

OPINIONS OF THE ATTORNEY GENERAL

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INFORMAL OPINIONS

No. 2006-3
Public Officers Law §3; Town Law §§20(1)(a), 20(4), 23, 29(15), 42.

The positions of deputy supervisor and confidential secretary to the supervisor are incompatible. *February 28, 2006.*

No. 2006-4
Penal Law §§35.05, 140.05, 140.10; Agriculture and Markets Law Art. 26; Vehicle and Traffic Law §2403(4); Parks, Recreation and Historic Preservation §25.03(7); Session Law 2000, Ch. 120 §§1, 7.

County emergency personnel may enter onto private property without the consent of the landowner where such entrance is reasonably necessary to that personnel's public duties in response to an emergency. *March 31, 2006.*

No. 2006-5
Village Law §§3-300(3) and (4), 3-301(3) and (4), 4-412; Town Law §§20(4), 30, 30(10).

The positions of deputy town clerk and village trustee are compatible. *June 23, 2006.*

No. 2006-6
Vehicle and Traffic Law §§144, 1160, 1180, 1640; McKinney's Consolidated Laws of New York §§231, 311.

Cities and villages are authorized by VTL §1640(a)(22) to set aside on-street parking for users of a government facility only on those parking areas closest to the facility. *July 25, 2006.*

No. 2006-7
Uniform Justice Court Act §§110, 111, 209, 701, 1504, 1505, 1911; Uniform Civil Rules for the Justice Courts §214.5; 22 NYCRR 214.5; Civil Practice Laws & Rules §8011; Town Law §§20, 23, 39; Criminal Procedure Law §2.10; Public Officers Law §§3, 17.

Court enforcement officers appointed pursuant to Town Law §20 who serve process and execute mandates of the town court in civil matters are public officers who must be residents of the town in which they serve. *July 25, 2006.*

No. 2006-8
L. 1905, Ch. 724; L. 1937, Ch. 929; L. 1985, Ch. 907; L. 1914, Ch. 478; New York City Administrative Code §§1-111, 24-356; Highway Law §§3(5), 189, 341(53)(1); Vehicle and Traffic Law §1622.

The town is not authorized to regulate speed on the portion of a highway built pursuant to special legislation that goes through the town. *September 15, 2006.*

No. 2006-9
Mental Hygiene Law Articles 81, 81.10; County Law Articles 18-A, 18-B, §§171, 722; Family Court Act §§262, 1120; Surrogate's Court Procedure Act §407; Correction Law Article 6-C; Judiciary Law §35.

A county that fulfills its responsibility under County Law article 18-B with a public defender may rely upon the public defender to represent indigent allegedly incapacitated persons. *September 29, 2006.*

No. 2006-10
General Municipal Law §§207-a, 209(b)(1), 209-1; Town Law Article 11, §§174(7), 176-a, 176(11), 176(18), 176(19), 176(33); Insurance Law §§9104, 9105.

Paid firefighters are members of the fire district fire department eligible to cast ballots at the annual meeting to nominate a volunteer fire chief. *October 10, 2006.*

No. 2006-11
Municipal Home Rule Law §§10, 10(1)(I), 10(1)(ii)(a)(1); General Municipal Law Art. 5-G, §§119-n(a), 119-n(c), 119-o, 119-o(1), 121-a; N.Y. Const. Art. IX §§2(c), 2(c)(I), 2(c)(ii), 3(d)(2).

General Municipal Law article 5-G, not Municipal Home Rule Law §10, authorizes the consolidation of the police services of two towns in contiguous counties. *November 1, 2006.*

FORMAL OPINIONS

No. 2006-F3
Public Officers Law §§17, 17(1)(a), 17(2), 17(3)(a), 17(4); Judiciary Law §39(6).

Unpaid guardians ad litem serving in the New York City Civil Court's guardian ad litem program are eligible for State-provided defense and indemnification. *April 6, 2006.*

No. 2006-F4

Public Authorities Law §§2, 353, 354, 358, 2800, 2801, 2802, 2824, 2825, 2895, 2896, 2897; Highway Law §§10 (24-b), 347; Eminent Domain Procedure Law §§301, 303.

The Public Authorities Accountability Act of 2005 permits an exchange of easements without public bidding to facilitate relocation of a gas pipeline in connection with a thruway reconstruction project. *September 20, 2006.*

No. 2006-F5

Public Officers Law §§17, 17(1)(2)m, 17(2)m, 17(3)(a), 17(4); General Municipal Law §50-k; Civil Practice Laws and Rules §1207

Compensated guardians ad litem serving in the New York City Civil Court's guardian ad litem program are not eligible for State-provided defense and indemnification. *October 24, 2006.*