

STATUTES AND RULES APPLICABLE TO THE OSSIPPEE LAKE NATURAL AREA

Department of Resources and Economic Development

PART Res 7301 RULES RELATING TO ALL PARKS AND DRED PROPERTIES

Res 7301.01 Applicability. The provisions of Res 7301 shall apply to all department of resources and economic development (DRED) properties listed in Res 101.06¹.

Res 7301.03 – Persons shall obey all requests made by authorized DRED personnel in matters of public interest, public safety, or resources protection.

Res 7301.05 Protection of Natural Features. No person shall remove or damage any structure, plant, marine life², or natural feature on DRED properties³.

Res 7301.06 Protection of Historic Resources. No person shall remove or damage any historic property or historic and cultural resource on DRED properties without the permission of the director and the concurrence by the department of cultural resources, division of historical resources.

Res 7301.07 Restrictions in Public Use.

- (a) State parks and recreation areas shall be open for use unless closed by posting.
- (b) State parks and recreation areas shall be closed or restricted by authorized DRED personnel if:
 - (1) A governmental subdivision requests the department to close a specific park at a time which the department deems reasonable;
 - (2) There is a need to reduce vandalism;
 - (3) There is a concern for public safety; or
 - (4) There is any other reason to protect the natural or other features, and resources of the park.
- (c) Park operating hours and restrictions in use shall be posted at the park⁴.

¹ Res 101.06 lists the Ossipee Lake Natural Area as a DRED property.

² A proposed revision to existing Rules is adding *and freshwater aquatic* after marine.

³ DRED currently lacks an explicit Rule prohibiting the hauling or motoring of a boat onshore the OLNA, but can invoke Res 7301.05 'Protection of Natural Features' to protect the shoreline. A proposed revision to existing Rules is *No person shall haul or motor a boat onshore of a Natural Area except in designated areas*.

⁴ DRED intends to close the Ossipee Lake Natural Area from sunset to sunrise to reduce vandalism, out of concern for public safety (e.g., fire), and to protect natural and historic features.

FOR DISCUSSION AT THE 23 JANUARY 2009 OLNA WORK GROUP MEETING

Res 7301.08 Animals.

(f) Animals shall be permitted on DRED properties except as listed in this section:

(1) Animals shall not be permitted at state coastal and freshwater beaches, established picnic shelters, and historic sites;

Res 7301.12 Games. Ball playing, horseshoes, and other games requiring a defined playing area shall be permitted in designated areas.

Res 7301.14 Fires.

(a) Fires shall be permitted only in places provided or designated for that purpose, or as posted.

(b) Portable grills shall be permitted, provided that the park or beach area has places provided or designated for use of grills and that the ash and unused charcoal are emptied only into unused fireplaces or receptacles provided for that purpose.

(c) Trash burning shall not be permitted.

Res 7301.15 Littering and Sanitation.

(a) No person shall dispose of garbage, sewage, trash, debris or any other refuse or waste material of any kind⁵ on DRED properties except in campgrounds, concession areas, and at the Hampton Seashell complex where places and receptacles are provided for such purposes.

(b) State parks and recreation areas shall be carry in and carry out. For the purposes of this rule, carry in and carry out means that persons visiting a state park or recreation area shall take any trash generated by them with them upon their departure.

Res 7301.20 Digging.

(a) Digging shall be permitted on sand beaches with all resulting holes completely filled in. Digging holes to a depth greater than 12 inches shall not be permitted⁶.

(b) Digging and other ground disturbances shall not be permitted at state parks and historic sites except as permitted by the director with concurrence of the department of cultural resources, division of historical resources.

Res 7301.22 Constructing or Erecting Structures. No person shall construct or erect any structure, such as but not limited to rope swings, diving platforms, or permanent tree stands or blinds, unless permission has been granted by special use permit pursuant to Res 7306.

Res 7301.24 Fireworks. No person shall use fireworks on any DRED property unless permission has been granted by special use permit pursuant to Res 7306.

PART Res 7303 USE OF WATERFRONT PARKS

Res 7303.01 Applicability. The provisions of Res 7303 shall apply to all DRED properties listed in Res 101.06.

⁵ This language is commonly understood to include human waste.

⁶ Digging twelve-inch holes at the OLNA contradicts Res 7301.06 Protection of Historic Resources in the opinion of the Division of Historical Resources. DRED can invoke Res 7301.06 to prohibit digging of holes. A proposed revision to Res 7301.20 (a) would insert *excluding Natural Areas* after 'beaches' and before 'with all holes'...

Res 7303.02 Swimming. No person shall swim at any DRED property except in areas designated by lifelines.⁷

Res 7303.03 Glass Bottles. No person shall have glass bottles on any beach⁸.

Res 7303.04 Fires. No person shall have fires or portable grills on any beach⁹.

Res 7303.05 Swimming and Floatation Equipment.

(a) No person shall use oars, paddles, electric motors or other propulsion devices used to propel inflatables or other floatation equipment in designated swimming areas.

(b) No person shall use boats, canoes, kayaks, and other watercraft in designated swimming areas.

Res 7303.06 Digging. No person shall dig holes on sand beaches unless all resulting holes are completely filled in.¹⁰

PART Res 7306 RULES RELATING TO SPECIAL USE PERMITS

Res 7306.01 Special Use Permit Required. A special use permit shall be required for the following uses of DRED properties:

- (a) Holding organized or special events which go beyond routine recreational activities;
- (b) Use of a park, park buildings or park facilities for a length of time;
- (c) Any organized event or use of park facilities during the non-operating season;
- (d) Any event taking place during non-operating hours;
- (e) Any event which requires park staff to provide services other than services for routine park operations;
- (f) Any organized event at which the organizer or their agent is either selling or serving alcohol;
or
- (g) Any organized event at which the organizer or their agent is conducting for commercial purposes, including fundraising and charity events.

⁷ The existing Rule prohibits swimming at the OLNA. A proposed revision would limit Res 7303.02 to developed state parks with existing designated swim areas.

⁸ A proposed revision to Res 7303.03 would add *or Natural Area*.

⁹ A proposed revision to Res 7303.04 would add *or Natural Area*.

¹⁰ See footnote # 6.

Department of Motor Vehicles

Driving or Operating Under the Influence of Drugs or Liquor

Section 265-A:2

265-A:2 Driving or Operating Under Influence of Drugs or Liquor; Driving or Operating With Excess Alcohol Concentration. –

II. No person shall operate or attempt to operate a boat while under the influence of intoxicating liquor or a controlled drug or any combination of intoxicating liquor and a controlled drug or drugs, or while such person has an alcohol concentration of 0.08 or more or in the case of persons under the age of 21, 0.02 or more.

Department of Safety

CHAPTER 270: SUPERVISION OF NAVIGATION; REGISTRATION OF BOATS AND MOTORS; COMMON CARRIERS BY WATER

270:12-a Enforcement Powers Conferred.

I. The director of the division of safety services and his or her duly authorized representatives shall have all the powers of a peace officer in all counties in the state in the enforcement of:

- (a) The provisions of this chapter and the rules adopted hereunder;
- (b) The provisions of RSA 265-A, relative to the operation or attempted operation of boats by a person under the influence of intoxicating liquor or a controlled drug or other unlawful operation of boats thereunder;
- (c) The provisions of RSA 637:9, relative to unauthorized use of a motor boat or any boat or vessel propelled by sail or a paddle;
- (d) All other crimes and offenses, excluding violations of title XVIII¹¹, occurring on the public bodies of inland or coastal waters of the state;
- (e) Any crime or offense, excluding a violation of title XVIII or a violation of title XXI¹² not involving a boat or watercraft, that occurs on an island or on the mainland contiguous to inland or coastal bodies of water in the absence of any law enforcement agency with jurisdiction immediately available when immediate action is required; and
- (f) Any crime or offense when requested to render assistance to another peace officer having jurisdiction in the area.

CHAPTER 270-D: BOATING AND WATER SAFETY ON NEW HAMPSHIRE PUBLIC WATERS

270-D:2 General Rules for Vessels Operating on Water. –

VI. (a) To provide full visibility and control and to prevent their wake from being thrown into or causing excessive rocking to other boats, barges, water skiers, aquaplanes or other boats, rafts or floats, all vessels shall maintain headway speed¹³ when within 150 feet from:

- (1) Rafts, floats, swimmers.

¹¹ Fish and Game

¹² Motor Vehicles

¹³ Headway speed means 6 miles per hour or the slowest speed that a boat can be operated and maintain steerage way.

- (2) Permitted swimming areas.
- (3) Shore.
- (4) Docks.
- (5) Mooring fields.
- (6) Other vessels.

CHAPTER Saf-C 400 WATERCRAFT SAFETY RULES

PART Saf-C 413 WATER EVENT AND SLALOM COURSE PERMITS

Saf-C 413.01 Permits, When Necessary.

(a) Pursuant to RSA 270-D:4, any individual who undertakes the following activities shall obtain a permit from the commissioner:

- (1) Waterski slalom;
- (2) Waterski jump;
- (3) Fishing tournament or derby;
- (4) Waterski show;
- (5) Boat races;
- (6) Boat parade;
- (7) Parasailing; or
- (8) Other water event.

(b) Permit applications shall be obtained by writing or calling the department of safety, division of safety services, office of the director, 31 Dock Road, Gilford, NH 03249-7627, (603) 293-0091.

CRIMINAL CODE

CHAPTER 634: DESTRUCTION OF PROPERTY

634:2 Criminal Mischief.

I. A person is guilty of criminal mischief who, having no right to do so nor any reasonable basis for belief of having such a right, purposely or recklessly damages property of another.

II. Criminal mischief is a class B felony if the actor purposely causes or attempts to cause:

- (a) Pecuniary loss in excess of \$1,000; or
- (b) A substantial interruption or impairment of public communication, transportation, supply of water, gas or power or other public service; or
- (c) Discharge of a firearm at an occupied structure, as defined in RSA 635:1, III; or
- (d) Damage to private or public property, real or personal, when the actor knows that the property has historical, cultural, or sentimental value that cannot be restored by repair or replacement.

II-a. Criminal mischief is a class A misdemeanor if the actor purposely causes or attempts to cause pecuniary loss in excess of \$100 and not more than \$1,000.

CHAPTER 644: BREACHES OF THE PEACE AND RELATED OFFENSES

644:2 Disorderly Conduct. – A person is guilty of disorderly conduct if:

I. He knowingly or purposely creates a condition which is hazardous to himself or another in a public place by any action which serves no legitimate purpose; or

II. He or she:

(a) Engages in fighting or in violent, tumultuous or threatening behavior in a public place; or

(b) Directs at another person in a public place obscene, derisive, or offensive words which are likely to provoke a violent reaction on the part of an ordinary person; or

(c) Obstructs vehicular or pedestrian traffic on any public street or sidewalk or the entrance to any public building; or

(d) Engages in conduct in a public place which substantially interferes with a criminal investigation, a firefighting operation to which RSA 154:17 is applicable, the provision of emergency medical treatment, or the provision of other emergency services when traffic or pedestrian management is required; or

(e) Knowingly refuses to comply with a lawful order of a peace officer to move from or remain away from any public place; or

III. He purposely causes a breach of the peace, public inconvenience, annoyance or alarm, or recklessly creates a risk thereof, by:

(a) Making loud or unreasonable noises in a public place, or making loud or unreasonable noises in a private place which can be heard in a public place or other private places, which noises would disturb a person of average sensibilities; or