

OPINIONS OF THE ATTORNEY GENERAL

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INFORMAL OPINIONS

No. 2004-14

Civil Practice Law and Rules, §§1310, 1311, 1352, Art. 13-A; Criminal Procedure Law, §§1.20(39), 10.30, 60.40(3), 200.60, 400.40; General Business Law, §396-w; Labor Law, §213; Municipal Home Rule Law, §§10(4)(b), 58; Penal Law, §§55.10, 80.00, 80.10, 80.05, 80.10, 270.00, 405.00; Town Law, §268; Vehicle and Traffic Law, §1192; Village Law, §§7-714, 20-2006, Art.7; L. 1985, ch. 488; L. 1963, ch. 843.

A village may impose both civil and criminal penalties for violations of local zoning laws, although criminal penalties must be consistent with the designation and classification of offenses under the Penal Law. A village may provide for increased penalties for subsequent convictions, but may not designate any such offense as a felony. The disgorgement of profits upon conviction of a zoning violation may be obtained through an alternate sentence under the Penal Law, or through enactment of a carefully crafted civil forfeiture law. *December 21, 2004.*

No. 2005-1

C.P.L.R., §7803; Public Officers Law, §36; Village Law, §§4-400(1)(e), 4-402; L. 1972, ch. 892, §§1, 2, 3.

Under the Village Law, a village trustee may not direct the village clerk to take, publish, and make available to the public minutes of the meetings of the board of trustees. *January 4, 2005.*

No. 2005-2

Real Property Law, §321.

County Clerk is not authorized to mark a mortgage as discharged when presented with a certificate of satisfaction signed by other than the mortgagee or last assignee of record or their personal representative, but may record such certificate. *February 3, 2005.*

No. 2005-3

Vehicle and Traffic Law, §§1202, 1640, 1660; L. 1958, ch. 853; L. 1957, ch. 698.

Local governments with authority to regulate parking may permit parking closer to intersections than otherwise permitted under Vehicle and Traffic Law § 1202(a)(2)(b), (c). *February 3, 2005.*

No. 2005-4

County Law, §§221, 400(4)(a); Election Law, §3-202; Municipal Home Rule Law, §§10(1)(ii)(a)(1), 23(2)(f); Village Law, §3-308.

A county board of supervisors may not enact a local law creating for the position of county manager a term of office that is longer than that of a majority of the supervisors. *February 3, 2005.*

FORMAL OPINIONS

No. 2004-F7

Environmental Conservation Law, §§9-0101, 9-0105(2), 15-2101, 15-2105, 15-2109, 15-2111, 15-2115, 41-0101, Art. 15; Executive Law, Art. 27; Penal Law, §§270.00, 405.00; L. 1972, ch. 660; L. 1941, ch. 731; L. 1940, ch. 387; 6 N.Y.C.R.R., §§606.15-606.17, 606.25, 606.39, 606.41, 606.65-606.69, Pt. 606.

The municipality in which the property is located is the proper "permit authority" to issue a permit under Penal Law § 405.00 for a public fireworks display on land administered by the Hudson River-Black River regulating district under its Access Permit Program. *December 23, 2004.*