

Chapter 68**LOITERING**

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[HISTORY: Adopted by the Town Board of the Town of New Baltimore 12-8-81 as L.L. No. 3-1981. Amendments noted where applicable.]

§ 68-1. Legislative intent.

The Town of New Baltimore recognizes that loitering in public places must be adequately controlled so as to prevent public disorder, nuisances, littering and other acts and conditions detrimental to the health, safety and welfare of the residents of the town, and this chapter is intended to provide such control and regulation.

§ 68-2. Definitions.

As used herein, the following words shall have the meanings below set forth:

LOITERING Shall encompass, but shall not be necessarily limited to, one (1) or more of the following acts:

- A. Obstruction of the free, unhampered passage of pedestrians or vehicles.
- B. Obstructing, molesting or interfering with any person or persons who are lawfully upon any road, park, school grounds or other public place.
- C. Remaining idle in essentially one (1) location without being able to

establish having a legitimate purpose in so remaining idle or, by general conduct, exhibiting the absence of a lawful purpose in so remaining idle. In determining whether or not a legitimate or lawful purpose for remaining idle has been established, consideration shall be given to the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern.

- D. Refusing to move from a place when so requested by a police officer, provided that such officer has exercised his discretion reasonably under the circumstances in order to preserve or promote public peace and order.
- E. Loitering or remaining in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia.

OTHER PUBLIC PLACE - Includes the quasi-public area in front of or adjacent to any store, shop, restaurant, tavern, bar, inn, luncheonette or other place of business, and shall include also any parking lots or other vacant property not owned by or under the dominion of the person charged with a violation of this chapter. Enforcement of this chapter as it relates to "other public places" as herein defined shall be conditioned upon a request for such enforcement by the owner or agent of said "other public place" sent by certified mail, return receipt requested, to the attention of the Police Chief of the Town of New Baltimore. In addition to the name of the owner and a description of the property involved, said request shall include a certification stating that the provisions of this chapter relating to the posting of a notice have been complied with.

PUBLIC PLACE - A place to which the public or a substantial group of persons has access, including but not limited to any highway, street, road, alley, bypass, sidewalk, parking area, shopping area, playground, park or recreation facility located within the Town of New

Baltimore, except that the definition of a "public place" shall not include those premises duly licensed for the sale and consumption of alcoholic beverages on the premises or within and on private property that is not a "public place" as defined in this section.

§ 68-3. Prohibitions.

- A. It shall be unlawful for any person to idly assemble, loiter, lounge or sleep in or upon any street, sidewalk or public place or in any public building, or in a park during those hours it is closed to the public, or obstruct the access to any public building or any part thereof, or obstruct passage through or upon any public street or park.
- B. It shall be unlawful for any person to idly assemble, loiter, lounge or sleep in other public places, as hereinbefore defined, provided that the owner or his agent thereof has posted a sign in such place and in such a manner as is reasonably calculated to afford notice of the prohibition to all interested parties.

§ 68-4. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable as follows: by imprisonment for a term not exceeding fifteen (15) days or by a fine not exceeding two hundred fifty dollars (\$250.), or by both such fine and imprisonment.