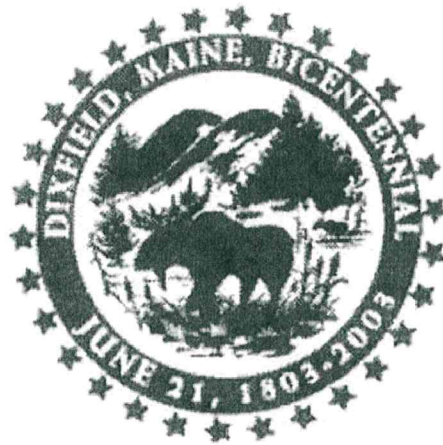


TOWN OF DIXFIELD CURFEW ORDINANCE



November 2, 2010

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Section I. Title

This Ordinance shall be known and may be cited as the Curfew Ordinance of the Town of Dixfield, Maine.

Section II. Purpose and Findings

This is an update of the Town of Dixfield ordinance prescribing, in accordance with prevailing community standards, regulations for the conduct of juveniles on streets and in other public places at night, effectively enforced, taught in the homes, internalized and adhered to for generations, all for the good of juveniles, for the furtherance of family responsibility, and for the public good, safety and welfare.

1. Effect on Juvenile Delinquency:

The Dixfield Board of Selectmen finds that the curfew meets a very real local need. Juveniles are and have been particularly susceptible, because of their lack of maturity and experience, to participation in unlawful activities and to victimization by older perpetrators of crime. Enforcement of a curfew for juveniles has been recognized over the years as a significant factor in minimizing juvenile delinquency in Dixfield as well as in many other jurisdictions. Therefore, in order that parents, guardians and town officials may have adequate tools for management of juveniles at their disposal, the Dixfield Curfew Ordinance should be updated and amplified in light of the Town's local situation and facts, including the following:

2. Proper Time for Outdoor Activities:

This community's sense of the proper time for cessation of outdoor activities by juveniles on the streets is reflected in the curfew hours declared by this Article which takes into consideration also the danger hours for nocturnal crime and for accumulations of juveniles with potential risks incident to immaturity.

3. No Commercial Recreational Facilities:

Commercial recreational facilities for juveniles are almost nonexistent and there is little or nothing for juveniles to do outdoors but roam the streets after the curfew hours which this ordinance declares.

4. Parental Responsibility:

Parental responsibility for the whereabouts of children is the norm. Legal sanctions to enforce such responsibility have had a demonstrated effectiveness over the years. As parental control increases, likelihood of juvenile delinquency

decreases, and there is a continuing need for the nocturnal curfew for juveniles which has achieved and will continue to achieve under local conditions the purposes hereinbefore stated,

Section III. Authority

This ordinance is enacted pursuant to the authority granted municipalities in Title 30-A M.R.S.A., Section 3001.

Section IV. Applicability

This ordinance shall apply to juveniles in the Town of Dixfield, whether or not they are residents of the Town of Dixfield, and shall also apply to the parents and guardians of juveniles in the Town of Dixfield, whether or not those parents and/or guardians are residents of the Town of Dixfield.

Wherever reference is made to gender in any form (he, him, his, etc.) , both genders are included.

Section V. Severability

If any provision or section of this ordinance, or the application thereof to any person or circumstance, is determined to be invalid or void by a court of competent jurisdiction, such determination shall not affect other provisions or applications of this ordinance that can be given effect in whole or in part without the invalid provision or application, and to this end each provision of this ordinance is declared to be severable and independent. It is the intent of the Town of Dixfield that each and every part, clause, paragraph, section and subsection of this ordinance be given effect to the greatest degree possible.

In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of the Town of Dixfield, the provision which established or establishes the higher standard for the promotion and protection of health and welfare for the community shall prevail.

Section VI. Definitions

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is

always mandatory and not merely directory.

1. "Town" is the Town of Dixfield, Oxford County, Maine.
2. "Juvenile", as defined in Maine law, is any person who has not yet attained his/her eighteenth birthday.
3. "Parent" is any person having legal custody of a juvenile,
 - a. As a natural or adoptive parent,
 - b. As a legal guardian,
 - c. As a person who stands in loco parentis, or
 - d. As a person to whom legal custody has been given by order of a court.
4. "Remain" means to linger, to stay behind, to tarry or to refuse to leave any place when requested to do so by a police officer or the owner or other person in control of a public place. Remain also means to stay unnecessarily upon the streets and includes the congregating of groups (or of interacting juveniles) totaling four or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home. To implement that thought with additional precision and precaution, numerous exceptions are expressly defined in Section VIII so that this is not a mere prohibitory or presence-type curfew ordinance. More and more exceptions become available with increasing years and advancing maturity as appropriate in the interest of reasonable regulation which is intended by use of the meaningful phrase "be or remain" as relating to a curfew ordinance of the "remaining" type.
5. "Street" is a way or place, of whatsoever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term "street" includes the legal right of way, including but not limited to the cartway or traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right of way, including but not limited to the cartway or traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street. The term "street" applies irrespective of what it is called or formally named, whether alley, avenue, court, road or otherwise.
6. "Public Place" shall mean a place located in the Town of Dixfield to which the general public, or a substantial group of the general public, has access. "Public Place" includes but is not limited to streets, highways, sidewalks, parking lots, vacant lots, parks and the common areas in and about apartment buildings, schools, shops and other places of business or

entertainment.

7. "Emergency" shall mean unforeseen circumstances or the resulting situation calling for immediate action. This includes but is not limited to the following: fire, natural disaster, vehicular accident or any situation requiring immediate action to avert serious injury or loss of life.
8. "Time of Night" referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Saving Time, generally observed at that hour by the public in the Town of Dixfield, prima facie the time then observed in the Dixfield Town Office and Police Station.
9. "Year of Age" continues from 12:01 A.M. on one's birthday to midnight (12:00 A.M.) of the day immediately preceding the next birthday. For example, 11 or less years of age means a person who has not yet attained his/her 12th birthday and 17 years of age that period of time which extends from 12:01 A.M. on the person's seventeenth (17th) birthday until midnight on the day immediately preceding that person's (18th) birthday.
10. Curfew hours means the hours from:
 - 9:01 P.M. until 6:00 A.M. for juveniles 11 or less years of age.
 - 9:31 P.M. until 6:00 A.M. for juveniles 12 or 13 years of age, and
 - 10:01 P.M. until 6:00 A.M. for juveniles 14 or more years of age until reaching their eighteenth birthday.
 - On Friday and Saturday evenings, the hours specified above shall be extended by one (1) hour.

Section VII. Curfew for Juveniles:

It shall be unlawful for any person under the age of 18 to be or remain in or upon the streets of the Town of Dixfield during the periods of curfew as described in Section VI.

Section VIII. Exceptions:

In the following exceptional cases a juvenile on a Town street during the nocturnal hours for which Section VI is intended to provide the maximum limits of regulation

(and a clear general guide for juveniles, their parents and their fellow citizens) shall not, however, be considered in violation of this ordinance;

1. Parent

When accompanied by a parent of such juvenile.

2. Authorized Adult

When accompanied by an adult authorized by a parent of such juvenile to take the parent's place in accompanying the juvenile for a designated period of time and purpose within a specified area.

3. First Amendment Rights

When 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. Such juvenile shall evidence the bona fides of such exercise by first delivering to the Chief of Police or his/her designee at the Police Station a written communication, signed by such juvenile and countersigned if practicable by a parent of such juvenile, together with their home address and telephone number, addressed to the Police Chief, specifying when, where and in what manner the juvenile will be on the streets at night (during hours when this ordinance is otherwise applicable to the juvenile) in the exercise of a First Amendment right specified in such communication.

4. Reasonable Necessity

In case of reasonable necessity but only after such juvenile's parent has communicated to the Town Police Station personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose, including points of origin and destination. A copy of such communication, or of the Police record thereof, duly certified by the Chief of Police to be correct, with an appropriate notation of the time it was received and of the names and address of such parent and juvenile, shall be admissible evidence.

5. Sidewalk Near Residence

When the juvenile is on the sidewalk of the place where such juvenile resides, or on the sidewalk of either next-door neighbor not communicating an objection to the Police Officer.

6. Returning Home

When returning home, by a direct route from (and within 30 minutes of the termination of) a school activity, or an activity of a religious or other voluntary association, of which prior notice, indicating the place and probable time of

termination, has been given in writing to, and duly filed for immediate reference by, the Chief of Police or the officer assigned by him on duty at the Police Station, thus encouraging (here as in other exceptional situations) conduct on the part of juveniles involved in such activities and striking a fair balance for any somewhat conflicting interests.

7. Special Permit: Police Chief

When authorized by special permit from the Police Chief, carried on the person of the juvenile thus authorized, as follows: When necessary nighttime activities of a juvenile may be inadequately provided for by other provisions of this article, the recourse may be had to the Police Chief, either for a regulation as provided in Subsection 8 or for a special permit as the circumstances warrant. Upon the Police Chief's finding of necessity for the use of the streets to the extent warranted by a written application signed by a juvenile and by a parent of such juvenile if feasible, stating a) the name, age and address of such juvenile, b) the name, address and telephone number of a parent thereof, c) the height, weight, sex, color of eyes and hair and other physical characteristics of such juvenile, d) the necessity which requires such juvenile to remain upon the streets during the curfew hours otherwise applicable, and e) the street or route and the beginning and ending of the period of time involved by date and hour, the Police Chief may grant a permit in writing for the use by such juvenile of such streets at such hours as may be necessary. In an emergency this may be handled by telephone, or other effective communication, with a corresponding record being made contemporaneously, either to the Police Chief, or if unavailable, to the police officer authorized by the Chief to act on his behalf in an emergency, at the Police Station.

8. By Regulation

When authorized, by regulation issued by the Police Chief, in other similar cases of reasonable necessity, similarly handled but adapted to normal or necessary nighttime activities of more juveniles than can readily be dealt with on an individual special permit basis. Normally such regulation by the Police Chief or permitting use of the streets should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools, and shall define the activity, the scope of the use of the streets permitted, the period of time involved, not to extend more than 30 minutes beyond the time for termination of such activity, and the reason for finding that such regulation is reasonably necessary and is consistent with the public interest and the purposes of this ordinance.

9. Employment

When authorized, by means of a certified card of employment. Such card shall be renewable each calendar year, signed by the Chief of Police and briefly identifying the juvenile. The card shall include the address of the juvenile's

home, of his place of employment, and of his hours of employment.

10. In Motor Vehicle

When the juvenile is, with parental consent, in a motor vehicle, this contemplates normal travel. From excess of caution, this clearly exempts bona fide interstate movement through Dixfield, particularly on normal routes. This also exempts interstate travel beginning or ending in Dixfield.

11. Additional Exceptions

Each of the foregoing exceptions, and their several limitations such as provisions for notification, are severable, as hereinafter provided, but here reemphasized; and additional, also severable, exceptions, broadening with the progress toward maturity of juveniles enrolled respectively in elementary, junior high and high schools, will be considered by the Selectmen as warranted by future experience illuminated by the views of student government associations, school personnel, citizens, associations and neighborhood spokesmen, parents, officers and persons in authority concerned positively with juveniles as well as with juvenile delinquency.

Section IX. Parental Responsibility

It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control, to allow, such juvenile to be or remain upon any Town street under circumstances not constituting an exception to, or otherwise beyond the scope of this ordinance. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.

Section X. Police Procedures

1. General

A Dixfield Police Officer, upon finding or having attention called to any juvenile on the streets in prima facie violation of this ordinance, normally shall take the juvenile to the Police Station. A parent shall immediately be notified to come for the juvenile, whereupon they shall be interrogated. This is intended to permit ascertainment of relevant facts, under constitutional safeguards, and to centralize responsibility in the on-duty officer for accurate, effective, fair, impartial and uniform enforcement of this ordinance and recording of the

incident and the action(s) taken by the officer. Thus, reliable information is made available to experienced supervisory personnel, the best of facilities are afforded to the juvenile offender and his family and access to information and records is afforded. In the absence of convincing evidence such as a driver's license, State of Maine Identification Card, birth certificate or other reliable means of identification, a police officer on the street shall in each instance use his best judgment in determining age.

2. Refinement

Police procedures shall constantly be refined in the light of experience and may provide, inter alia, that the police officer may deliver a juvenile to his parent under appropriate circumstances. For example, it may be more appropriate in the case of a juvenile of tender age who is near his home and whose identity and address may readily be ascertained or are known, to deliver the juvenile directly to his parent(s) at his home.

3. Written Report

In any incident involving a curfew violation, the investigating police officer shall file a written report with the Chief of Police within 24 work-hours of the incident. Or, the officer shall participate (to the extent that the information for which he is responsible is an element in a report to be created by or in conjunction with another officer) in the preparation and filing of such report within 24 hours.

4. Release of Juvenile

When a parent, immediately called, has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of his parent. If the parent cannot be located, or fails to take charge of the juvenile, then the juvenile shall be released to appropriate juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to a relative, neighbor or other person who will on behalf of a parent assume the responsibility of caring for the juvenile pending the availability or arrival of a parent.

5. First Violation

In the case of a first violation by a juvenile, the Chief of Police shall by certified mail, send to a parent written notice of the violation with a warning that any subsequent violation will result in full enforcement of this ordinance, including enforcement of parental responsibility and of applicable penalties.

Section XI. Penalties

Prevailing community standards and the real internalization thereof; or, interpersonal sanctions therefore that in practice count for much as to when juveniles should be off the streets, reflected in this ordinance, are hereby undergirded with the following legal sanctions.

1. First Offense By Parent

If, after the issuance and delivery of a written warning notice pursuant to Section X of a first violation by a juvenile, a parent violated Section (in connection with a second violation by the juvenile), this shall be treated as a first offense by the parent. For such first parental offense, a parent shall be fined Fifty dollars (\$50.00) and for each subsequent offense by a parent, the fine shall be increased by an additional Fifty dollars (\$50.00), e.g., \$100.00 for the second, \$150.00 for the third offense. The Twelfth District Court Judge, upon finding a parent guilty, shall sentence the parent to pay such fine and the costs of prosecution, and upon refusal to pay such fine and costs to be imprisoned in the jail of Oxford County for a period not exceeding ten (10) days.

2. Third Offense by Juvenile

Any juvenile who shall violate any of the provisions of this ordinance more than three times shall be reported by the Police Chief to a society or organization whose purpose it is to take charge of incorrigibles and delinquents and proceedings shall then be taken before the juvenile court for the treatment, supervision and rehabilitation of such juvenile.

3. Fines ineffective

A like procedure, before the juvenile authorities, shall be followed in any case where the imposing of a fine upon a parent shall not be effective, or where for any other reason the provisions of this ordinance cannot be made effective by the imposing of penalties under this section.

Section XII. Continuing Evaluation

The Town will continue its evaluation and updating of this ordinance as follows:

1. Reports to Selectmen:

The Chief of Police shall compile a report not less than once each calendar quarter, for submission to the Board of Selectmen and the Town Manager, noting any exceptional cases of curfew violations by juveniles or their parents. These reports shall include, whenever the information is available, notices of school and other activities, the Police Chief's special permits and the Chief's

regulations hereinbefore authorized. The Police Chief shall also include his advisory opinions for consideration by the appropriate committee and by the Selectmen in further updating and continuing evaluation of this ordinance.

2. Volunteer Programs:

For the same reasons, as well as for the implementation beyond these legal aspects of the basic purposes hereof, the Town Manager and relevant committees of the Town, through their respective chairmen in coordinated efforts, shall work with existing groups and may from time to time organize other groups on a volunteer basis. These officers, persons and organizations shall endeavor to stimulate volunteer leadership in programs or research and of action dealing constructively on neighborhood and local bases, with juvenile delinquency, and prevention, control, or containment thereof, in all its ramifications and with practicable steps toward the good life, and a better life, for juveniles. With the working of this ordinance, community-wide and in individual cases, as one much needed legal tool toward that end as well as for continuing present protection of juveniles and of other persons, and of property and other interests, important to the welfare of the people of the Town of Dixfield.