

Chapter 8

MISCELLANEOUS OFFENSES

Sec. 8-1. Loitering.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them below, except where the context indicates a different meaning:

- (1) *Loitering* means remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and shall also include the colloquial expression of "hanging around."
- (2) *Public place* means any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

(b) *Prohibited.* It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone or in consort with others in a public place in such manner as to:

- (1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;
- (2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress or egress therein, thereon and thereto.

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(c) *Police order to disperse.* When any person causes or commits any of the condition enumerated in subsection (b) above, he may be ordered by any police officer or any law enforcement officer to cease and to move on or disperse. Any person who fails or refuses to obey such orders shall be in violation of this section.

(d) *Penalty.* Any person who is found guilty of violating this section shall be subject to a fine not to exceed one hundred dollars (\$100.00).

(Ord. of 8-9-79, Art. 1)

Cross reference-Streets, sidewalks and other public places, Ch. 11.

Sec. 8-2. Ice fishing.

(a) No manmade structures shall be allowed within one hundred (100) yards of shore on the entire frozen surface of Lake Wassookeag;

(b) Any ice fishing house on the frozen surface of Lake Wassookeag must have a solid floor-no holes in the floors shall be permitted under any circumstances.

(c) Penalties for violations of this policy shall be pursuant to the provisions of 30-A, Maine Revised Statutes Annotated (MRSA) § 4452. In order to discourage habitual offenders, the town recommends to the court that the penalties be progressive as follows:

(1) First violation: \$100.00

(2) Second violation: \$500.00

(3) Third, and any subsequent violation: \$1,000.00

(Ord. No. C93-17, §§ 1-3, 12-9-93)

Editor's note-Ord. No. C93-17, §§ 1-3, adopted Dec. 9, 1993, did not specifically amend the Code; hence, inclusion herein as § 8-2 was at the discretion of the editor.

Sec. 8-3. Vehicles on Lake Wassookeag.

(a) All road vehicles as defined in section 9-1 of the Dexter Town Code of Ordinances are prohibited from being on the entire frozen surface of Lake Wassookeag, with the exception of licensed snowmobiles and ATVs. Municipal officers may authorize the use of vehicles to clear snow for special events.

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(b) Snowmobiles, three- and four-wheel all-terrain vehicles, and other small recreation vehicles are specifically excluded from this section.

(c) Penalties for violation of this section shall be pursuant to 30-A, Maine Revised Statutes Annotated (MRSA) § 4452.

(d) The Wassookeag Snowmobile Club has permission to use such vehicles necessary to clear snow on Lake Wassookeag's surface for radar runs twice per year. (Ord. No. C93-18, §§ 1—3, 12-9-93; Ord. No. 2003-3, 1-16-03; Ord. No. C2006-4, 4-13-06)

Editor's note—Ord. No. C2006-4, adopted April 13, 2006, amended § 8-3 with an additional provision, at the discretion of the editor, this provision has been designated as subsection (d) in order to preserve the format of the Code.

Ord. No. C93-18, §§ 1—3, adopted Dec. 9, 1993, did not specifically amend the Code; hence, inclusion herein as § 8-3 was at the discretion of the editor.

Sec. 8-4. Reserved.

Editor's note—Section 8-4, entitled "junked motor vehicles or other property" has been deleted from this Code of Ordinances by the direction of the town.

Sec. 8-5. Public indecency.

(a) *Purpose and authority.*

(1) The purpose of this section is to prohibit certain acts of commercial exploitation of human sexuality within the Town of Dexter in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases, and disturbances of the peace and good order of the community which may occur when such commercial exploitation is permitted in such places, and to protect the health, safety, welfare and morals of the community by using the government's recognized and traditional enforcement power to protect societal order, morality, and physical and emotional health in public places without infringing on protected First Amendment rights.

(2) This section is enacted pursuant to municipal home rule authority, Title 30-A M.R.S.A. 3001.

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(b) *Definitions.* For the purposes of this section, the following definitions apply:

Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque

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covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Public indecency means the knowing or intentional commission of a sexual act, sexual contact or nudity in a public place.

Public place means a place to which the public at large or a substantial group has access, including but not limited to commercial or business establishments, public ways, schools, government owned facilities, and the lobbies, hallways, and basement portions of apartment houses, hotels, motels, public buildings and transportation terminals.

Sexual act means any act of sexual gratification between two (2) or more persons involving direct physical contact between the sex organs of one and the mouth or anus of the other or direct physical contact between the sex organs of one and the sex organs of the other, or direct physical contact between the sex organs of one and an instrument or device manipulated by the other. A sexual act may be proved without allegations or proof of penetration.

Sexual contact means any touching of the genitals, directly or through clothing, other than would constitute a sexual act, for the purpose of arousing or gratifying sexual desire.

(c) *Public indecency prohibited.*

- (1) Engaging in public indecency in return for pecuniary benefit is prohibited.
- (2) Engaging in or encouraging or permitting another person to engage in an act or acts of public indecency in return for pecuniary benefit by the person who or entity which owns, leases or otherwise controls a premises on which the act or acts of public indecency occurs is also prohibited.

(d) *Nursing women.* This section shall not prohibit, or be interpreted or construed to prohibit or regulate, women from nursing or breast feeding in public or private.

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(e) *Penalties.* The violation of this section shall be punishable by a fine of five hundred dollars (\$500.00) for a first offense, one thousand dollars (\$1,000.00) for a second offense, and two thousand dollars (\$2,000.00) for a third or subsequent offense, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalties, the town may enjoin or abate any violation of this section by appropriate action, and, if the court finds for the town, the town shall recover its costs of suit, including reasonable experts' fees, reasonable attorneys' fees, and reasonable investigative costs.
(Ord. No. C97-11, §§ 1-5, 7-10-97)

Sec. 8-6. Curfew hours for minors.

(a) *Purpose and authority.*

- (1) The purpose of this section is to establish curfew hours for persons under the age of eighteen (18). The increasing number of incidents associated with the conduct of juveniles during late night and early morning hours has prompted this action. The establishment of the curfew for minors is intended to aid in efforts to protect the general public, reduce the incidence of crimes, vandalism, and victimization of minors, and to promote public health, safety and welfare.
- (2) This action is enacted pursuant to municipal home rule authority, in accordance with 30-A M.R.S.A. § 3001, and is subject to annual review by the town council to insure currency and applicability.

(b) *Definitions.*

- (1) *Curfew hours.* 11:00 p.m. until 6:00 a.m. the following morning.
- (2) *Emergency.* An unforeseen combination of circumstances or resulting situation that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

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- (3) *Business establishment.* Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
- (4) *Guardian.*
- a. A person who, under court order, is the guardian of the minor;
 - b. A public or private agency with whom a minor has been placed by a court;
 - c. A person or public or private agency that harbors or provides shelter to an unaccompanied minor.
- (5) *Minor.* Any person under eighteen (18) years of age.
- (6) *Operators.* Any individual, firm, association, partnership, or corporation operating or managing an establishment. The term includes the members or partners of an association or partnership as well as the officers of a corporation.
- (7) *Parent.* A person who is a natural parent, adoptive parent, or step-parent of another person; or at least eighteen (18) years of age and authorized by a parent or guardian to be entrusted with the care and custody of a minor.
- (8) *Public place.* Any place to which the general public has access and includes, but is not limited to streets, highways, parks, recreation areas, and the common areas of schools, apartment houses, business sites and office buildings.
- (9) *Remain.* Linger, stay, or fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
- (10) *Serious bodily injury.* Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

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(11) *Unaccompanied minor.* Any person under eighteen (18) years of age who is not in the presence, or under the direct supervision, of that person's parent or guardian.

(c) *Description of curfew.*

(1) *Effective times.* A curfew for minors shall be in effect between the hours of 11:00 p.m. and 6:00 a.m.

(2) *Offenses.*

- a. A minor commits an offense if he or she remains in any public place or on the premises of any business establishment within the town during the curfew hours.
- b. A parent or guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows the minor to remain in any public place or on the premises of any business establishment within the town during the curfew hours.
- c. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the business establishment during curfew hours.

(3) *Exceptions.*

- a. Minor is accompanied by a parent or guardian.
- b. Minor is on an errand at the direction of the parent or guardian, without any detour or stop.
- c. Minor is in a motor vehicle involved in interstate travel.
- d. Minor is engaged in employment activity, or transiting to or from employment, without any detour or stop.
- e. Minor is involved in an emergency situation.
- f. Minor is on the sidewalk abutting the minor's residence or abutting the residence of the next-door neighbor if the neighbor did not complain to the police about the individual's presence.

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- g. Minor is attending an official school, religious, or other recreational activity supervised by adults, a civic organization, or other similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults, a civic organization, or another similar entity that takes responsibility for the minor.
 - h. Engaging in organized activities for the purpose of exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly or similar rights under the Maine Constitution.
 - i. Individual is legally emancipated as an adult by court order at the time of the violation.
- (d) *Enforcement.*
- (1) Any Town of Dexter police officer receiving a complaint or observing an apparent violation of this section shall have authority to investigate and issue the appropriate summons. An officer's investigation may include temporary detention of a suspected violator pursuant to and in accordance with 17-A M.R.S.A. § 17, for the purpose of ascertaining and verifying the identity, age, and current residence address of the person being investigated.
 - (2) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a public place during curfew hours. The officer shall not issue a citation or issue a summons under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances none of the exceptions cited in section 8-6(c)(3) apply.
 - (3) Police officers investigating a complaint or an apparent violation of this section are authorized to contact the parent or guardian of any minor under investigation, for

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the purpose of verifying the minor's identity, age, and current residence address as well as for the purpose of returning the minor to the custody of such parent or guardian.

(e) *Penalties.* A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00).

(f) *Severability.* A finding by any court that provisions of this section are unenforceable or void shall not operate as a bar to enforcement of the remaining provisions of the section.
(Ord. No. C2004-19, 8-12-04)