

OPINIONS OF THE ATTORNEY GENERAL

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INFORMAL OPINIONS

No. 2005-5

Executive Law Art. 2-B, §§20(2)(a) and (f)(4), 23(4) and (7)(b)(1), (b)(4), 24, 25, 26.

A town supervisor may declare a state of emergency over and promulgate orders with respect to property owned by another municipality that lies within the town's boundaries, but may not direct the use of the resources of another municipality without that municipality's consent. *February 11, 2005.*

No. 2005-6

Criminal Procedure Law §§1.20, 2.10; Vehicle and Traffic Law §§101, 132-a, 375; Village Law Art. 8, §§8-800, 8-802; L. 1981, Ch. 789.

Village constables may not operate vehicles with sirens or red and white flashing lights. *February 11, 2005.*

No. 2005-7

Penal Law §§265.00, 265.01, 265.02, 265.03, 265.20, 400.00; L. 1963, Ch. 136; L. 1961, Ch. 296.

Penal Law § 400.00(14) authorizes a fee of \$3.00 for each amendment to a firearms license, even if the proposed amendment will result in more than one change to the license. *February 17, 2005.*

No. 2005-8

Civil Service Law §61; County Law §§400(1), 525, 526; General Municipal Law §51.

An elected county official with statutory authority to appoint deputies may be subject to applicable local rules governing official appointments. The County Board of Supervisors may challenge the conduct of another elected county official through specified judicial proceedings. *March 2, 2005.*

No. 2005-9

Statutes §396; Village Law §§ 8-800, 9-900, 9-902, 23-2202; L. 1972, Ch. 892; L. 1941, Ch. 431; L. 1936, Ch. 524; L. 1936, Ch. 479, §1; L. 1935, Ch. 953, §1

Local law abolishing village police department was subject to mandatory referendum, pursuant to special legislation not repealed by enactment of Village Law § 8-800. *March 4, 2005.*

No. 2005-10

Civil Practice Law and Rules Art. 78; General Municipal Law, Art. 18, §§805-a, 806, 808(3), 812; Public Officers Law §73(5).

Donations given to a city alderman to pay the legal expenses he incurred by bringing a legal proceeding in his individual capacity against another city official are "gifts" subject to the restrictions of General Municipal Law § 805-a. Pursuant to General Municipal Law § 812, failure to disclose information regarding gifts of \$1000 or more would subject the alderman to civil or criminal penalties. *April 12, 2005.*

No. 2005-11

Where the Town of Huntington owns underwater lands based upon colonial patents, it may require its consent to the use of these underwater lands for dock construction and the anchoring and mooring of vessels, even where such activities are subject to a village's regulatory control. *April 12, 2005.*

No. 2005-12

Agriculture and Markets Law, Art. 9, §§106, 107, 108, 119, 121, 124, 125; County Law §700(1); C.P.L.R. §401; Criminal Procedure Law §§1.20(39), 10.10, 10.30; Penal Law §§10.00, 60.00, 60.27; Town Law §§20, 65.

The attorney for a town may represent the town in civil proceedings brought pursuant to Agriculture and Markets Law §121, but may prosecute criminal violations of dog control laws only if duly authorized by the district attorney. The town may seek the court's leave to intervene in a special proceeding brought pursuant to Agriculture and Markets Law §121. Restitution and reparations to the victim of a dog attack may be ordered. *May 9, 2005.*