (AMD).]

## SECTION HISTORY

2009, c. 261, Pt. B, §7 (NEW). 2011, c. 94, §1 (AMD). 2011, c. 365, §7 (AMD). 2011, c. 582, §6 (AMD).

**§2358. FAILURE TO COMPLY WITH ORDER OF BUILDING OFFICIAL**

If the owner of any building neglects or refuses for more than 30 days to comply with any direction of the building official concerning the repairs on any building as provided in section 2354, the owner must be penalized in accordance with Title 30-A, section 4452. [2009, c. 261, Pt. B, §8 (AMD).]

## SECTION HISTORY

1987, c. 192, §4 (AMD). 1989, c. 502, §A102 (AMD). 2009, c. 261, Pt. B, §8 (AMD).

## §2359. REFUSING ADMISSION TO BUILDING OFFICIAL

An owner or occupant of a building who refuses to permit a building official to enter the building or willfully obstructs the building official in the inspection of the building as required by chapters 313 to 321 must be penalized in accordance with Title 30-A, section 4452. [ 2009, c. 261, Pt. B, §9 (AMD) . ]

### SECTION HISTORY

1975, c. 623, §35 (AMD). 1987, c. 35, §2 (AMD). 1987, c. 192, §5 (AMD). 1995, c. 462, §A48 (RPR). 2009, c. 261, Pt. B, §9 (AMD).

## §2360. AUTHORITY TO ENTER BUILDINGS; REMEDY OF CONDITIONS APPEALS

The building official, the fire inspector and the municipal officers of any city or town may at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within their jurisdiction. Whenever any of those officers find in any building or upon any premises combustible material, inflammable conditions or heating fixtures or apparatus so situated or constructed as to be dangerous to the safety of such buildings or premises, they shall order the same to be removed or remedied, and such order must be forthwith complied with by the owner or occupant of those buildings or premises. An owner or occupant aggrieved by such order when made by the building official or the fire inspector may within 24 hours appeal to the municipal officers, and the cause of the complaint must be at once investigated by the direction of the latter and, unless by their authority that order is revoked, that order remains in force and must be forthwith complied with by the owner or occupant. The building official, the fire inspector or the municipal officers shall make, or cause to be made, an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building or upon any premises under their jurisdiction, upon complaint of any person having an interest in those buildings or premises or property adjacent thereto. Any owner or occupant of buildings or premises, failing to comply with the orders of the authorities above specified, must be punished by a fine of not less than \$5 for each day's neglect. [ 2009, c. 261, Pt. B, §10 (AMD) . ]

### SECTION HISTORY

1987, c. 35, §3 (AMD). 2009, c. 261, Pt. B, §10 (AMD).

## §2361. PROCEEDINGS BY MUNICIPALITY

### 1. Municipal enforcement.

[ 2009, c. 261, Pt. B, §11 (RPR); T. 25, §2361, sub-§1 (RP) . ]

**1-A. Municipal enforcement.** Effective December 1, 2010, duly appointed fire chiefs or their designees, municipal building officials and code enforcement officers, when authorized by their respective municipal employer, may bring a civil action in the name of the municipality to enforce any of the state laws, duly adopted state rules or local ordinances enacted pursuant to this Part and Title 10, chapter 1103; and

[ 2011, c. 365, §8 (AMD) . ]

**2. Notice.** In any proceeding brought by or against the State that involves the validity of a municipal ordinance, the municipality must be given notice of the proceeding and is entitled to be made a party to the proceeding and to be heard. In any proceeding brought by or against the municipality that involves the

validity of statute, ordinance or regulation, the Attorney General must be served and made a party to the proceeding and is entitled to be heard. This section applies to enforcement of statutes, rules or ordinances enacted pursuant to this Part and Title 10, chapter 1103.

[ 2007, c. 699, §10 (AMD); 2007, c. 699, §26 (AFF) .]

#### SECTION HISTORY

1985, c. 101, (NEW). 2007, c. 699, §10 (AMD). 2007, c. 699, §26 (AFF). 2009, c. 261, Pt. B, §12 (AMD). 2009, c. 261, Pt. B, §11 (AMD). 2011, c. 365, §8 (AMD). MRSA T. 25, §2361, sub-§1 (AMD).

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