

**Maine Revised Statutes  
Title 6: AERONAUTICS**

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# Title 6: AERONAUTICS

## Chapter 1: GENERAL PROVISIONS

### §1. TITLE

Chapters 1 to 17 shall be known and may be cited as the "Maine Aeronautics Act". [1977, c. 678, §1 (AMD).]

#### SECTION HISTORY

1977, c. 678, §1 (AMD).

### §2. PURPOSE

It is declared that the purpose of chapters 1 to 17 is to further the public interest by: [1977, c. 678, §2 (AMD).]

**1. Revision.** The revision of existing statutes relative to aviation in order to centralize all aeronautical activities in a single state agency authorized to participate in any activity essential to progress in aeronautics;

**2. Funds.**

[ 1969, c. 498, §1 (RP) .]

**3. Uniformity.** Effecting a uniformity in the regulations pertaining to aeronautical activities by authorizing the adoption of uniform regulations consistent with federal regulations and making noncompliance with federal regulations a violation of the State law, thereby enabling the law enforcement agencies of the State to enforce the laws regulating aeronautical activities;

[ 1971, c. 404, §1 (AMD) .]

**4. Safety.** Providing for the protection and promotion of the public interest and safety in connection with aeronautical activities.

[ 1971, c. 404, §1 (AMD) .]

#### SECTION HISTORY

1969, c. 498, §1 (AMD). 1971, c. 404, §1 (AMD). 1977, c. 678, §2 (AMD).

### §3. DEFINITIONS

As used in this chapter and chapters 2 to 17, unless the context otherwise indicates, the following terms shall have the following meanings. [1979, c. 541, Pt. A, §42 (AMD).]

**1. Administration.** "Administration" means the Federal Aviation Administration of the United States, or any federal agency succeeding the Federal Aviation Administration.

[ 1971, c. 404, §2 (AMD) .]

**2. Aeronautics.** "Aeronautics" means the act, practice of, or instruction in the art and science of transportation by aircraft, and operation, construction, repair or maintenance of aircraft, airports and air navigation facilities.

[ 1971, c. 404, §2 (AMD) .]

**3. Air carrier.** "Air carrier" means a person who undertakes, whether directly or indirectly or by lease or other arrangement, to engage in air commerce and is certificated under Federal Air Regulations.

[ 1999, c. 131, §1 (AMD) . ]

**4. Air commerce.** "Air commerce" means the carriage by aircraft of persons or property for compensation or hire, when that carriage is a major enterprise for profit and not merely incidental to a person's other business.

[ 1977, c. 678, §5 (RPR) . ]

**5. Aircraft.** "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

**5-A. Aircraft dealer.** "Aircraft dealer" means any person engaged in the sale or purchase or manufacture of new or used aircraft.

[ 1971, c. 404, §3 (AMD) . ]

**6. Airman.** "Airman" means any individual who engages, as the person in command or as pilot, mechanic or member of the flight crew, in the navigation of aircraft while under way; and any individual who is directly in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers or appliances.

[ 1971, c. 404, §4 (AMD) . ]

**7. Air navigation facility.** "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including airports, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and takeoff of aircraft.

[ 1971, c. 404, §4 (AMD) . ]

**7-A. Air taxi.** "Air taxi" means a person who undertakes, whether directly or indirectly or by lease or other arrangement, to engage in air commerce and who possesses an Air Taxi Commercial Operators Certificate issued by the Federal Aviation Administration under 14 Code of Federal Regulations, Part 135.

[ 1977, c. 678, §6 (NEW) . ]

**8. Airport.** "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

[ 1971, c. 404, §5 (AMD) . ]

**9. Airport hazard.** "Airport hazard" means any structure, or vegetation, including trees, which obstructs the aerial approaches of a public airport.

[ 1971, c. 404, §5 (AMD) . ]

**10. Air transportation.** "Air transportation" means the transportation of persons, property or mail by aircraft.

**10-A. Antique aircraft.** "Antique aircraft" means an aircraft in excess of 30 years of age which is flown only for purposes of demonstration and show.

[ 1977, c. 678, §7 (NEW) .]

**10-B. Basing aircraft.** "Basing aircraft" means storing, parking, tying down or mooring aircraft in Maine for more than 30 consecutive calendar days.

[ 1977, c. 678, §7 (NEW) .]

**10-C. Bureau of Aeronautics.**

[ 1995, c. 504, Pt. B, §1 (RP) .]

**11. Certificate, airworthiness.** "Certificate, airworthiness" is a document issued by the administration to the registered owner of an aircraft, certifying that the aircraft is airworthy when operated and maintained in accordance with the terms of said certificate.

**12. Certificate, experimental.** "Certificate, experimental" is a document issued by the administration to the registered owner of an aircraft, certifying that the aircraft is an experimental aircraft and specifying such operation limitations as are deemed necessary by the administration.

**13. Certificate of competency.** "Certificate of competency" is a document issued by the administration to airmen specifying the kind of aeronautical activity for which they are deemed competent.

**14. Certificate, registration (federal).** "Certificate, registration (federal)" is a document, together with an identification mark, issued by the administration to the owner of an aircraft for purposes of identifying the aircraft and determining its nationality.

**15. Certificate, registration (State).** "Certificate, registration (State)" is a document issued by the commissioner for aircraft, landing areas and air carriers, specifying the aeronautical activities in which the holder thereof may engage.

[ 1969, c. 498, §2 (AMD); 1995, c. 504, Pt. B, §10 (AMD) .]

**16. Civil aircraft.** "Civil aircraft" means any aircraft other than a public aircraft.

**17. Civil air regulations.**

[ 1971, c. 404, §6 (RP) .]

**18. Department.** "Department" means the Department of Transportation.

[ 1971, c. 593, §1 (RPR) .]

**18-A. Commercial airport.** "Commercial airport" means any airport which is open to the public upon which there is conducted an aeronautical business or which accommodates an operation in air commerce.

[ 1977, c. 678, §8 (RPR) .]

**18-B. Commercial seaplane landing area.**

[ 1999, c. 131, §2 (RP) .]

**18-C. Commissioner.** "Commissioner" means the Commissioner of Transportation or his designee.

[ 1977, c. 678, §9 (NEW) .]

**18-D. Commuter air carrier.** "Commuter air carrier" means an air taxi which provides public transportation between at least 2 points in accordance with a published schedule or regularly operated flights.

[ 1977, c. 678, §9 (NEW) .]

**18-E. Experimental aircraft.** "Experimental aircraft" means any aircraft used for noncommercial purposes holding a certificate issued by the Federal Aviation Administration under Federal Air Regulation, Part 21 classifying that aircraft in the experimental aircraft category.

[ 1977, c. 678, §9 (NEW) .]

**18-F. Commercial activity.** "Commercial activity" means an aeronautical business or an operation in air commerce.

[ 1999, c. 131, §3 (NEW) .]

**18-G. FAA.** "FAA" means the Federal Aviation Administration.

[ 1999, c. 131, §3 (NEW) .]

## **19. Director.**

[ 1995, c. 504, Pt. B, §2 (RP) .]

**19-A. Federal air regulations.** "Federal air regulations" means the regulations of the Federal Aviation Administration issued under the authority of the "Federal Aviation Act of 1958," as amended, or any federal regulations superseding those issued under the authority of the Act.

[ 1977, c. 678, §11 (AMD) .]

**19-B. Heliport.** "Heliport" means a place set aside for the landing and take off of helicopters.

[ 1971, c. 404, §7 (NEW) .]

**20. Inspector.** "Inspector" means an inspector of aeronautics appointed by the commissioner.

[ 1977, c. 678, §12 (AMD); 1995, c. 504, Pt. B, §10 (AMD) .]

**21. Landing area.** "Landing area" means any locality, either of land or water, which is used, or intended to be used, for the landing and takeoff of aircraft.

[ 1977, c. 678, §13 (AMD) .]

**22. Navigable air space.** "Navigable air space" means air space above the minimum altitudes of flight prescribed by the federal air regulations.

[ 1971, c. 404, §8 (AMD) .]

**23. Navigation of aircraft.** "Navigation of aircraft" or "navigate aircraft" includes the piloting of aircraft.

**23-A. Noncommercial airport.** "Noncommercial airport" means any airport, open to the public, where no fees are incurred to the user.

[ 1977, c. 678, §14 (RPR) . ]

**24. Operation of aircraft.** "Operation of aircraft" or "operate aircraft" means the use of aircraft, for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control, in the capacity of owner, lessee or otherwise, of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of chapters 1 to 17.

[ 1977, c. 678, §15 (AMD) . ]

**25. Person.** "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association or body politic and includes any trustee, receiver, assignee or other similar representative thereof.

**25-A. Private airport.**

[ 1977, c. 678, §16 (RP) . ]

**25-B. Private airport.** "Private airport" means an airport that is not open to the public.

[ 1999, c. 131, §4 (NEW) . ]

**25-C. Primary airport.** "Primary airport" means an airport that has at least 10,000 passenger boardings per year.

[ 2011, c. 351, §1 (NEW) . ]

**26. Private landing area.**

[ 1977, c. 678, §17 (RP) . ]

**27. Public aircraft.** "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory or possession of the United States or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

**27-A. Public airport.**

[ 1977, c. 678, §18 (RP) . ]

**28. Public landing area.**

[ 1977, c. 678, §19 (RP) . ]

**29. Resident.** "Resident" means a person who has resided and made his home not less than 6 months next prior to his application for registration continuously within the State.

**29-A. State airways system.** "State airways system" means all air navigation facilities available for public use now existing or hereinafter established, whether natural or man-made, except for those under the jurisdiction of the Federal Government.

[ 1977, c. 678, §20 (NEW) . ]

**30. Structure.** "Structure" means any object constructed or installed by man, including such objects although regulated or licensed by other provisions of law.

**31. Utility airport.** "Utility airport" means an airport that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

[ 1999, c. 131, §5 (NEW) .]

#### SECTION HISTORY

1969, c. 498, §§2-4 (AMD). 1969, c. 590, §6 (AMD). 1971, c. 404, §§2-11 (AMD). 1971, c. 593, §§1,2 (AMD). 1977, c. 678, §§3-20 (AMD). 1979, c. 541, §§A42,A43 (AMD). 1995, c. 504, §§B1,2,10 (AMD). 1999, c. 131, §§1-5 (AMD). 2011, c. 351, §1 (AMD).

### **§4. STATE AIRWAYS SYSTEM**

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §5 (RPR). 1977, c. 678, §21 (RP).

### **§5. CROP DUSTING**

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §6 (RPR). 1977, c. 678, §22 (RP).

### **§6. ABANDONED AIRPORTS; REMOVAL OF IDENTIFICATION MARKINGS**

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §23 (RP).

### **§7. AIRPORT HAZARDS NOT IN PUBLIC INTEREST**

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §23 (RP).



## Chapter 2: DEPARTMENT OF TRANSPORTATION

### §11. DEPARTMENT; DIRECTOR; APPOINTMENT, TENURE, SALARY

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §8 (NEW). 1971, c. 404, §12 (AMD). 1971, c. 531, §4 (AMD). 1971, c. 593, §3 (RP).

### §11-A. DIRECTOR, BUREAU OF AERONAUTICS

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §25 (NEW). 1995, c. 504, §B3 (RP).

### §12. DUTIES

The commissioner shall administer the laws relating to aeronautics and adopt and administer such rules concerning aeronautical activities not inconsistent with federal regulations covering aeronautics as may be necessary to promote public safety and the best interests of aviation in the State. The commissioner shall advance the interest of aeronautics within the State by studying aviation needs, assisting and advising authorized representatives of political subdivisions within the State in the development of aeronautics and by cooperating and coordinating with such other agencies whether local, state, regional or federal, as may be working toward the development of aeronautics within the State. [1999, c. 131, §6 (AMD).]

The commissioner shall supervise and control all state airports and shall adopt and administer such rules concerning the use of the airports as considered necessary. The commissioner may lease facilities at state-owned airports on such terms as the commissioner may direct. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. [1999, c. 131, §6 (AMD).]

The commissioner has the care and supervision of such aircraft as may be owned by the State for the use of its departments and agencies and shall provide adequate hangar facilities and be responsible for the maintenance, repair, upkeep and operation of that aircraft. The commissioner shall charge these departments and agencies requisitioning aircraft amounts sufficient to reimburse the department of the full operating cost of these aircraft. All fees collected must be credited to the General Fund. Aircraft owned by the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Agriculture, Conservation and Forestry and the Department of Public Safety are exempt and excluded from this paragraph. [1999, c. 131, §6 (AMD); 2011, c. 657, Pt. W, §5 (REV).]

The commissioner shall exercise general supervision, control and direction on behalf of the State over all matters pertaining to the location, construction and maintenance of all air navigation facilities built or maintained, either in whole or in part, with money appropriated from the State Treasury. The commissioner may acquire land, easements and rights-of-way for the establishment of air navigation facilities. The land, easements and rights-of-way may be acquired by purchase, grant or condemnation in the manner hereinafter provided by Title 23, sections 154 to 161, and property so acquired may be conveyed to a town for use in connection with the establishment of air navigation facilities for such a consideration as the commissioner may determine. [1999, c. 131, §6 (AMD).]

#### SECTION HISTORY

1969, c. 498, §8 (NEW). 1971, c. 404, §§13,14 (AMD). 1973, c. 460, §18 (AMD). 1973, c. 513, §22 (AMD). 1975, c. 771, §§93,94 (AMD). 1977, c. 678, §26 (RPR). 1981, c. 456, §A22 (AMD). 1995, c. 504, §§B4,10 (AMD). 1999, c. 131, §6 (AMD). 2011, c. 657, Pt. W, §5 (REV).

### §13. POWERS

The commissioner has the power to hold investigations, inquiries and hearings concerning matters covered by chapters 1 to 17 and the rules and orders adopted under chapters 1 to 17. Hearings are open to the public and must be held upon such notice as the commissioner may by rule provide. The commissioner has the power to administer oaths and affirmations, certify to all official acts, issue subpoenas and order the attendance and testimony of witnesses and the production of papers, books and documents. All hearings, notices, reviews and orders must comply with the Maine Administrative Procedure Act. In case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the commissioner may invoke the aid of any court of this State of general jurisdiction. The court may order that person to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt of the order. [2013, c. 36, §2 (AMD).]

The commissioner shall have, in any part of the State, the same authority to enforce and to make arrests for the violation of any provision of chapters 1 to 17 or any rule or regulation promulgated thereunder as sheriffs, policemen and constables have in their respective jurisdictions. [1977, c. 678, §27 (RPR); 1995, c. 504, Pt. B, §10 (AMD).]

The commissioner shall have power to conduct studies relating to aeronautical development within the State or any part thereof and may apply for and receive on behalf of the State federal aid in connection with those studies. [1977, c. 678, §27 (RPR).]

The commissioner may employ, subject to the Civil Service Law, personnel that the commissioner considers necessary to carry out the duties outlined in this chapter or imposed upon the commissioner with respect to aviation. [1995, c. 504, Pt. B, §10 (AFF); 1995, c. 504, Pt. B, §5 (RPR).]

The commissioner shall have jurisdiction over the state airways system. The expenditure of state funds in the interest of safety on any or all of the facilities of this system serves a useful public purpose and satisfies a public need. The commissioner shall prescribe the terms and conditions of the activities authorized for each facility. [1977, c. 678, §27 (RPR).]

#### SECTION HISTORY

1969, c. 498, §8 (NEW). 1971, c. 404, §15 (AMD). 1977, c. 678, §27 (RPR). 1979, c. 127, §41 (AMD). 1985, c. 785, §B41 (AMD). 1995, c. 504, §§B5,10 (AMD). 1999, c. 131, §7 (AMD). 2013, c. 36, §2 (AMD).

### §14. REGISTRATION CERTIFICATES

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §8 (NEW). 1971, c. 404, §§16-21 (AMD). 1971, c. 593, §23 (AMD). 1975, c. 745, §1 (AMD). 1977, c. 678, §28 (RP).

### §15. ORDERS; NOTICES; HEARINGS; REVIEW

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §8 (NEW). 1977, c. 678, §29 (RP).

### §16. CIVIL AIR PATROL

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §8 (NEW). 1977, c. 678, §29 (RP).

## §17. AERONAUTICAL FUNCTIONS

The department shall be responsible for performing aeronautical functions including, but not limited to, the following: [1977, c. 678, §30 (NEW).]

**1. Development.** Aid and assist municipalities and other political subdivisions in the development of their public airports;

[ 2011, c. 351, §2 (AMD) .]

**2. Federal aid.** Aid and assist municipalities and other political subdivisions with consultant and state engineers in the request for state and federal aid in the development of the capital improvement programs, planning grants, design and construction of airport projects;

[ 1977, c. 678, §30 (NEW) .]

**3. Enforcement.** Enforce all state aviation laws;

[ 1977, c. 678, §30 (NEW) .]

**4. Inspection.** Inspection of all commercial and utility airports open to the public and all private airports with commercial activity;

[ 1999, c. 131, §8 (AMD) .]

**5. Safety.** Develop and promote aeronautical safety;

[ 1977, c. 678, §30 (NEW) .]

**6. Promotion.** Develop and promote aeronautics and education in aeronautics within the State;

[ 1977, c. 678, §30 (NEW) .]

**7. Investigation.** Assist the National Transportation Safety Board as needed in the investigation of aircraft accidents and incidents in the State;

[ 1991, c. 68, (AMD) .]

**8. Federal regulations.** Maintain a complete file on all federal air regulations;

[ 1977, c. 678, §30 (NEW) .]

**9. Snow removal.**

[ 2011, c. 351, §3 (RP) .]

**10. Air navigation facilities.** Aid in development of a system of air navigation facilities;

[ 1977, c. 678, §30 (NEW) .]

**11. Rules and regulations.** Adopt rules and regulations;

[ 1977, c. 678, §30 (NEW) .]

**12. State airport system plan.** Develop a state airport system plan and periodically update;

[ 1977, c. 678, §30 (NEW) .]

**13. Capital improvement programs.** Prepare capital improvement programs and aeronautical budgets;

[ 1977, c. 678, §30 (NEW) .]

**14. Civil Aeronautics Board proceedings.** Monitor and participate in Civil Aeronautics Board proceedings; and

[ 1977, c. 678, §30 (NEW) .]

**15. Further duties.** Carry out such other and further duties as are provided by law.

[ 1977, c. 678, §30 (NEW) .]

#### SECTION HISTORY

1977, c. 678, §30 (NEW). 1991, c. 68, (AMD). 1999, c. 131, §8 (AMD).  
2011, c. 351, §§2, 3 (AMD).

## §18. FINANCES

**1. State aid.** The commissioner may, from amounts appropriated, approve grants to cities, towns or counties separately, or to cities and towns jointly with one another or with counties for an appropriate share of the total cost of any airport development project.

[ 1977, c. 678, §31 (NEW) .]

**2. State approval.** No municipality or other political subdivision in this State, whether acting alone or jointly with another municipality, a political subdivision or with the State, shall submit to the administration any request for federal aid under the Federal Airport and Airway Development Act of 1970, so called, or any amendment thereof, unless the project and the project application have been first approved by the commissioner. This subsection may be waived by the commissioner if no state funds are involved and the project falls within the latest airport master plan for that airport.

[ 1977, c. 678, §31 (NEW) .]

### **2-A. Primary Airport Capital Improvement Grant Program; administration approval.**

Notwithstanding subsection 2, the Primary Airport Capital Improvement Grant Program, referred to in this subsection as "the state grant program," is established as a discretionary grant program administered by the department. The department shall distribute available state grant program funds to primary airports for eligible capital improvement projects as determined by the department. Funds may also be distributed to an eligible municipality or political subdivision of the State for airport equipment that is eligible under the administration's airport improvement program. The department shall provide state grant program funds to evenly share the local match with the eligible municipality or political subdivision of the State for the administration's airport improvement program grant offer and award an amount contingent upon the availability of state grant program funds. State grant program funds may be distributed only to projects ready for construction that are approved by the administration as eligible for state grant program funds. The department is not responsible for oversight or eligibility of projects under this subsection.

[ 2011, c. 351, §4 (NEW) .]

**3. Federal aid.** This State, municipalities and other political subdivisions separately, and municipalities and other political subdivisions jointly with one another or with the State, are authorized to accept, establish, construct, own, lease, control, equip, improve, maintain and operate airports for the use of aircraft within their respective boundaries, or without those boundaries with the consent of the municipality or other political subdivision where the airport is or is to be located, and may use for the purpose or purposes any land suitable and available.

The State, municipalities and other political subdivisions separately, and municipalities and other political subdivisions jointly with one another or with the State, by and through their duly constituted representatives, are authorized to apply for and accept federal aid to further any purpose related to the development of aeronautics and to do all things necessary or incidental thereto, subject to subsections 2 and 2-A. A request for federal aid under the federal Airport and Airway Improvement Act of 1982, 49 United States Code, Chapter 471, as amended, made by a municipality or other political subdivision in this State for a primary airport project is not required to be approved by the commissioner.

Airports owned and operated by any city, town or county are declared to be governmental agencies and entitled to the same immunities as any agency of the State.

[ 2011, c. 351, §5 (AMD) . ]

**4. Appropriations, bond issues and taxation.** The purchase price or award for land acquired for an airport or landing field may be paid for by appropriation of moneys available therefor, or wholly or partly paid for from the proceeds of sale of bonds of the city, town or county as the proper officers of the city, town or county shall determine, subject to the adoption of a proposition therefor, if required by law as a prerequisite to the issuance of bonds of the cities, towns or counties for public purposes generally. Cities, towns and counties are authorized to appropriate or cause to be raised by taxation or otherwise in the cities, towns or counties sums sufficient to carry out chapters 1 to 17.

[ 1977, c. 678, §31 (NEW) . ]

#### SECTION HISTORY

1977, c. 678, §31 (NEW). 2011, c. 351, §§4, 5 (AMD).

## §19. SMALL COMMUNITY AIR SERVICE PROGRAM

**1. Small community air service.** To promote essential air service, the Department of Transportation may administer a program of subsidies to qualified air carriers, patterned after the federal essential air service program, to ensure that small communities have adequate levels of service. This program must take into consideration a minimum round trip and minimum seating criteria for each eligible point to destinations within the State that provide access into the national air transportation system.

[ 1991, c. 571, §1 (NEW) . ]

**2. Eligibility requirements.** To be eligible for subsidy, an air carrier must be certified by the Federal Aviation Administration to provide scheduled air service to the eligible point and must demonstrate a need for subsidy. The eligible point must be currently served by no more than one air carrier providing scheduled service.

[ 1991, c. 571, §1 (NEW) . ]

**3. Subsidies.** The cost of air service subsidies must be allocated between the State and the community desiring to receive new service, with the State providing the percentage of the subsidy for which funds are available and the community providing the balance of the subsidy.

[ 1991, c. 571, §1 (NEW) . ]

**4. Adoption of rules.** The Department of Transportation shall promulgate rules necessary to administer this section. The rules must establish the formula for reimbursement and application requirements.

[ 1991, c. 571, §1 (NEW) .]

SECTION HISTORY

1991, c. 571, §1 (NEW).

## Chapter 3: AERONAUTICS COMMISSION

### **§41. APPOINTMENT; TERMS**

*(REPEALED)*

SECTION HISTORY

1969, c. 498, §7 (RP).

### **§42. DUTIES**

*(REPEALED)*

SECTION HISTORY

1969, c. 498, §7 (RP).

### **§43. POWERS OF COMMISSION; DIRECTOR EMPLOYEES**

*(REPEALED)*

SECTION HISTORY

1969, c. 498, §7 (RP).

### **§44. REGISTRATION CERTIFICATES**

*(REPEALED)*

SECTION HISTORY

1965, c. 17, (AMD). 1969, c. 498, §7 (RP).

### **§45. ORDERS, NOTICES; HEARINGS; REVIEW**

*(REPEALED)*

SECTION HISTORY

1969, c. 498, §7 (RP).

### **§46. CIVIL AIR PATROL**

*(REPEALED)*

SECTION HISTORY

1967, c. 460, §1 (NEW). 1969, c. 498, §7 (RP).

## Chapter 4: REGISTRATIONS

### §51. AIRPORTS

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §32 (NEW). 1995, c. 504, §B10 (AMD). 1999, c. 131, §§9,10 (AMD). 2011, c. 610, Pt. A, §1 (RP).

### §52. AIRCRAFT REGISTRATION

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §32 (NEW). 1979, c. 80, §§1,2 (AMD). 1995, c. 504, §B10 (AMD). 1999, c. 131, §11 (AMD). 2011, c. 610, Pt. A, §1 (RP).

### §53. AIRCRAFT DEALERS

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §32 (NEW). 1979, c. 80, §3 (AMD). 1981, c. 80, (AMD). 1983, c. 828, §1 (AMD). 1995, c. 504, §B10 (AMD). 2011, c. 610, Pt. A, §1 (RP).

### §54. FEES

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §32 (NEW). 2005, c. 457, §GGG2 (AMD). 2011, c. 610, Pt. A, §1 (RP). 2011, c. 649, Pt. E, §1 (AMD).

### §55. REVOCATION OR SUSPENSION

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §32 (NEW). 1995, c. 504, §B10 (AMD). RR 2009, c. 2, §4 (COR). 2011, c. 610, Pt. A, §1 (RP).

### §56. HEARINGS, NOTICES, REVIEWS OR ORDERS

*(REPEALED)*

#### SECTION HISTORY

1977, c. 678, §32 (NEW). 2011, c. 610, Pt. A, §1 (RP).



## Chapter 5: AERONAUTICAL DIRECTOR

### **§81. APPOINTMENT; TERM; SALARY**

*(REPEALED)*

SECTION HISTORY

1965, c. 425, §§5-A (AMD). 1967, c. 490, §3 (AMD). 1969, c. 498, §7 (AMD). 1969, c. 504, §14 (AMD).

### **§82. POWERS AND DUTIES; INSPECTORS**

*(REPEALED)*

SECTION HISTORY

1969, c. 498, §7 (RP).

### **§83. BONDS AND CREDENTIALS**

*(REPEALED)*

SECTION HISTORY

1969, c. 498, §7 (RP).

## Chapter 6: AIRPORTS

### §101. CATEGORIES

All airports in this State shall be categorized as follows under this section. [1977, c. 678, §33 (NEW).]

#### 1. Commercial airports.

A. Air carrier airports are those airports regularly served by an air carrier airline and which meet Federal Air Regulation, Part 139, or subsequent revisions or amendments. [1977, c. 678, §33 (NEW).]

B. Commuter air carrier airports are those airports regularly served by commuter air carriers, which airports shall also meet such provisions of the federal air regulations, Part 139, as are duly adopted by the commissioner. [1977, c. 678, §33 (NEW).]

C. General Aviation I airports are those airports not regularly served by an air carrier or a commuter air carrier and can be classified as publicly or privately owned and can be further subdivided as:

(1) Land; or

(2) Seaplane. [1977, c. 678, §33 (NEW).]

[ 1977, c. 678, §33 (NEW) .]

#### 2. Utility airports.

A. Utility airports are airports that are publicly or privately owned and open to the public and subdivided into 2 classes:

(1) Land; or

(2) Seaplane. [1999, c. 131, §12 (AMD).]

B. Utility airports may not conduct commercial activities. [1999, c. 131, §12 (NEW).]

[ 1999, c. 131, §12 (AMD) .]

#### 3. Heliports.

A. A heliport is an area, either at ground level or elevated, that is used for landing and taking off of helicopters. They are further subdivided into 2 categories:

(1) Commercial; or

(2) Noncommercial. [1977, c. 678, §33 (NEW).]

[ 1977, c. 678, §33 (NEW) .]

#### 4. Landing area; temporary.

A. A temporary landing area is an area open to the agency for the purpose of conducting aeronautical business for a limited period of time. [1977, c. 678, §33 (NEW).]

[ 1977, c. 678, §33 (NEW) .]

#### 5. Private airport with commercial activity.

A. A private airport with commercial activity is an airport that is not open to the public, but supports a commercial activity. [1999, c. 131, §13 (NEW).]

[ 1999, c. 131, §13 (NEW) .]

#### SECTION HISTORY

1977, c. 678, §33 (NEW). 1999, c. 131, §§12,13 (AMD).

## **§102. MINIMUM AIRPORT STANDARDS; AIRPORT MANAGERS; FIRE EQUIPMENT AND SAFETY**

### **1. Minimum standards.**

A. Classification of airports by the commissioner.

(1) All airports shall be classified by the commissioner based on the published operating characteristics and limitations of the aircraft to be accommodated. All airports shall meet the appropriate minimum physical design criteria as set forth in the latest State or Federal Aviation Administration Advisory Circular and Federal Aviation Regulations for the airport's classification.

(2) The commissioner shall establish, maintain and periodically publish the current minimum physical design criteria and the criteria used as this section applies in the classification of "category" airports in the State.

(3) Waivers of any physical requirements may be given by the commissioner if he finds the action to be consistent with safety and public interest. [1977, c. 678, §33 (NEW).]

[ 1977, c. 678, §33 (NEW) .]

### **2. Airport managers.**

A. All aircarrier and commuter aircarrier airports shall designate a person generally available who has administrative responsibility for operation and management of the airport. All general aviation commercial airports, as defined under chapter 6, shall have at least a part-time airport manager.

[2011, c. 610, Pt. A, §2 (AMD).]

B. All airport managers shall perform the following duties.

(1) The airport manager, or his authorized representative, shall be available during all hours of operation. A current telephone number shall be on file with the department.

(2) The manager shall file a notice to airmen with the Federal Aviation Administration designating any changes in airport conditions that may effect safety. A "notice to airmen" file shall be maintained at the airport.

(3) The manager shall display the local traffic pattern, airport traffic safety rules, any noise abatement procedures, and any special orders relating to the airport and its operations at a prominent location on the airport.

(4) The manager shall submit a list of federal aviation registration numbers twice yearly to the department in May and November of all aircraft based at his airport. [1977, c. 678, §33 (NEW) .]

C. [2011, c. 610, Pt. A, §3 (RP).]

[ 2007, c. 76, §1 (AMD); 2011, c. 610, Pt. A, §§2, 3 (AMD) .]

### **3. Fire equipment and safety.**

A. [1999, c. 131, §14 (RP).]

B. There shall be fire extinguishers of adequate size, type and amounts in locations as recommended by the National Fire Protection Association. [1977, c. 678, §33 (NEW).]

[ 1999, c. 131, §14 (AMD) .]

#### SECTION HISTORY

1977, c. 678, §33 (NEW). 1999, c. 131, §14 (AMD). 2007, c. 76, §1 (AMD). 2011, c. 610, Pt. A, §§2, 3 (AMD).

## §103. PHYSICAL DESCRIPTION OF AIRPORTS AND MINIMUM AIRPORT FACILITIES

### 1. Commercial airports.

A. There shall be adequate toilet facilities approved by the proper authority in the community in which the commercial airport is located, an operation area contained in a building which has an interior floor area measuring no less than 6 feet by 8 feet, and a public telephone. [1977, c. 678, §33 (NEW).]

B. [1999, c. 131, §15 (RP).]

C. There shall be a wind direction indicator consisting of either a wind sock, a tetrahedron or a wind tee. [1977, c. 678, §33 (NEW).]

D. All paved runways shall be marked in accordance with the latest State or Federal Aviation Administration Advisory Circular. [1977, c. 678, §33 (NEW).]

E. All lighted runways shall be lighted in accordance with the latest State or Federal Aviation Administration Advisory Circular. [1977, c. 678, §33 (NEW).]

[ 1999, c. 131, §15 (AMD) .]

### 2. Commercial airports; seaplanes.

A. A commercial seaplane base shall be deemed to be a commercial airport as defined in section 3, subsection 18-A, except that a commercial seaplane landing area shall not be considered to be a commercial seaplane base. The Commissioner of Transportation may make rules and regulations pertaining to the use and operation of commercial seaplane landing areas. [1979, c. 80, §4 (AMD) .]

B. In case the body of water to be used for landing and taking off is under the jurisdiction of any federal, state, municipal port or other authority, the operations on that body of water shall also be in conformity with the marine traffic rules and regulations of the authority, if those rules and regulations do not interfere with the safe operation of aircraft. [1977, c. 678, §33 (NEW).]

C. The registration issued to a seaplane base shall apply to the land area from which operations are conducted and to the water area designated for its operations. Where 2 or more bases located on the same body of water are under different ownership or control, each base shall obtain a separate seaplane registration. [1977, c. 678, §33 (NEW).]

D. The use of that body of water for aeronautical purposes shall in no way impair or deny the right of the public to the use of public waters. [1977, c. 678, §33 (NEW).]

E. No person shall operate a watercraft in any manner as to intentionally obstruct or interfere with the take off, landing or taxiing of any aircraft. [1977, c. 678, §33 (NEW).]

F. All property used for the land operation of the seaplane base, including docks and ramps, shall be owned by the applicant, or the applicant shall show a statement in writing by the owner that he has the right to use and has control of the property for the purpose and time intended.

The applicant shall show that any construction or alteration of shorelines on the land area of the base is in conformity with the regulations of the Department of Environmental Protection, and with municipal building and other pertinent regulations if applicable. [1977, c. 678, §33 (NEW).]

G. There shall be suitable docking facilities for loading and unloading passengers. A power boat shall be available at all times when operations are in progress, also there shall be life preservers available. [1977, c. 678, §33 (NEW).]

H. There shall be situated on the commercial airport proper, adequate toilet facilities approved by the proper authority in the community in which the commercial seaplane base is located, an operations area contained in a building which has an interior floor area measuring no less than 6 feet by 8 feet, and a telephone. [1977, c. 678, §33 (NEW).]

I. There shall be aviation fuel available and stored in National Fire Protection Association approved facilities. [1977, c. 678, §33 (NEW).]

J. There shall be a wind direction indicator consisting of either a wind sock, tetrahedron or wind tee. [1977, c. 678, §33 (NEW).]

[ 1979, c. 80, §4 (AMD) .]

**3. Noncommercial airports; land; open to the public.** Noncommercial airports and land airports open to the public shall meet the following minimum requirements.

A. There shall be a wind direction indicator consisting of either a wind sock, tetrahedron or wind tee located adjacent to the landing area. [1977, c. 678, §33 (NEW).]

B. Land airports without paved runways must have the boundaries of the usable landing area defined with clearly visible markers painted white. [1999, c. 131, §16 (AMD).]

[ 1999, c. 131, §16 (AMD) .]

**4. Heliports; commercial.** Commercial heliports shall meet the following minimum requirements.

A. There shall be adequate toilet facilities approved by the proper authority in the community in which the commercial heliport is located, an operation area contained in a building which has an interior floor area measuring no less than 6 feet by 8 feet, and a public telephone available to the public. [1977, c. 678, §33 (NEW).]

B. There shall be aviation fuel available and stored in National Fire Protection Association approved facilities. [1977, c. 678, §33 (NEW).]

C. There shall be a wind direction indicator consisting of either a wind sock, a tetrahedron or a wind tee located adjacent to the landing area. [1977, c. 678, §33 (NEW).]

[ 1977, c. 678, §33 (NEW) .]

**5. Heliports, noncommercial; open to the public.**

A. Noncommercial heliports open to the public shall have a wind direction indicator consisting of either a wind sock, a tetrahedron or a wind tee located adjacent to the landing area. [1977, c. 678, §33 (NEW).]

[ 1977, c. 678, §33 (NEW) .]

**6. Landing area; temporary; commercial.** Temporary landing area is an area open to the agency for the purpose of conducting aeronautical business for a limited period of time. The agency shall submit to the Department of Transportation, on a form furnished by the commissioner, the necessary information to properly document this area. The physical descriptions and safety requirements for establishing these sites shall be set forth in the permit granted for each temporary landing area.

[ 1977, c. 678, §33 (NEW) .]

SECTION HISTORY

1977, c. 678, §33 (NEW). 1979, c. 80, §4 (AMD). 1999, c. 131, §§15,16 (AMD).

## §104. ABANDONED AIRPORTS; REMOVAL OF IDENTIFICATION MARKINGS

Any abandoned airport from which markers, wind direction indicators or other aeronautical signs have not been removed is declared to be a public nuisance. [1977, c. 678, §33 (NEW).]

SECTION HISTORY

1977, c. 678, §33 (NEW).

## §105. AVIATION FUELING FACILITIES

**1. Aircraft fuel servicing operations.** Airports may, at their option, provide aircraft fuel servicing. The operations must meet the following minimum standards.

A. Aviation fuel must be stored in National Fire Protection Association approved facilities. [1999, c. 131, §17 (NEW).]

B. Aircraft fuel servicing must be conducted in accordance with accepted standards and requirements established by the National Fire Protection Association. [1999, c. 131, §17 (NEW).]

C. There must be fire extinguishers of adequate size, type and numbers in locations as recommended by the National Fire Protection Association. [1999, c. 131, §17 (NEW).]

[ 1999, c. 1, §3 (COR) .]

SECTION HISTORY

RR 1999, c. 1, §3 (COR). 1999, c. 131, §17 (NEW).

## Chapter 7: PROPERTY ACQUISITION

### §121. DECLARATION OF PUBLIC USES

All lands acquired, owned, leased, controlled or occupied by such cities, towns or counties for the purpose or purposes hereof shall be and are declared to be acquired, owned, leased, controlled or occupied for public uses.

### §122. LAND AND AIR RIGHTS

**1. Land.** Private property needed by a city, town, county or authorized state agency for an airport or landing field or for the expansion of an airport or landing field may be acquired by gift, purchase, lease or other means. As a matter of public exigency, a city or town may take land for use as an airport or landing field whether such land is within or without its corporate limits and may alter, extend or discontinue such use. All proceedings including the assessment of damages and appeal therefrom shall be the same as is provided by law for laying out, altering and discontinuing town ways. No land outside the corporate limits of a city or town shall be laid out by it for such use unless the consent of the municipal officers of the town or city in which such land is located has first been obtained. As a matter of public exigency a county or authorized state agency may take land for use as an airport or landing field and may alter, extend or discontinue such use. In the case of a county or authorized state agency, all proceedings including assessment of damages, appeal and the taking of land in 2 or more counties shall be the same as provided by law for laying out, altering and discontinuing highways by the county commissioners. No property rights, or easements, of a public utility shall be taken without the approval of the Public Utilities Commission after hearing and upon such notice to the public utility affected thereby as said commission may order.

**2. Air rights.** The provisions hereof shall apply to the acquisition of air rights and easements over private property adjoining such airports and landing fields in order to provide unobstructed air space and safe approaches for the landing and taking off of aircraft using such airports and landing fields, to place and maintain suitable marks and lights for the safe operation thereof, and to prevent any use of such adjoining land as would hinder the proper development or use of such airports and landing fields. Cities and towns may enact zoning ordinances applicable to such airports, landing fields and adjoining lands situated within the limits of such cities and towns.

## Chapter 8: AGRICULTURE

### §151. AGRICULTURAL AVIATION

A person may not conduct agricultural operations inconsistent with Federal Air Regulation, Part 137. [2015, c. 33, §1 (NEW).]

A person may operate aircraft from a limited-use landing area for the purposes of conducting agricultural operations if the permission of the owner of the limited-use landing area has been obtained. [2015, c. 33, §1 (NEW).]

#### SECTION HISTORY

1977, c. 678, §34 (NEW). 1995, c. 504, §B10 (AMD). 2015, c. 33, §1 (RPR).



## Chapter 9: FINANCES

### **§161. APPROPRIATIONS, BOND ISSUES AND TAXATION**

*(REPEALED)*

SECTION HISTORY

1971, c. 544, §16 (AMD). 1977, c. 678, §35 (RP).

### **§162. AIRPORT CONSTRUCTION FUND**

*(REPEALED)*

SECTION HISTORY

1969, c. 498, §§9,10 (AMD). 1969, c. 531, (AMD). 1971, c. 404, §22 (RPR). 1975, c. 771, §95 (AMD). 1977, c. 678, §35 (RP).

### **§163. FEDERAL AID**

*(REPEALED)*

SECTION HISTORY

1971, c. 404, §23 (RPR). 1977, c. 678, §35 (RP).

## Chapter 10: AIRPORT AUTHORITIES

### §171. PURPOSE; ENABLING NOT MANDATORY; SHORT TITLE

The purpose of this chapter, which may be known and cited as "the Airport Authority Enabling Act," is to facilitate the creation of airport authorities to operate airports and provide air transportation services. This chapter provides a streamlined process for the creation of airport authorities but is not intended and may not be interpreted to preclude the operation of airports or the provision of air transportation services by any other entity or entities under any other law or authority. [2007, c. 563, §1 (NEW).]

#### SECTION HISTORY

2007, c. 563, §1 (NEW).

### §172. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 563, §1 (NEW).]

**1. Airport authority.** "Airport authority" means a quasi-municipal entity formed and chartered pursuant to this chapter to operate an airport and provide air transportation services.

[ 2007, c. 563, §1 (NEW) .]

**2. Airport sponsor.** "Airport sponsor" means a municipality, county or group of municipalities or counties that owns and operates an airport and accepts funds or property from the FAA.

[ 2007, c. 563, §1 (NEW) .]

**3. Board of directors or board.** "Board of directors" or "board" means the board of directors of an airport authority.

[ 2007, c. 563, §1 (NEW) .]

**4. Charter.** "Charter" means a private and special law or a series of private and special laws that establishes an airport authority and defines its responsibilities and authority.

[ 2007, c. 563, §1 (NEW) .]

**5. Charter territory.** "Charter territory" means the territorial limits of an airport authority as defined in its charter.

[ 2007, c. 563, §1 (NEW) .]

**6. Director.** "Director" means a member of the board.

[ 2007, c. 563, §1 (NEW) .]

**7. Founding entity.** "Founding entity" means any municipality or county that has on its own or together with one or more other municipalities or counties developed an airport authority proposal for approval under this chapter.

[ 2007, c. 2, §1 (COR) .]

#### SECTION HISTORY

RR 2007, c. 2, §1 (COR). 2007, c. 563, §1 (NEW).

## §173. PROCEDURES; LEGAL EFFECT

**1. Necessary provisions.** An airport authority charter must include the following that are not specified in this chapter:

- A. The corporate name of the airport authority; [2007, c. 563, §1 (NEW).]
- B. The territorial limits of the airport authority; [2007, c. 563, §1 (NEW).]
- C. The number of directors of the airport authority; [2007, c. 563, §1 (NEW).]
- D. The appointing authority responsible for appointing or the method of electing the first board of directors; [2007, c. 563, §1 (NEW).]
- E. The terms of the directors who are elected or appointed subsequent to the first board. Terms of the first board are determined pursuant to section 174, subsection 4; [2007, c. 563, §1 (NEW).]
- F. Whether the directors, subsequent to the first board, are appointed or elected. Reference must be made to the appropriate subsections of section 174; and [2007, c. 563, §1 (NEW).]
- G. The procedures for a local referendum on the creation of the airport authority. [2007, c. 563, §1 (NEW).]

[2007, c. 563, §1 (NEW).]

**2. Optional provisions.** An airport authority charter may include provisions relating to:

- A. Special qualifications of directors, other than the residency requirement established under section 174; [2007, c. 563, §1 (NEW).]
- B. Additional purposes and powers beyond those specified in this chapter; [2007, c. 563, §1 (NEW).]
- C. Specific rights or responsibilities of founding entities; [2007, c. 563, §1 (NEW).]
- D. Authorization for the airport authority to acquire the rights, interests, property and assets and assume the debts and liabilities of an airport sponsor; and [2007, c. 563, §1 (NEW).]
- E. Any other powers or duties necessary to the accomplishment of the purposes for creating the airport authority. [2007, c. 563, §1 (NEW).]

[2007, c. 563, §1 (NEW).]

### SECTION HISTORY

2007, c. 563, §1 (NEW).

## §174. BOARD OF DIRECTORS

All of the affairs of an airport authority must be managed by a board of directors whose members must be residents of the charter territory. The number of directors must be specified in the charter. After selection of the first board, each director is nominated and elected or appointed as provided in the charter and in accordance with subsection 1 or 2, as applicable. If the charter does not indicate whether the directors are appointed or elected, the directors, after selection of the first board, must be elected in accordance with subsection 1. [2007, c. 563, §1 (NEW).]

**1. Nominations and elections; vacancies.** This subsection applies to an airport authority if its charter provides that its directors are elected or if the charter does not indicate whether the directors are elected or appointed.

A. Nominations and elections of directors are conducted in accordance with the laws relating to municipal elections. [2007, c. 563, §1 (NEW).]

B. When the term of office of a director expires, the director's successor is elected at large by a plurality vote of the voters of the charter territory. For the purpose of election, a special election must be called and held on the date established by the directors. The election must be called by the directors in the same manner as town meetings are called and, for this purpose, the directors are vested with the powers of municipal officers of towns. A vacancy is filled in the same manner for the unexpired term by a special election called by the directors. [2007, c. 563, §1 (NEW).]

C. The directors shall appoint a registrar of voters for the airport authority, who may also be the registrar of voters for any town within the airport authority, and fix the registrar's salary. It is the registrar's duty to make and keep a complete list of all the registered voters resident in the charter territory. The list prepared by the registrar governs the eligibility of any voter. Voters who are resident outside the charter territory are not eligible voters, and the registrar of voters shall exclude those voters from the registrar's lists. All warrants issued for elections by the directors must show that only the voters resident within the charter territory are entitled to vote. [2007, c. 563, §1 (NEW).]

[ 2007, c. 563, §1 (NEW) .]

**2. Appointment.** This subsection applies to an airport authority if its charter provides that its directors are appointed.

A. After selection of the first board, each director is appointed as provided in the charter. [2007, c. 563, §1 (NEW).]

[ 2007, c. 563, §1 (NEW) .]

**3. Eligibility requirements.** When a director ceases to be a resident of the charter territory, the director shall vacate the office of director and the vacancy is filled as provided in subsection 1 or 2, as applicable. All directors are eligible for reelection or reappointment, but a person who is a municipal officer, as defined in Title 30-A, section 2001, subsection 10, of any town located, in whole or in part, within the charter territory is not eligible for appointment, nomination or election as a director of that airport authority.

[ 2007, c. 563, §1 (NEW) .]

**4. First board.** The first board is appointed or elected as provided in the charter. At the first meeting, the initial board of directors shall determine by agreement or, failing to agree, determine by lot the term of office of each director. The terms of the directors must be determined in accordance with the following table.

Total number of directors	TERM		
	1 year	2 years	3 years
3	1	1	1
4	1	1	2
5	1	2	2
6	2	2	2
7	2	2	3
8	2	3	3
9	3	3	3
10	3	3	4
11	3	4	4
12	4	4	4
13	4	4	5
14	4	5	5
15	5	5	5

The directors shall enter on their records the determination made. Vacancies are filled pursuant to subsection 1 or 2.

At the original meeting, the directors shall organize by electing from among their members a chair and a clerk, by adopting a corporate seal and by electing a treasurer who may or may not be a director.

[ 2007, c. 563, §1 (NEW) . ]

**5. Organization; conduct of business; employees.** Within one week after each annual election or appointment, the directors shall meet for the purpose of electing a chair, treasurer and clerk to serve for the ensuing year and until their successors are appointed and qualified. The directors from time to time may choose and employ and fix the compensation of any other necessary officers and agents, who serve at the pleasure of the directors. The treasurer shall furnish bond in the sum and with sureties approved by the directors. The airport authority shall pay the cost of the bond.

The directors may adopt and establish bylaws consistent with the laws of this State and necessary for the convenience and the proper management of the affairs of the airport authority and perform other acts within the powers delegated by law to the directors.

The directors must be sworn to the faithful performances of their duties, including the duties of a member who serves as clerk or clerk pro tem. The directors shall publish an annual report that includes a report of the treasurer.

The directors shall appoint and fix the salary of an airport manager who may not be a director. The airport manager has such power and authority as the directors in their bylaws or by resolution specify and delegate to the airport manager. Subject to approval of or authorization from the directors, the airport manager may appoint any other employees necessary to carry out the corporate purposes of the airport authority and may fix their salaries.

Business of the airport authority must be conducted in accordance with the applicable provisions of the Freedom of Access Act.

[ 2011, c. 662, §9 (AMD) . ]

**6. Decisions of the board; conflict of interest.** All decisions of the board of directors must be made by a majority of those present and voting, except that a vote to approve the issuing of any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance must be approved by a majority of the entire appointed board. A quorum of the board of directors consists of the total number of authorized directors divided by 2 and, if necessary to obtain a whole number, the resulting number rounded up to the next whole number. Directors are subject to the conflict of interest provisions of Title 30-A, section 2605.

[ 2007, c. 563, §1 (NEW) . ]

**7. Compensation.** The directors of an airport authority receive compensation as recommended by the directors and approved by a majority vote of the municipal officers of municipalities located in whole or in part within the charter territory. Certification of the vote must be recorded with the Secretary of State and recorded in the bylaws.

[ 2007, c. 563, §1 (NEW) . ]

**8. Retirement.** Directors are not eligible to become members of the Maine Public Employees Retirement System as a result of their selection as directors.

[ 2007, c. 563, §1 (NEW) . ]

**9. Expenses.** The directors may obtain an office and incur necessary expenses.

[ 2007, c. 563, §1 (NEW) .]

SECTION HISTORY

2007, c. 563, §1 (NEW). 2011, c. 662, §9 (AMD).

## §175. AIRPORT AUTHORITY; GENERAL POWERS; FAA

Except as otherwise provided by law, for the purposes of its incorporation, an airport authority may own, construct, manage, maintain, enhance, expand or otherwise operate an airport and provide air transportation services. [2007, c. 563, §1 (NEW).]

**1. Subject to applicable laws.** All powers of an airport authority must be exercised in accordance with applicable federal and state laws and rules, including but not limited to FAA regulations, the provisions of this Title and the rules of the commissioner.

[ 2007, c. 563, §1 (NEW) .]

**2. Required approvals.** Before exercising any powers as an airport authority, an airport authority must obtain and possess all necessary written approvals from the commissioner and the FAA.

[ 2007, c. 563, §1 (NEW) .]

SECTION HISTORY

2007, c. 563, §1 (NEW).

## §176. AUTHORITY TO ACQUIRE PROPERTY; PUBLIC PURPOSE

To the extent necessary for purposes of incorporation, an airport authority may take and hold any interest in real estate for an airport or landing field or for the expansion of an airport or landing field and may acquire air rights and easements over private property adjoining such airports and landing fields in order to provide unobstructed air space and safe approaches for the landing and taking off of aircraft using those airports and landing fields, to place and maintain suitable marks and lights for the safe operation of those airports and landing fields and to prevent any use of adjoining land that would hinder the proper development or use of those airports and landing fields. An airport authority may alter, extend or discontinue any such use of real estate. [2007, c. 563, §1 (NEW).]

**1. Purchase or lease.** An airport authority may take and hold an interest in real estate by gift, purchase, lease or other means.

[ 2007, c. 563, §1 (NEW) .]

**2. Eminent domain.** For purposes of its incorporation, as a matter of public exigency, an airport authority may exercise the right of eminent domain in accordance with section 177 to acquire any interest in real estate, including land outside the airport authority's charter territory, except that an airport authority may not take an interest in real estate located outside its charter territory without first obtaining the written consent of the municipal officers of the municipality in which that real estate is located.

A. No property rights or easements of a public utility may be taken under this subsection without the approval of the Public Utilities Commission after hearing and upon such notice to the public utility affected by the taking as the commission may order. [2007, c. 563, §1 (NEW).]

[ 2007, c. 563, §1 (NEW) .]

**3. Public purpose.** Any real estate or interest in real estate lawfully acquired, owned, leased, controlled or occupied by an airport authority for the purposes of its incorporation is declared to be acquired, owned, leased, controlled or occupied for public uses.

[ 2007, c. 563, §1 (NEW) . ]

#### SECTION HISTORY

2007, c. 563, §1 (NEW).

### §177. PROCEDURE IN EXERCISE OF RIGHT OF EMINENT DOMAIN

The right of eminent domain granted in section 176 may be exercised only after complying with the following procedures. [ 2007, c. 563, §1 (NEW) . ]

**1. Notice.** The airport authority shall provide notice as provided in this subsection.

A. The owner or owners of record must be notified under this subsection of:

- (1) The determination of the directors that they will exercise the right of eminent domain;
- (2) A description and scale map of the land or easement to be taken;
- (3) The final amount offered for the land or easement to be taken, based on the fair value, as estimated by the airport authority; and
- (4) The time and place of the hearing provided in subsection 2. [ 2007, c. 563, §1 (NEW) . ]

B. Notice under this subsection may be made:

- (1) By personal service in hand by an officer duly qualified to serve civil process in this State; or
- (2) By certified mail, return receipt requested, to the owner's last known address. [ 2007, c. 563, §1 (NEW) . ]

C. If the owner or owners are not known or if they cannot be notified by personal service or certified mail, notice under this subsection may be given by publication in the same manner as provided in subsection 2. [ 2007, c. 563, §1 (NEW) . ]

D. Notice under this subsection must be made to any tenants in the same manner as for the owner. [ 2007, c. 563, §1 (NEW) . ]

[ 2007, c. 563, §1 (NEW) . ]

**2. Hearing.** The board of directors shall hold a public hearing on the advisability of the proposed exercise of the right of eminent domain under this section. Notice of the hearing must be made by publication in a newspaper of general circulation in the area of the taking and must be given once a week for 2 successive weeks, the last publication to be at least 2 weeks prior to the time appointed for the hearing. The hearing notice must include the time and place of the hearing, a description of the land or easement taken and the names of the owners, if known.

[ 2007, c. 563, §1 (NEW) . ]

**3. Proceedings.** An airport authority, in exercising the right of eminent domain conferred upon it by section 176, shall file in the office of the county commissioners of the county in which the property to be taken is located and cause to be recorded in the registry of deeds in that county plans of the location of all lands, real estate, easements or interest therein, and rights to be taken, with an appropriate description and the names of the owners, if known.

A. Entry may not be made on any private lands, except to make surveys, until title has vested in the airport authority under this section. [ 2007, c. 563, §1 (NEW) . ]

B. When for any reason the airport authority fails to acquire property that it is authorized to take and that is described pursuant to this subsection, or if the location so recorded is defective and uncertain, the airport authority shall correct and perfect the description of the location and file a new description. In such a case, the airport authority is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the airport authority is not liable for any acts that would have been justified if the original taking had been lawful. [2007, c. 563, §1 (NEW).]

[2007, c. 563, §1 (NEW) .]

**4. Appeal.** If any person sustaining damages by any taking by an airport authority under section 176 does not agree with the airport authority upon the sum to be paid for the property, either party, upon petition to the county commissioners of the county in which the property is located, may have the damages assessed by the county commissioners. The procedure and all subsequent proceedings and rights of appeal are according and subject to the same restrictions, conditions and limitations as are or may be prescribed by law in the case of damages by the laying out of highways by the county commissioners, except:

A. Title to the lands, real estate, easements or interests therein and other property and rights to be taken do not vest in the airport authority under this section until payment to the owner of the amount awarded or, if such payment is refused upon tender, until tender of the amount is made to the treasurer of the county in which the lands and interests are located, for escrow at interest for the benefit of the owner pending final determination of the amount to which the owner is entitled; and [2007, c. 563, §1 (NEW) .]

B. In the event of an appeal of the amount awarded as damages for a taking under this section:

- (1) The petition for assessment of damages must be filed with the clerk of the county commissioners, by either party, within 30 days following the filing and recording of plans of the location of all the property, facilities and rights taken; and
- (2) If the return of the county commissioners has not been made within 120 days following the filing of the petition for assessment, the county commissioners are conclusively presumed to have confirmed the award of damages by the airport authority and either party may, within 30 days following that 120-day period, appeal the amount of the damages awarded by the airport authority to the Superior Court. [2007, c. 563, §1 (NEW) .]

[2007, c. 563, §1 (NEW) .]

#### SECTION HISTORY

2007, c. 563, §1 (NEW) .

## §178. MAKE AND ASSUME CONTRACTS

An airport authority, through its board of directors, in order to carry out the purposes of its incorporation, may contract with persons, governmental entities, utilities or corporations. [2007, c. 563, §1 (NEW) .]

#### SECTION HISTORY

2007, c. 563, §1 (NEW) .

## §179. RECEIVE GOVERNMENT AID; BORROW MONEY; ISSUE BONDS AND NOTES

**1. Authorization of bonds.** An airport authority, through its board of directors, may issue, in accordance with section 180, bonds, notes or other evidences of indebtedness of the airport authority for any of its corporate purposes, including, but not limited to:



- A. Paying and refunding its indebtedness; [2007, c. 563, §1 (NEW).]
- B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the airport authority or any founding entity or any municipality therein or any person residing in unorganized territory encompassed by the airport authority. The airport authority is authorized to reimburse any founding entity or any municipality therein or any person residing in unorganized territory encompassed by the airport authority for any such expenses; [2007, c. 563, §1 (NEW).]
- C. Paying costs directly or indirectly associated with necessary expenses and liabilities incurred in accordance with the purposes of its incorporation and to cover interest payments during the period of construction of capital projects and for such a period thereafter as the directors may determine; [2007, c. 563, §1 (NEW).]
- D. Providing reserves for debt service, repairs and replacements or other capital or current expenses that may be required by a trust agreement or resolution securing bonds; and [2007, c. 563, §1 (NEW).]
- E. Any combination of these purposes. [2007, c. 563, §1 (NEW).]

[ 2007, c. 563, §1 (NEW) . ]

**2. Bonds.** Bonds may be issued by an airport authority as general obligations of the airport authority or as special obligations payable solely from particular funds. The principal of, premium, if any, and interest on all bonds is payable solely from the funds provided for that purpose from revenues. For purposes of this section, "revenues" means the proceeds of bonds and all revenues, rates, fees, charges, assessments, rents and other receipts derived by the airport authority in accordance with the purposes of its incorporation, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties.

- A. All bonds, notes and other evidences of indebtedness issued by an airport authority in accordance with this section are legal obligations of the airport authority within the meaning of Title 30-A, section 5701. [2007, c. 563, §1 (NEW).]
- B. Bonds may be issued under this section without obtaining the consent of any commission, board, bureau or agency of the State or of any municipality encompassed by the airport authority and without any other proceedings or the happening of other conditions or things other than those proceedings, conditions or things that are specifically required by the FAA, this Title, rules of the commissioner or the airport authority's charter. [2007, c. 563, §1 (NEW).]
- C. Bonds issued under this section do not constitute a debt or liability of the State or of any municipality encompassed by the airport authority or a pledge of the faith and credit of the State or any such municipality, but the bonds are payable solely from the funds provided for that purpose, and a statement to that effect must be recited on the face of the bonds. [2007, c. 563, §1 (NEW).]

[ 2007, c. 563, §1 (NEW) . ]

**3. Notes.** An airport authority may provide by resolution of its board of directors for the issuance from time to time of notes in anticipation of bonds authorized under this section and of notes in anticipation of the revenues to be collected or received in any year or in anticipation of the receipt of federal or state grants or other aid. The issue of these notes is governed by the applicable provisions of this chapter relating to the issue of bonds, as long as notes in anticipation of revenue mature no later than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals thereof mature no later than the expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to mature less

than one year from their dates may be renewed from time to time by the issue of other notes, as long as the period from the date of an original note to the maturity of any note issued to renew or pay the same or the interest thereon does not exceed one year.

[ 2007, c. 563, §1 (NEW) .]

**4. Grants and loans.** An airport authority may enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the financing of projects of the type the airport authority is authorized to carry out and may accept grants and borrow money from any such government, agency, municipality, corporation, commission or board as may be necessary or desirable to accomplish the purposes of the airport authority.

[ 2007, c. 563, §1 (NEW) .]

**5. Maturity; interest; form; temporary bonds.** The bonds issued under this section must be dated and must mature at such time or times and bear interest at such rate or rates as may be determined by the board of directors and may be made redeemable before maturity, at the option of the airport authority, at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the bonds.

A. The board of directors shall determine the form of the bonds issued under this section, including any interest coupons to be attached thereto, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the State. The bonds may be issued in coupon or registered form, or both, as the board of directors may determine and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. [ 2007, c. 563, §1 (NEW) .]

B. The board of directors may sell bonds issued under this section in such manner, either at public or private sale, and for such price as they may determine to be for the best interests of the airport authority. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds have been authorized and must be disbursed in such manner and under such restrictions, if any, as the board of directors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds and any trust agreement securing the bonds may contain such limitations upon the issuance of additional bonds as the board of directors may determine to be proper, and these additional bonds must be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of directors may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of directors may provide for the replacement of any bond that is mutilated, destroyed or lost. [ 2007, c. 563, §1 (NEW) .]

C. Bonds issued under this section must be executed in the name of the airport authority by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the airport authority designated in the resolution. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be an officer before the delivery of the bonds, the signature or its facsimile is nevertheless valid and sufficient for all purposes as if the officer had remained in office until the delivery. [ 2007, c. 563, §1 (NEW) .]

D. Notwithstanding any provision of this chapter or any recitals in any bonds issued under this section, all bonds issued under this section are negotiable instruments under the laws of this State. [ 2007, c. 563, §1 (NEW) .]

[ 2007, c. 563, §1 (NEW) .]

**6. Pledges and covenants; trust agreement.** In the discretion of the board of directors of any airport authority, each issue of bonds under this section may be secured by a trust agreement by and between the airport authority and a corporate trustee, which may be any trust company within or outside the State.

A. The resolution authorizing the issuance of the bonds under this section, or the trust agreement securing those bonds, may pledge or assign, in whole or in part, the revenues and other money held or to be received by the airport authority and any accounts and contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the airport authority, and the proceeds thereof, but may not convey or mortgage any properties of the airport authority. The resolution may also contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the airport authority and the board of directors in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its airport or any of its other properties; the fixing and revising of rates, fees and charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues, defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities; the establishment of reserves; and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the board of directors may determine reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any resolution or trust agreement is valid and binding and continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds so pledged and thereafter received by the airport authority are immediately subject to the lien of the pledge without any physical delivery or segregation or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the airport authority irrespective of whether those parties have notice of the lien. [ 2007, c. 563, §1 (NEW) . ]

B. The resolution authorizing the issuance of bonds under this section, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves for those costs as may be provided in the resolution or trust agreement, must be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the interest and principal become due and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money to the credit of the fund are subject to any regulations provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is for the benefit of all bonds without distinction or priority of one over another. [ 2007, c. 563, §1 (NEW) . ]

[ 2007, c. 563, §1 (NEW) . ]

**7. Trust funds.** Notwithstanding any other law, all funds received pursuant to the authority of this chapter are trust funds and must be held and applied solely as provided in this chapter or the airport authority's charter. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer to whom, or bank, trust company or other fiscal agent to which, that money is paid shall act as trustee of that money and shall hold and apply the same for the purposes hereof, subject to any regulations as may be provided in the resolution or trust agreement or as may be required by this chapter.

[ 2007, c. 563, §1 (NEW) . ]

**8. Remedies.** Any holder of bonds issued under this section or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the airport authority, protect and enforce all rights under the laws of the State, including but not limited to those granted under this chapter, or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the airport authority or by any officer thereof, including but not limited to the fixing, charging and collecting of rates, fees, payments or charges relating to the services and facilities furnished by the airport authority.

[ 2007, c. 563, §1 (NEW) .]

**9. Refunding bonds.** Any airport authority formed under this chapter by resolution of its board of directors may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of directors determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details of and security for the refunding bonds, the rights of the holders of the refunding bonds and the rights, duties and obligations of the airport authority in respect of the refunding bonds is governed by the applicable provisions of this chapter relating to the issue of bonds other than refunding bonds.

[ 2007, c. 563, §1 (NEW) .]

**10. Tax exemption.** All bonds, notes and other evidences of indebtedness issued by the airport authority under this section are legal investments for savings banks in this State and are exempt from state income tax.

[ 2007, c. 563, §1 (NEW) .]

**11. Bonds are legal investments.** Bonds and notes issued by any airport authority under this section are securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, directors and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the State may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are securities that may properly and legally be deposited with and received by any state, municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

[ 2007, c. 563, §1 (NEW) .]

#### SECTION HISTORY

2007, c. 563, §1 (NEW).

## §180. DEBT LIMIT AND APPROVAL OF VOTERS WITHIN AIRPORT AUTHORITY TERRITORY

Prior to issuing on behalf of an airport authority under section 179 any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance, the board of directors shall propose a debt limit for the airport authority that the board must submit for approval in a referendum in the charter territory of the airport authority. The referendum must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the clerk to post a new list of voters. The voting place for the referendum may be outside the charter territory of the airport authority if the usual voting place for persons located within the charter territory is located outside the charter territory. For the purpose of registering voters, the registrar of voters must be in session on the regular work day preceding the election. The question presented must conform to one of the following forms: [2007, c. 563, §1 (NEW).]

For establishment of an initial debt limit: "Do you favor establishing the debt limit of the (insert name of airport authority) at (insert amount)?" or [2007, c. 563, §1 (NEW).]

For amendment of an existing debt limit: "Do you favor changing the debt limit of the (insert name of airport authority) from (insert current debt limit) to (insert proposed debt limit)?" [2007, c. 563, §1 (NEW).]

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question. [2007, c. 563, §1 (NEW).]

The results must be declared by the board of directors and entered upon the airport authority's records. Due certificate of the results must be filed by the clerk with the Secretary of State. [2007, c. 563, §1 (NEW).]

A debt limit proposal becomes effective upon its acceptance by a majority of the legal voters within the charter territory voting at the referendum. Failure of approval by the majority of voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda are borne by the airport authority. [2007, c. 563, §1 (NEW).]

The board of directors may not issue any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance unless the total amount of the debt issued by the directors is no more than an amount approved by referendum under this section. [2007, c. 563, §1 (NEW).]

### SECTION HISTORY

2007, c. 563, §1 (NEW).

## §181. FEES AND ASSESSMENTS

An airport authority, through its board of directors, may impose any user fees, rates or charges for the use of its airport or air transportation services and may, by agreement with the municipal officers of any municipality located in whole or in part within the charter territory of the airport authority, establish payments from the municipality to support the airport authority. [2007, c. 563, §1 (NEW).]

### SECTION HISTORY

2007, c. 563, §1 (NEW).

## §182. TAX EXEMPT

An airport authority is a public municipal corporation within the meaning of Title 36, section 651, and the property of the authority is exempt from taxation to the extent provided in that section. [2007, c. 563, §1 (NEW).]

### SECTION HISTORY

2007, c. 563, §1 (NEW).

## Chapter 11: ENFORCEMENT

### §201. ARRESTS

The commissioner and inspectors shall have, in any part of the State, the same authority to enforce and to make arrests for the violation of any provision of chapters 1 to 17 or any rule and regulation promulgated thereunder as sheriffs, policemen and constables have in their respective jurisdictions. [1977, c. 678, §36 (AMD); 1995, c. 504, Pt. B, §10 (AMD).]

#### SECTION HISTORY

1969, c. 590, §7 (AMD). 1971, c. 544, §17 (AMD). 1977, c. 678, §36 (AMD). 1995, c. 504, §B10 (AMD).

### §202. PROHIBITIONS

It shall be unlawful:

**1. Identification mark.** For any person to operate or authorize the operation of any civil aircraft which is not possessed of a valid identification mark assigned or approved therefor by the administration;

[ 1977, c. 678, §37 (AMD) .]

**2. Airworthiness certificate.** For any person to operate or authorize the operation of any civil aircraft within the State which is not possessed of a currently effective airworthiness certificate;

[ 1977, c. 678, §38 (AMD) .]

**3. Service without certificate; exemptions.** For any person to serve in any capacity as an airman in connection with any civil aircraft without an airman certificate and current medical certificate issued by the administration authorizing him to serve in that capacity;

[ 1977, c. 678, §39 (RPR) .]

**4. Landing or take off from public highways.** For any person to taxi, take off from or land on any public highway in this State except in the case of emergency or with prior written permission granted by the commissioner;

[ 1977, c. 678, §40 (RPR) .]

**5. Operation without certificate.**

[ 2011, c. 610, Pt. A, §4 (RP) .]

**6. Designation of airport.**

[ 1977, c. 678, §42 (RP) .]

**7. Unlawful operation.**

[ 2011, c. 610, Pt. A, §5 (RP) .]

**8. Operation from unauthorized areas.**

[ 1979, c. 80, §5 (RP) .]

**9. Reckless operation.** For any person to operate an aircraft in the air or on the ground or water in careless or reckless manner so as to endanger the life or property of another. In any proceeding charging careless or reckless operation of aircraft in violation of this section, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics;

[ 1993, c. 467, §1 (AMD) .]

**10. Trespass.** For any person to trespass upon the landing area of any licensed or registered airport;

[ 1993, c. 467, §2 (AMD) .]

**11. Operating an aircraft under the influence or with excessive alcohol level.** For any person to operate or attempt to operate an aircraft under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive alcohol level. Notwithstanding section 203, a person is guilty of a Class D crime if that person operates or attempts to operate an aircraft:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; or  
[1993, c. 467, §3 (NEW).]

B. While having an alcohol level of 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; and [2009, c. 447, §2 (AMD).]

[ 2009, c. 447, §2 (AMD) .]

**12. Failure to comply with duty to submit.** For any person to fail to comply with the duty to submit to a test under this subsection and section 204. A person is guilty of failure to comply with the duty to submit to and complete a chemical test under section 204 if that person refuses to submit to or fails to complete a chemical test when requested to do so by a law enforcement officer who has probable cause to believe that the person operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs or a combination of both.

[ 1993, c. 467, §3 (NEW) .]

#### SECTION HISTORY

1969, c. 498, §11 (AMD). 1971, c. 404, §§24-27 (AMD). 1977, c. 678, §§37-44 (AMD). 1979, c. 80, §5 (AMD). 1993, c. 467, §§1-3 (AMD). 1995, c. 504, §B10 (AMD). 2009, c. 447, §2 (AMD). 2011, c. 610, Pt. A, §§4, 5 (AMD).

## §203. PENALTIES

Violation of any provision of chapters 1 to 17 or rules and regulations made hereunder shall be punishable as follows: [1977, c. 678, §45 (AMD).]

**1. Violations of rules or orders.** Any person who violates any provisions of chapters 1 to 17 pertaining to registration, trespass or the air traffic rules, or who violates any provisions of an order, rule or regulation made hereunder, or fails to answer a subpoena or to testify before the commissioner shall be guilty of a Class E crime.

[ 1979, c. 127, §42 (RPR); 1995, c. 504, Pt. B, §10 (REV) .]



**2. Fraud and forgery.** Any person who fraudulently forges, counterfeits, alters or falsely makes any certificate authorized under chapters 1 to 17, or any person who knowingly uses or attempts to use any such fraudulent certificate shall be guilty of a Class D crime.

[ 1979, c. 127, §42 (RPR) . ]

**3. Lights, signals and marks.** Any person who intentionally displays any false light, signal or air marking, or who intentionally moves, defaces, obstructs or otherwise interferes with the use of any airport or airway light or marking, any air navigation facility, or any device or equipment used in connection with air navigation shall be guilty of a Class C crime.

[ 1977, c. 696, §51 (RPR) . ]

#### SECTION HISTORY

1969, c. 498, §12 (AMD). 1971, c. 404, §28 (AMD). 1977, c. 678, §§45-47 (AMD). 1977, c. 696, §§49-51 (AMD). 1979, c. 127, §42 (AMD). 1995, c. 504, §B10 (AMD).

## §204. IMPLIED CONSENT TO CHEMICAL TESTS

A person who operates or attempts to operate an aircraft within this State has a duty to submit to chemical testing to determine that person's alcohol level and drug concentration by analysis of blood, breath or urine if there is probable cause to believe that the person has operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs. The duty to submit to a chemical test includes the duty to complete either a blood, breath or urine test. Tests and procedures applicable in determining whether a person is under the influence are governed by section 205. [ 2009, c. 447, §3 (AMD) . ]

#### SECTION HISTORY

1993, c. 467, §4 (NEW). 2009, c. 447, §3 (AMD).

## §205. OPERATING AN AIRCRAFT UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL LEVEL; TESTS AND PROCEDURES

**1. Blood or breath test.** If the law enforcement officer has probable cause to believe a person operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs, then the officer shall inform the person that a breath test will be administered, unless, in the determination of the officer, it is unreasonable for a breath test to be administered, in which case another chemical test must be administered. When a blood test is required, the test may be administered by a physician of the accused's choice, at the request of the accused and if reasonably available. The law enforcement officer may determine which type of breath test, as described in subsection 5, will be administered.

[ 1993, c. 467, §4 (NEW) . ]

**2. Prerequisites to tests.** Before any test is given, the law enforcement officer shall inform the person to be tested that, if that person fails to comply with the duty to submit to and complete the required chemical test at the direction of the officer, that person commits a civil violation for which the person may be required to pay a civil forfeiture of up to \$500. The officer shall also inform the person that the failure to comply with the duty to submit to chemical tests is admissible as evidence against that person at any trial for operating under the influence of intoxicating liquor or drugs.

No test results may be excluded as evidence in a proceeding before an administrative officer or court of this State as a result of the failure of the law enforcement officer to comply with these prerequisites. The only effects of the failure of the officer to comply with the prerequisites are as provided in subsection 7.

[ 1993, c. 467, §4 (NEW) . ]

**3. Results of test.** Upon the request of the person who submits to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests must be made available to that person or that person's attorney by the law enforcement officer.

[ 1993, c. 467, §4 (NEW) . ]

**4. Alcohol level.** The following quantities of alcohol in the defendant's blood or breath have the following evidentiary effects.

A. If the defendant, at the time alleged, had an alcohol level of 0.02 grams or less of alcohol per 100 milliliters of blood or 210 liters of breath, it is prima facie evidence that the defendant was not under the influence of intoxicating liquor. [2009, c. 447, §4 (AMD) . ]

B. If the defendant, at the time alleged, had an alcohol level of more than 0.02 grams but less than 0.04 grams of alcohol per 100 milliliters of blood or 210 liters of breath, it is relevant evidence, but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section, but that fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor. [2009, c. 447, §4 (AMD) . ]

C. For purposes of evidence in proceedings other than those arising under section 202, subsection 11, it is presumed that a person was under the influence of intoxicating liquor when that person has an alcohol level of 0.04 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. [2009, c. 447, §4 (AMD) . ]

D. [2009, c. 447, §4 (RP) . ]

[ 2009, c. 447, §4 (AMD) . ]

**5. Administration of tests.** Persons conducting analyses of blood, breath or urine for the purpose of determining the alcohol level or drug concentration must be certified for this purpose by the Department of Health and Human Services under certification standards set by that department.

Only a duly licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Health and Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine the alcohol level or drug concentration of a person who is complying with the duty to submit to a chemical test. This limitation does not apply to the taking of breath specimens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine the alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen for chemical testing, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

A law enforcement officer may take a sample specimen of the breath or urine of any person whom the officer has probable cause to believe operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs and who is complying with the duty to submit to and complete a chemical test. The sample specimen must be submitted to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting chemical tests of the sample specimen to determine the alcohol level or drug concentration of that sample.

Only equipment approved by the Department of Health and Human Services may be used by a law enforcement officer to take a sample specimen of the defendant's breath or urine for submission to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting tests of the sample specimen to determine the alcohol level or drug concentration of that sample. Approved equipment must have a stamp of approval affixed by the

Department of Health and Human Services. Evidence that the equipment was in a sealed carton bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath or urine.

As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom the officer has probable cause to believe operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs, by use of a self-contained, breath-alcohol testing apparatus to determine the person's alcohol level, as long as the testing apparatus is reasonably available. The procedures for the operation and testing of self-contained, breath-alcohol testing apparatuses must be as provided by rule adopted by the Department of Health and Human Services. The result of any such test must be accepted as prima facie evidence of the alcohol level of a person in any court.

Approved self-contained, breath-alcohol testing apparatuses must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp of approval is valid for a limited period of no more than one year. Testimony or other evidence that the equipment was bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

Failure to comply with any provision of this subsection or with any rule adopted under this subsection does not, by itself, result in the exclusion of evidence of alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the Department of Health and Human Services must be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

A person certified by the Maine Criminal Justice Academy, under certification standards set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses to collect and analyze a sample specimen of a defendant's breath.

[ 2009, c. 447, §4 (AMD) . ]

**6. Liability.** No physician, physician's assistant, registered nurse, person certified by the Department of Health and Human Services or hospital or other health care provider in the exercise of due care is liable in damages or otherwise for any act done or omitted in performing the act of collecting or withdrawing specimens of blood at the request of a law enforcement officer pursuant to this section.

[ 1993, c. 467, §4 (NEW); 2003, c. 689, Pt. B, §6 (REV) . ]

**7. Evidence.** The drug concentration in the defendant's blood or the defendant's alcohol level at the time alleged, as shown by the chemical analysis of the defendant's blood, breath or urine or by results of a self-contained, breath-alcohol testing apparatus authorized by subsection 5 is admissible in evidence.

When a person, certified under subsection 5, conducts a chemical analysis of blood or breath to determine alcohol level, the person may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the person taking a specimen of blood or urine was a person authorized by subsection 5; that the equipment, chemicals and other materials used in the taking of the blood or urine specimen or a breath sample were of a quality appropriate for the purpose of producing reliable test results; that any equipment, chemicals or materials required by subsection 5 to be approved by the Department of Health and Human Services were in fact approved; that the sample tested by the person certified under subsection 5 was in fact the same sample taken from the defendant; and that the drug concentration in the defendant's blood or the defendant's alcohol level was, at the time the blood or breath sample was taken, as stated in the certificate, unless with 10 days' written notice to the prosecution, the defendant requests that a qualified witness testify as to any of the matters as to which the certificate constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony.

A person certified under subsection 5 as qualified to operate a self-contained, breath-alcohol testing apparatus to determine the alcohol level may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the defendant's alcohol level was, at the time the breath sample was taken, as stated in the certificate, unless, with 10 days' written notice to the prosecution, the defendant requests that the operator or other qualified witness testify as to the results of the analysis.

Transfer of sample specimens to and from a laboratory for purposes of analysis is by certified or registered mail and, when so made, is deemed to comply with all requirements regarding the continuity of custody of physical evidence.

The failure of a person to comply with the duty to submit to and complete a chemical test under section 204 is admissible in evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs. If the law enforcement officer having probable cause to believe that the person operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs fails to give either of the warnings required under subsection 2, the failure of the person to comply with the duty to submit to a chemical test is not admissible, except when a test was required pursuant to subsection 11. If a failure to submit to and complete a chemical test is not admitted into evidence, the court may inform the jury of the fact that no test result is available.

If a test result is not available for a reason other than failing to comply with the duty to submit to and complete a chemical test, the unavailability and the reason are admissible in evidence.

[ 2009, c. 447, §4 (AMD) . ]

**8. Statements by accused.** Any statement by a defendant that the defendant was the operator of an aircraft that the defendant is accused of operating in violation of section 202, subsection 11 is admissible if it was made voluntarily and is otherwise admissible under the United States Constitution or the Constitution of Maine. The statement may constitute sufficient proof by itself, without further proof of corpus delicti, that the aircraft was operated and was operated by the defendant.

[ 1993, c. 467, §4 (NEW) . ]

**9. Payment for tests.** Persons authorized to take specimens of blood at the direction of a law enforcement officer and persons authorized to perform chemical tests of specimens of blood or breath must be paid from the Highway Fund.

[ 1993, c. 467, §4 (NEW) . ]

**10. Accidents and officer's duties.** The law enforcement officer has the following duties.

A. After a person has been charged with operating or attempting to operate an aircraft while under the influence of intoxicating liquor or drugs or with an excessive alcohol level, the investigating or arresting officer shall investigate to determine whether the charged person has any previous convictions of a violation of section 202, subsection 11 or adjudications for failure to comply with the duty to submit to and complete a chemical test under section 204. As part of that investigation, the officer shall review the records maintained by the courts, the department, the State Bureau of Identification or the Secretary of State, including telecommunications of records maintained by the Secretary of State. [ 2009, c. 447, §4 (AMD) . ]

B. A law enforcement officer may arrest, without a warrant, any person whom the officer has probable cause to believe operated or attempted to operate an aircraft while under the influence of intoxicating liquor or drugs if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence of an alcohol level or drug concentration. [ 2009, c. 447, §4 (AMD) . ]

C. A law enforcement officer shall report the results of a chemical test administered, or the refusal of a person to submit to a chemical test, pursuant to this section to the Federal Aviation Administration.  
[1993, c. 467, §4 (NEW).]

[ 2009, c. 447, §4 (AMD) .]

**11. Fatalities.** Notwithstanding any other provision of this section, an operator of an aircraft who is involved in an aircraft accident that results in the death of a person must submit to and complete a chemical test to determine that person's alcohol level or drug concentration by analysis of blood, breath or urine. A law enforcement officer may determine which type of test will be administered. The result of a test taken pursuant to this subsection is not admissible at trial unless the court is satisfied that probable cause exists, independent of the test result, to believe that the operator was under the influence of intoxicating liquor or drugs or had an excessive alcohol level.

[ 2009, c. 447, §4 (AMD) .]

#### SECTION HISTORY

1993, c. 467, §4 (NEW). 2003, c. 689, §B6 (REV). 2009, c. 447, §4 (AMD).

## Chapter 13: AIRPORT ZONING

### §241. REGULATIONS

Every political subdivision may adopt, administer and enforce, under the police power and in the manner and upon the conditions prescribed, airport zoning regulations, which regulations shall divide the area surrounding any airport within the jurisdiction of said political subdivision into zones and within such zones specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow. In adopting or revising any such zoning regulations, the political subdivision shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain, the height of existing structures and trees above the level of the airport, the possibility of lowering or removing existing obstructions and the views of the agency of the Federal Government charged with the fostering of civil aeronautics, as to the aerial approaches necessary to safe flying operations at the airport.

In the event that a political subdivision has adopted, or hereafter adopts, a general zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations adopted for the same area or portion thereof under this chapter may be incorporated in and made a part of such general zoning regulations, and be administered and enforced in connection therewith, but such general zoning regulations shall not limit the effectiveness or scope of the regulations adopted under this chapter.

Any 2 or more political subdivisions may agree, by ordinance duly adopted, to create a joint board and delegate to said board the powers to promulgate, administer and enforce airport zoning regulations to protect the aerial approaches of any airport located within the corporate limits of any one or more of said political subdivisions. Such joint boards shall have as members 2 representatives appointed by the chief executive officers of each political subdivision participating in the creation of said board and a chairman elected by a majority of the members so appointed.

The jurisdiction of each political subdivision is extended to promulgation, administration and enforcement of airport zoning regulations to protect the approaches of any airport which is owned by said political subdivision but located outside the corporate limits of said political subdivision. In case of conflict with any airport zoning or other regulations promulgated by any other political subdivision, the regulations adopted pursuant to this section shall prevail.

All airport zoning regulations adopted under this chapter shall be reasonable and none shall require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 242, subsection 1.

### §242. PERMITS AND VARIANCES

**1. Permits.** Where advisable to facilitate the enforcement of zoning regulations adopted pursuant to this chapter, a system may be established by any political subdivision for the granting of permits to establish or construct new structures and other uses and to replace existing structures and other uses or make substantial changes therein or substantial repairs thereof. In any event, before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change or repair. No such permit shall be granted that would allow the structure or tree in question to be made higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted. Whenever the administrative agency determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, destroyed, deteriorated or decayed:

- A. No permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations; and

B. Whether application is made for a permit under this subsection or not, the said agency may by appropriate action compel the owner of the nonconforming structure or tree, at its own expense, to lower, remove, reconstruct or equip such object as may be necessary to conform to the regulations or, if the owner of the nonconforming structure or tree shall neglect or refuse to comply with such order for 10 days after notice, the said agency may proceed to have the object so lowered, removed, reconstructed or equipped and assess the cost and expense upon the object or the land whereon it is or was located. Unless such an assessment is paid within 90 days from the service of notice on the agent or owner of such object or land, the sum shall bear interest at the rate of 10% per year until paid, and shall be collected in the same manner as are general taxes. Except as indicated, all applications for permits for replacement, change or repair of nonconforming uses shall be granted.

**2. Variances.** Any person desiring to erect any structures, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property, in violation of airport zoning regulations adopted under this chapter may apply to the board of appeals, as provided in section 243, subsection 3, for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and of this chapter.

**3. Obstruction marking and lighting.** In granting any permit or variance under this section, the administrative agency or board of appeals may, if it deems such action advisable to effectuate the purposes of this chapter and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate and maintain suitable obstruction markers and obstruction lights thereon.

## §243. PROCEDURE

**1. Adoption of zoning regulations.** No airport zoning regulations shall be adopted, amended or changed under this chapter, except by action of the legislative body of the political subdivision in question, or the joint board provided for in section 241, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the hearing shall be published in a newspaper of general circulation, in the political subdivision or subdivisions in which the airport is located.

[ 1987, c. 667, §4 (AMD) . ]

**2. Administration of zoning regulations; administrative agency.** The legislative body of any political subdivision adopting airport zoning regulations under this chapter may delegate the duty of administering and enforcing such regulations to any administrative agency under its jurisdiction, or may create a new administrative agency to perform such duty, but such administrative agency shall not be or include any member of the board of appeals. The duties of such administrative agency shall include that of hearing and deciding all permits under section 242, subsection 1, but such agency shall not have or exercise any of the powers delegated to the board of appeals.

**3. Administration of airport zoning regulations; board of appeals.** Airport zoning regulations adopted under this chapter shall provide for a board of appeals to have and exercise the following powers:

- A. To hear and decide appeals from any order, requirement, decision or determination made by the administrative agency in the enforcement of this chapter or of any ordinance adopted pursuant thereto;
- B. To hear and decide special exceptions to the terms of the ordinance upon which such board may be required to pass under such ordinance;
- C. To hear and decide specific variances under section 242, subsection 2. Where a zoning board of appeals or adjustment already exists, it shall be appointed as the board of appeals. Otherwise, the board of appeals shall consist of 5 members, each to be appointed for a term of 3 years and to be removable for cause by the appointing authority upon written charges and after public hearing. In the first instance

one member shall be appointed for a term of 3 years, 2 for a term of 2 years and 2 for a term of one year. Thereafter each member appointed shall serve for a term of 3 years or until his successor is duly appointed and qualified.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application and on notice to the agency from which the appeal is taken and on due cause shown.

The board shall fix a reasonable time for the hearing of the appeal, give public notice and due notice to the parties in interest and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

The board may, in conformity with this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

The board shall adopt rules in accordance with any ordinance adopted under this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.

Appeals to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the political subdivision affected by any decision of the administrative agency. An appeal must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

The concurring vote of a majority of the members of the board shall be sufficient to reverse any order, requirement, decision or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

#### SECTION HISTORY

1987, c. 667, §4 (AMD).

## §244. APPEALS

Any person aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board or bureau of the political subdivision may appeal to the Superior Court in the manner provided for appeal on estimate of damages for town ways in Title 23, section 3005.

Costs shall not be allowed against the board of appeals unless it appears to the court that it acted with gross negligence, in bad faith or with malice in making the decision appealed from.

## §245. ENFORCEMENT AND REMEDIES

Each violation of this chapter or of any regulation, order or ruling promulgated or made pursuant to this chapter is a Class E crime, and each day a violation continues to exist shall constitute a separate offense. In addition, the political subdivision within which the property is located may institute in any court of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this chapter or of airport zoning regulations adopted under this chapter or of any order or ruling made in connection with their administration



or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction, which may be mandatory or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this chapter and of the regulations adopted, and orders and rulings made pursuant thereto. [1977, c. 696, §52 (AMD).]

SECTION HISTORY

1977, c. 696, §52 (AMD).

## §246. ACQUISITION OF AIR RIGHTS

In any case in which:

- 1. Nonconforming use.** It is desired to remove, lower or otherwise terminate a nonconforming use; or
- 2. Approach protection.** The approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this chapter; or
- 3. Acquisition of property rights.** It appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations; the political subdivision within which the property or nonconforming use is located, or the political subdivision owning the airport or served by it, may acquire by purchase, grant or condemnation in the manner provided by the law under which political subdivisions are authorized to acquire real property for public purposes, such an air right, easement or other estate or interest in the property or nonconforming use in question as may be necessary to effectuate the purpose of this chapter.

## Chapter 15: MISSILES AND ROCKETS

### §271. DEFINITIONS

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §13 (AMD). 1971, c. 404, §§29-32 (AMD). 2011, c. 610, Pt. A, §6 (RP).

### §272. APPROVAL OF RAMP

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §14 (AMD). 1971, c. 404, §33 (RP).

### §273. APPROVAL TO FIRE

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §14 (AMD). 1995, c. 504, §B10 (AMD). 2011, c. 610, Pt. A, §6 (RP).

### §274. FORM OF APPLICATION

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §14 (AMD). 1971, c. 404, §34 (AMD). 1995, c. 504, §B10 (AMD). 2011, c. 610, Pt. A, §6 (RP).

### §275. PROTECTION OF PUBLIC

*(REPEALED)*

#### SECTION HISTORY

1969, c. 498, §14 (AMD). 1995, c. 504, §B10 (AMD). 2011, c. 610, Pt. A, §6 (RP).

### §276. EXEMPTIONS

*(REPEALED)*

#### SECTION HISTORY

1973, c. 537, §4 (AMD). 2011, c. 610, Pt. A, §6 (RP).

### §277. TOYS OR AMUSEMENT DEVICES

*(REPEALED)*

#### SECTION HISTORY

1971, c. 404, §35 (AMD). 2011, c. 610, Pt. A, §6 (RP).

**§278. RULES AND REGULATIONS***(REPEALED)*

## SECTION HISTORY

1969, c. 498, §15 (AMD). 1995, c. 504, §B10 (AMD). 2011, c. 610, Pt. A, §6 (RP).

**§279. PENALTIES***(REPEALED)*

## SECTION HISTORY

1977, c. 696, §53 (RPR). 2011, c. 610, Pt. A, §6 (RP).

## Chapter 17: SPECIAL PROVISIONS

### §301. CIVIL AIR PATROL

The Civil Air Patrol shall expend funds made available to it pursuant to Title 37-B, section 3, subsection 1, paragraph D, subparagraph (13) as in its best judgment would most effectively carry out its purpose and objectives. [1999, c. 401, Pt. K, §1 (AMD).]

#### SECTION HISTORY

1977, c. 678, §48 (NEW). 1999, c. 401, §K1 (AMD).

### §302. MAINE AERONAUTICAL ADVISORY BOARD

#### 1. Board established.

A. The Maine Aeronautical Advisory Board, established by Title 5, section 12004-I, subsection 81, and in this section called "the board," shall be a board within the Department of Transportation. [1989, c. 503, §35 (AMD).]

[ 1989, c. 503, §35 (AMD) .]

#### 2. Membership.

A. The membership of the board consists of at least 7 members: one person from an airport association in the State appointed by the association's board of directors; one person from a pilot's association in the State appointed by the association's board of directors; and the remaining members appointed by the Commissioner of Transportation. All members serve a term of office of 2 years. Vacancies in membership must be filled in the same manner as the original appointment. The commissioner serves as secretary of the board. [2009, c. 485, §1 (AMD).]

[ 2009, c. 485, §1 (AMD) .]

#### 3. Meetings.

A. The board shall annually elect a chair from among its members, and the chair serves a term of one year. The board shall meet at the call of the chair, or at the call of at least 3 members of the board, and there must be at least one meeting held a year. [1999, c. 131, §19 (AMD).]

B. Members shall be compensated as provided in Title 5. [1983, c. 812, §41 (AMD).]

[ 1999, c. 131, §19 (AMD) .]

#### 4. Duties.

A. The board shall advise the department on matters relating to aeronautics and recommendations for change to the aeronautical laws and comments upon the present and future needs of that service. [1999, c. 152, Pt. I, §1 (AMD).]

[ 1999, c. 152, Pt. I, §1 (AMD) .]

#### 5. Staff support.

A. The department shall supply reasonable staff support requested by the board. [1977, c. 678, §48 (NEW).]

[ 1977, c. 678, §48 (NEW) .]

## 6. Transition.

A. Of the initial members appointed to the board, 3 shall serve for a term of one year and 2 shall serve for a term of 2 years. After expiration of the initial term of any member of the board, any appointment to the membership shall be for a term of 2 years. [1977, c. 678, §48 (NEW).]

[ 1977, c. 678, §48 (NEW) .]

### SECTION HISTORY

1977, c. 678, §48 (NEW). 1979, c. 80, §6 (AMD). 1983, c. 812, §§40,41 (AMD). 1989, c. 503, §B35 (AMD). 1995, c. 504, §B10 (AMD). 1999, c. 131, §§18,19 (AMD). 1999, c. 152, §I1 (AMD). 2009, c. 485, §1 (AMD).

## §303. AIR SEARCH PROCEDURES

**1. Agreements.** The Chief of the State Police may establish agreements with public or private agencies or organizations to assist in air search operations.

[ 1995, c. 555, §1 (AMD) .]

**2. Situations covered.** The Chief of the State Police shall establish and maintain a state air search and rescue plan for the immediate handling of the following emergency situations arising from aeronautical activities:

A. Locating aircraft believed lost and down within the State; and [1981, c. 41, (NEW).]

B. Locating persons who are believed lost and down in the State as a result of accidents involving aircraft overflying the State or parachute jumps. [1981, c. 41, (NEW).]

For purposes of this section, the phrases "within the State" and "in the State" include the coastal waters of the State as defined in Title 12, section 6001.

[ 1995, c. 555, §1 (AMD) .]

**3. Plan of action.** The state air search and rescue plan must provide a plan of action for search and rescue that will mobilize all state and federal agencies that can contribute in those emergencies and inform all state and federal agencies that request to be informed of any air search operation, in accordance with agreements reached in advance. The plan may include utilization of the Maine Wing Civil Air Patrol to coordinate and control specific air search operations. The plan must provide that its first objective is saving human life and rendering prompt aid to survivors.

[ 1995, c. 555, §1 (AMD) .]

**4. Authority.** The Chief of the State Police is responsible for the execution and overall coordination of air search and rescue efforts initiated in support of the air search and rescue plan by the Maine Wing Civil Air Patrol and those state and federal agencies that are designated in the plan to play a role in emergencies.

A. [1995, c. 504, Pt. B, §6 (RP).]

A-1. The Chief of the State Police may delegate authority for overall coordination of air search and rescue efforts to a commissioned officer within the Bureau of State Police. [1995, c. 555, §1 (NEW).]

B. [1995, c. 555, §1 (RP).]

C. [1995, c. 555, §1 (RP).]

[ 1995, c. 555, §1 (AMD) .]

SECTION HISTORY

1977, c. 678, §48 (NEW). 1981, c. 41, (RPR). 1985, c. 610, (AMD).  
1989, c. 489, §§1,2 (AMD). 1995, c. 504, §B6 (AMD). 1995, c. 555, §1  
(AMD) .

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