

ORDINANCE

Article 44 – 2002

CURFEW

1. Definitions.

The following words, terms and phrases, when used in this ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means from 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. of the following day, and from 11:59 p.m. on any Friday or Saturday until 5:00 a.m. of the following day.

Emergency means an unforeseen combination of circumstances or resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means 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.

Guardian means a person who, under court order, is the guardian of the person of a minor, or a public or private agency with which a court has placed a minor.

Minor means any person less than 18 years of age.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is a natural parent, adoptive parent, or stepparent of another person, or at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, parks, streets, highways, parking lots and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain means to linger or stay, or fail to leave premises when requested to do so by a police officer or owner, operator, or other person in control of the premises.

Seriously bodily injury means 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.

2. Violations.

- (a) A minor commits a violation of this ordinance if he or she remains in any public place or on the premises of any establishment within the town during curfew hours.
- (b) A parent or guardian of a minor commits a violation of this ordinance 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 establishment within the town during curfew hours.
- (c) The owner, operator, or any employee of an establishment commits a violation of this ordinance if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

3. Defenses.

- (a) It is a defense to prosecution under Section 2, subsections (a) or (b) above that the minor was:
- (1) Accompanied by the minor's parent or guardian;
 - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) In a motor vehicle involved in interstate travel;
 - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (5) Involved in an emergency;
 - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (7) Either (i) attending an official school, religious, or other recreational or civic activity supervised by adults and sponsored by the town, a civic organization, or another similar entity that takes responsibility for the minor, or (ii) within 45 minutes prior to the commencement of or after the termination of an official school, religious or other recreational or civic activity supervised by adults and sponsored by the town, a civic organization, or another similar entity that takes responsibility for the minor, going to or returning home from such activity;
 - (8) 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;
 - (9) Exercising rights protected under Article I, Section, 3,4, 5 or 15 of the Maine Constitution; or
 - (10) Married or had been married or had disabilities of minority removed in accordance with 15 M.R.S.A. Section 3306-A.
- (b) It is a defense to prosecution under Section 2, subsection (c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

4. Enforcement.

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (a) is present.

5. Penalties.

A person who violates a provision of this ordinance commits a separate violation for each day or part of a day during which the violation is committed, continued, or permitted. Each violation is punishable by a civil penalty of not less than \$25.00 and not more than \$100.00.

6. Severability.

In the event any section, subsection or portion of this ordinance is determined to be invalid for any reason, such invalidity shall not affect the validity of any other section, subsection or portion of the ordinance.