

# MAINE STATE LEGISLATURE

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## CHAPTER 209

## ORDINANCES

Sec.

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- 2153. Enactment procedure.
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**§ 2151. Police power ordinances**

A municipality may enact police power ordinances for the following purposes:

**1. General.**

**A.** Promoting the general welfare; preventing disease and promoting health; providing for the public safety.

**2. Public ways and other public property.**

**A.** Providing for the protection and maintenance of public ways and other public property.

**B.** Providing for the location, protection, maintenance and use of trees, structures and other things placed on, above or beneath public ways and other public property.

(1) Trees, structures and other things which exist in accordance with municipal ordinances are not defects in a public way.

**C.** Setting off portions of its 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; establishing crosswalks and safety zones for pedestrians; regulating pedestrian traffic in the public ways.

(1) The municipal officers may by resolution establish a method by which pedestrians charged with the violation of regulations for their protection on the public ways may waive all court action by payment of specified fees within stated periods of time.

**D.** Providing for the installation, maintenance and policing of parking meters on any public way or public parking area; providing the fact that a vehicle is in a metered parking space when the time signal on the parking meter for such space

indicates no parking permitted without the deposit of a coin or coins shall be prima facie evidence that said vehicle has been parked in said parking space longer than the lawfully permitted period; providing the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered; establishing reasonable charges for metered parking.

(1) The revenue collected from parking meters shall be used to purchase, maintain and police the meters; to construct and maintain public ways; to acquire, construct, maintain and operate public parking areas; and for no other purpose.

**E.** Entering by municipal officers or their agents on private grounds, with or without owner permission, to determine presence of the Dutch elm disease and carry out preventive or control measures therefor.

(1) Municipalities or their agents exercising authority under this paragraph shall be liable for no damages except those occasioned by negligence.

**F.** To authorize its municipal officers to contract on such terms and conditions as are in the best interests of the municipality for the placing and maintenance of public pedestal telephones along the public ways within the compact or built-up section of the municipality as defined in Title 23.

(1) Such contracts may be made for terms not exceeding 3 years.

(2) Pedestal telephones shall be located in accordance with applicable municipal ordinances and within areas covered by municipal parking ordinances.

(3) Telephones located in accordance with the provisions of such ordinances and contracts are not defects in public ways.

(4) Telephone booths may be located in the manner provided for pedestal phones provided that they be placed on sidewalks at least 4 feet from any curb.

(5) Revenues received from telephone contracts shall be credited to general funds.

1959, c. 267, § 1; c. 337, § 1; 1961, c. 258; 1963, c. 48.

### **3. Vehicles.**

**A.** Regulating the operation of all vehicles in the public ways; providing the fact that a vehicle is unlawfully parked

shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.

(1) The municipal officers may by resolution 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.

**B.** Regulating, or establishing 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; requiring 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.

**C.** The municipal officers of towns may enact all ordinances authorized by this subsection. Seven days' notice of the meeting at which said ordinances are to be proposed shall be given in the manner provided for town meetings, and such ordinances shall be effective immediately. A village corporation shall have the same powers and duties as a municipality under this section.

1959, c. 337, § 2; 1961, c. 192.

#### **4. Buildings, structures, trailers and equipment.**

**A.** Regulating the design, construction materials and construction of new buildings and additions to and alterations of existing buildings; regulating the alteration, demolition, maintenance, repair, use, change of use, safety features, light, ventilation and sanitation facilities of all buildings; regulating sanitation and parking facilities for trailers; regulating the installation, alteration, maintenance, repair and use of all equipment in or connected to all buildings; requiring permits and establishing reasonable permit fees for all of the operations mentioned in this paragraph.

**B.** Establishing adequate standards for all features of means of egress, fire protection, fire prevention, accident prevention and structural safety of buildings which are used occasionally or regularly for public assembly; compelling the owners to make improvements to bring such buildings up to the established standards; requiring the owner or lessee of a building used for public assembly which is regulated by an ordinance authorized by this paragraph and operated with intent of financial gain to obtain a permit for which a fee may

be imposed commensurate with its size or capacity; requiring the owner or lessee of such a building to file a plan of it showing all safety features as a condition precedent to the issue of a permit or the further use of one already issued.

(1) The building inspector shall send a written order to the owner or lessee of a building used for public assembly requiring any conditions which exist in violation of an ordinance to be corrected within 30 days after the order is sent.

(2) After the expiration of the 30-day period, the owner or lessee is liable for all injury caused by his failure to do so, and the building inspector shall order the building vacated.

(3) "Building used for public assembly" means a room or space in or on any structure which is used for the gathering of 100 or more persons for any purpose, and includes any connecting room or space on the same level, above or below, which has a common entrance.

C. The provisions of this paragraph apply to paragraphs A and B:

(1) The provisions pertaining to buildings apply equally to all structures and parts of them.

(2) The building inspector is the licensing authority unless otherwise provided by the municipality.

(3) Ordinances defining the duties of the building inspector and other enforcement officers, not contrary to Title 25, chapter 313, may be enacted. All enforcement officers designated by ordinance shall be given free access at reasonable hours to all parts of buildings regulated by ordinance.

(4) An application for a permit shall be in writing and shall be signed by the applicant and directed to the building inspector. The failure of the building inspector to issue a written notice of his decision, directed to the applicant, within 30 days from the date of filing of the application constitutes a refusal of the permit.

(5) An appeal may be taken from any order issued by the building inspector, or from his refusal to grant a permit, to the municipal officers and from the municipal officers to the Superior Court.

(a) On an appeal in writing to the municipal officers, they shall at their next meeting affirm, modify

or set aside the decision of the building inspector according to the terms of the pertinent ordinance. They may permit a variation from the terms of an ordinance where necessary to void undue hardship, provided there is no substantial departure from the intent of the ordinance. They may permit an exception to an ordinance only when the terms of the exception have been specifically set forth by the municipality. The failure of the municipal officers to issue a written notice of their decision, directed to the appellant, within 30 days from the date of filing of the appeal constitutes a denial of the appeal.

(b) The appeal to the Superior Court shall be filed not less than 30 days after the order or decision from which the appeal is taken. Notice of the appeal shall be ordered by the court, and the appeal shall be tried and determined by the court without a jury in the manner and with the rights provided by law in other civil actions so heard. Costs may be awarded to the prevailing party by the court as justice requires.

**D.** Protecting 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.

(1) The municipal officers shall send a written notice to the owner or lessee who fails to comply with an ordinance authorized by this paragraph.

(2) If the owner or lessee does not install effective roof guards within 14 days after notice is sent, he is liable for all injury caused by his failure to do so.

(3) After the expiration of the 14-day period, the municipal officers may have proper roof guards installed at the expense of the municipality, the reasonable charges for which may be recovered from the owner or lessee by special assessment as provided by Title 25, section 2393.

**E.** The purpose of this subsection is to promote the health, safety and general welfare of the public and of the occupants and users of buildings and other structures.

(1) Any building, structure, trailer parking facility or equipment existing in violation of an ordinance authorized by this subsection is a nuisance.

1957, c. 429, § 78-A; 1959, c. 317, § 52; 1961, c. 317, § 242.

**5. Commercial.**

**A.** Regulating the purchase and sale of articles by second-hand dealers; regulating the pawning of articles with pawnbrokers; prescribing conditions to be observed by buyers and sellers, pawners and pawnbrokers, to prevent or detect the purchase or sale of stolen property.

**B.** Regulating the purchase and sale of junk; regulating the establishment and operation of any type of junk yard.

(1) With respect to automobile junk yards, sections 2452 to 2458 apply to any ordinance authorized by this paragraph.

(2) With respect to all other types of junk yard, the fees, charges and penalties provided in sections 2453, 2455 and 2458 are reasonable.

**C.** Regulating the business of hawking and peddling of merchandise at retail.

(1) This paragraph does not apply to persons selling merchandise by sample, list or catalogue for future delivery; farm, dairy, orchard, fish and forest products of their own production; newspapers and religious literature.

**D.** Regulating the operation of dance halls.

**E.** Ordinances authorized by this subsection may require the person regulated by them to obtain a license for which a reasonable fee may be imposed.

**F.** Regulating the business of itinerant vending of merchandise at retail.

**G.** Regulating the operation of mechanical rides as defined by Title 8, section 391.

1959, c. 260; 1961, c. 327, § 3.

The municipality shall provide a penalty of not more than \$100 plus costs for the violation of any ordinance authorized by this section. All fines shall be recovered on complaint to the use of the municipality.

The municipal officers are the licensing authority of a municipality, unless otherwise provided by its legislative body or by statute.

R.S.1954, c. 91, §§ 86, 87; 1957, c. 405, § 1; c. 429, § 78-A; 1959, c. 260; c. 267, § 1; c. 317, § 52; c. 337, §§ 1, 2; 1961, cc. 192, 258; c. 317, § 242; c. 327, § 3; 1963, c. 48.

**§ 2152. Administrative ordinances**

A municipality may enact administrative ordinances for the following purposes:

**1. Pension system.** Establishing and maintaining a general system of contributory pensions for the benefit of its officials and employees with necessary classifications and terms of admission; establishing a board to administer the system; providing for complete or partial contribution by the municipality.

**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.

**B.** A municipality which establishes such a system in accordance with this subsection may contract with any insurance company licensed to do business in the State for the payment of pension benefits.

**C.** Any pension funds held by a municipality or by a board established by it are exempt from attachment or trustee process.

**2. Police and fire departments; civil service commission.** Establishing regulations for the appointment, training, service, promotion, demotion, layoff, suspension, reinstatement and removal of members of the police and fire departments, and establishing a civil service commission to administer these regulations.

**A.** Chiefs of fire and police departments may be made subject to such regulations as are other members of their departments.

**3. Fire aid to other municipalities.** Authorizing its municipal or incorporated volunteer fire department to aid in extinguishing fires of other municipalities within or outside the State.

**A.** Members of such departments have the same privileges and immunities as if acting in their own municipalities.

**B.** Any municipality so aided may compensate the aiding municipality or incorporated volunteer fire department for damage to its property and for payments made to any member of its fire department or to his widow or other dependents on account of injuries or death sustained in the course of rendering such aid.

R.S.1954, c. 91, § 86; 1957, c. 405, § 1.

**§ 2153. Enactment procedure**

A municipality may enact ordinances by the following procedure:

**1. Posted.** The proposed ordinance shall be attested and posted in the manner provided for town meetings.

**2. Certification.** One copy of the proposed ordinance shall be certified by the municipal officers to the municipal clerk at least 7 days next prior to the day of election to be preserved as a public record and copies shall be available at that time for distribution to the voters by the municipal clerk as well as at the time of the town meeting.

**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.

**4. Application.** This section shall not apply to ordinances which may be enacted by the municipal officers.

1961, c. 322, § 1.

**§ 2154. 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.

**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 ".

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

**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.

**A.** The revision of any ordinance may be adopted only in the manner provided for the original enactment of the ordinance.

R.S.1954, c. 91, §§ 88-90, 92; 1957, c. 405, § 1.

**§ 2155. 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 such ordinance, bylaw, order or resolve has been certified over the signature of the municipal clerk, shall be prima facie proof of the validity thereof.

1963, c. 175.