

## CHAPTER 9

### MISCELLANEOUS PUBLIC WELFARE

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#### **Article I: DISORDERLY HOUSES**

##### **Section 9.101: PROHIBITED**

No person shall keep or maintain or continue any disorderly house or shop or house of ill fame in this City.

##### **Section 9.102: PENALTY**

If any person shall violate the provisions of this Ordinance, he shall be fined not less than \$1.00 nor more than \$100.00 for each day he shall keep, maintain, or continue any such disorderly house, shop or house of ill fame.

**Article II: SUNDAY ORDINANCES**

**Section 9.201: AMATEUR SPORTS**

It shall be lawful on the Lord's day to engage in play, games, sports, and exhibition of physical skill which no admission is charged except public dancing, horse racing, prize fighting, wrestling, pool, billiards, and bowling provided that peace and quiet are not unreasonably disturbed thereby. The City Council may regulate the time, manner and areas of such play, games and sports to the end that no unreasonable disturbances of peace and quiet shall be caused thereby.

**Section 9.202: PROFESSIONAL SPORTS**

It shall be lawful on the Lord's day to engage in play, sports, and games involving physical skill, for which admission is charged except public dancing, horse racing, prize fighting, wrestling, pool, billiards, bowling, but not earlier than 1:00 p.m. No such play, game or sport shall be held without a license therefor from the City License Officer.

**Section 9.203: MOVING PICTURES AND THEATRICALS**

It shall be lawful on the Lord's day to conduct motion pictures, lectures, concerts and theatricals and vaudeville performances, but no earlier than 2:00 p.m. provided that no unreasonable disturbance of peace and quiet is caused hereby. Nothing in this section shall be construed to permit, without license, any such entertainment now requiring a license.

**Section 9.204: RETAIL TRADE**

It shall be lawful on the Lord's day at any time to sell at retail newspapers, periodicals, flowers, and nursery stock, ice cream, soft drinks, confectionery, fruit, bakery products including pastry, cigars, cigarettes, tobacco, smoking accessories, toilet articles, gasoline, oil, automobile parts and accessories, and food for consumption on the premises. It shall be lawful for all retail businesses in the City of Portsmouth to remain open on the Lord's day after 1:00 p.m.

**Section 9.205: PENALTY**

Any person violating any of the provisions of this Ordinance or any rule or regulation made by the City Council, pursuant thereto, shall be guilty of a misdemeanor, and upon conviction thereof, shall be liable to a penalty of not more than \$100.00 for each offense.

**ARTICLE III: REGULATION OF MINORS**

**Section 9.301: CURFEW**

The curfew regulations as set forth in the N.H. RSA, Chapter 571, Section 8-11 inclusive are hereby adopted by the City of Portsmouth.

**Section 9.302: SUPERVISION OF BUSINESS PREMISES**

No business premises shall be open to the public after the hours of 6:00 p.m. unless the proprietor or his agent or employee is present to supervise activities on the premises.

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**ARTICLE IV: RESERVED FOR FUTURE USE**

(Article entitled Removal of Dog Excrement deleted in its entirety 5/16/05)

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## **ARTICLE V: PUBLIC WAY OBSTRUCTIONS, PLACEMENT & REGISTRATION**

### **Section 9.501: DEFINITIONS**

As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- A. "City": The City of Portsmouth.
- B. "Newspaper or new periodical": a daily or weekly publication containing all of the following: current news, editorials, feature articles and advertising.
- C. "Newsrack": Any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or news periodicals.
- D. "Public Way Obstruction": Any object which in any way obstructs the free passage of pedestrians, wheelchairs or vehicles on the streets, sidewalks or roadways.

### **Section 9.502: CERTAIN PUBLIC WAY OBSTRUCTIONS PROHIBITED**

- A. No person shall install, use, attach or maintain any public way obstruction which projects onto, into or over any part of the roadway of any public street.
- B. No person shall install, use attach or maintain any public way obstruction which in whole or in part rests upon, in or over any public sidewalk, when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such public way obstruction unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location.

### **Section 9.503: LICENSING OF LOCATION – NEWSRACK LIMITED EXCEPTION**

- A. No person shall install or maintain any public way obstruction which in whole or in part rests upon, in or over any public sidewalk, except newsracks, without first applying for an being granted a license from the City Council. The license application shall include the following:
  - 1. The physical dimensions of the public way obstruction.
  - 2. The name, address and telephone number of the person or company responsible for the obstruction.

3. A diagram showing the location of the obstruction and the dimensions of the sidewalk upon which it is to be located.

Newsracks shall require the submission of license application, but the license shall be granted by the City Clerk on a ministerial basis without the requirement of City Council approval.

Newsracks must comply with the remaining provisions of this ordinance.

**Section 9.504: STANDARDS FOR INSTALLATION, MAINTENANCE & OPERATION**

Any public way obstruction which in whole or in part rests upon, in or over any public sidewalk or parkway shall comply with the following standards:

- A. Public way obstructions must be licensed individually by location.
- B. The City shall issue a proof of license in the form of a sticker or decal which must be attached to the obstruction at all times.
- C. Fees to be determined in accordance with Chapter 1, Article XVI or similar wording. (Amended 3/18/2002).
- D. All licenses must be renewed annually prior to March 1<sup>st</sup>.
- E. Unlicensed newsracks or public way obstructions will be considered abandoned and subject to removal without notice.
- F. All licenses are non-transferable.

**Section 9.506: HOLD HARMLESS AND INSURANCE**

Every person or other entity which places or maintains a public way obstruction on a public sidewalk, parkway, roadway or street in the City shall file a written statement with the City Clerk satisfactory to the City Attorney, whereby he/she, or it agrees to indemnify and hold harmless the City, its officers, City Council Members and employees, from any loss or liability or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any person as a result of the installation, use, or maintenance of the public way obstruction within the City. A Certificate of Insurance in a form approved by the City Attorney indicating no less than one million dollars (\$1,000,000) in general liability insurance coverage and naming the City as an additional insured shall be maintained on file with the City Clerk by each such person or entity.

**Section 9.507: REMOVAL OF NEWSRACK OR PUBLIC WAY OBSTRUCTION**

The City Manager or his/her designee shall remove any public way obstruction placed on any street, sidewalk, parkway or roadway in violation of this ordinance.

**Section 9.508: SEVERABILITY**

The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application.

**Section 9.509: INJUNCTION**

Any violation of this ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the City Attorney may apply to a Court of competent jurisdiction of an injunction to prohibit the continuation of any violation of this ordinance. Such application for relief may include seeking a temporary restraining order, preliminary injunction and permanent injunction.

**Section 9.510: DAMAGE TO PUBLIC WAY OBSTRUCTIONS**

Any damage to public way obstructions, whether or not properly licensed, by any cause whatsoever, including snowplowing and removal, will be at the sole expense of the owner.

**Section 9.511: PENALTY**

Any person, firm or corporation violating any provision of this ordinance shall be fined \$100.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Adopted Ordinance by deleting in it's entirety and replaced with new text 12/4/2000)

**Article VI: CITY PLANTS OR PROPERTY**

**Section 9.601: DAMAGE TO CITY PLANTS OR PROPERTY**

No person shall wantonly or willfully destroy shrubbery, pull up, bend or mar growing trees or otherwise injure or cause to be injured any shrubs, flowers or trees on City property maintained by the City, or shall wantonly or willfully damage or deface any other property of the City or of any department thereof.

**Section 9.602: PENALTY**

Any person violating any provision of this ordinance shall be subject to a fine or penalty in the amount of \$100.00.

(Article VI Adopted in its entirety 1/9/95)

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**Article VII: MUNICIPAL FACILITIES FOR SKATEBOARDING OR ROLLERBLADING OR ROLLERSKIING**

**Section 9.701: APPLICATION**

This ordinance is adopted pursuant to the provisions of RSA 507-B:11 for the purpose of requiring the use of certain safety equipment at any facility owned or operated by the City, or any subdivision of the City, for skateboarding or rollerblading, or rollerskiing and to secure the protection from liability for the City afforded by that statute.

**Section 9.702: MANDATE**

No person shall be permitted to ride a skateboard or rollerblade or rollerski at any recreational facility owned or operated by the City or any of its subdivisions for those purposes unless that person is wearing a helmet, elbow pads, and kneepads.

**Section 9.703: PENALTY**

Any person violating the provisions of this ordinance shall be subject to a fifty dollar (\$50.00) fine upon conviction of that violation.

**Section 9.704: POSTING**

Signs shall be posted at any facility described in this ordinance to afford reasonable notice that any person riding a skateboard or rollerblading or rollerskiing at the facility must wear a helmet, elbow pads and knee pads and that any person failing to do so will be subject to the penalties provided by the ordinance.

**Article VIII: BOARDING HOUSES** (Adopted 09-17-2007)

**Section 9.801: DEFINITION**

The term Boarding House shall apply to any residential structure in which more than 3 rooms are rented, leased or otherwise made available to tenants where such rooms do not contain separate bathroom facilities.

**Section 9.802: PERMIT REQUIRED**

Commencing January 1, 2008 every Boarding House in the City shall operate only on the issuance of a Boarding House permit issued by the City Council. Each such permit issued by the City Council shall be for a one year period commencing from the date of issuance and must be renewed annually by the owner of the property on which the Boarding House is located by application to the City Council. The Boarding House permit shall not be transferable.

**Section 9.803: TERMS AND CONDITIONS**

The terms and conditions under which the holder of any such Board House permit shall operate are as follows:

- A. The permit holder must maintain compliance with all City and State laws regarding such facilities including but not limited to the zoning ordinance, fire code and health regulations of the City.
- B. There must be posted at all times at the front entrance of the facility a sign indicating 24 hour, seven days a week, valid and effective contact information for the management of the facility.
- C. The permit holder must maintain the facility in such a manner so as not to cause unreasonable interference with the use and occupancy of other properties in the vicinity of the facility.

**Section 9.804: PERMIT RENEWAL**

Prior to renewing the Boarding House permit for any facility, the City may conduct such investigations as it deems appropriate to determine compliance with this ordinance. Failure of the owner of the facility to comply with the provision of this ordinance shall be cause for non-renewal of the permit.

**Section 9.805: ENFORCEMENT**

The provisions of this ordinance may be enforced by the municipal administration utilizing any or all of the following:

- A. Suspension, revocation or termination of the Boarding House permit.
- B. By filing an appropriate action in a court of competent jurisdiction seeking specific performance by the permittee or property owner of the terms of this ordinance.
- C. By the filing of a complaint in the Portsmouth District Court against the permittee seeking such penalties as may be allowed under state law in the case of conviction of a violation level offense.

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