

## CHAPTER VI

### OFFENSES AGAINST PERSONS AND PROPERTY

#### ARTICLE I IN GENERAL

##### SECTION 1 DEFINITIONS

As used in this chapter the following terms shall be defined as follows:

- (1) Public nuisance is any condition which is noxious, odorous, unsightly, unhealthful, or obstructive to a degree which does or would offend a person of ordinary sensibilities under the circumstances; or which creates a danger or threat to the public health or welfare.
- (2) Reserved
- (3) Disorderly conduct as used in this chapter is conduct which is unruly, loud, threatening or boisterous to an extent which creates a public nuisance, or unreasonable noise, or which interferes to a material degree with the ability of others to carry on their affairs or businesses.
  - a) Disorderly conduct shall include congregation in a public place or private property generally accessible to the public in such a manner as to: **(Amended 10/14/1997 – Book 1, Page 313)**
    - 1) Create of cause to create a breach of the peace, or
    - 2) Create or cause to be created any disturbance or annoyance to any persons, or
    - 3) obstruct the free passage of vehicles or pedestrians, or
    - 4) Disrupt, obstruct, or harass, vehicular or pedestrian traffic. **(Amended 2/14/1989 – Book 1, Page 225)**
- (4) Profanity or profane language is any public utterance of words or phrases, or any gesture or conduct, which is considered improper or obscene under the circumstances by persons of ordinary sensibilities and values within the community.
- (5) Words or conduct in public or a public place is obscene when it is specifically related to sexual acts, conduct, or parts and offends or would offend persons of ordinary sensibilities in the community, under the circumstances involved.
- (6) Dog – Shall mean any animal of the canine species including wolf-hybrids. **(Amended 8/12/1997 – Book 1, Page 308)**

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SECTION 2 PENALTIES

Except as provided in Article VII, a violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. S1974a and S.1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance and the waiver fee shall be set at \$100.00 for each violation. Each day that the violation continues will constitute a separate violation of this ordinance. (**Amended 2/12/2002 – Book 1, Page 328**)

**ARTICLE II NUISANCES (Amended 2/12/2002 – Book 1, Page 328)**

SECTION 1 COMMISSION OF NUISANCES IN PUBLIC PROHIBITED

No person shall commit any nuisance in or on any street, highway, or public Square, or in any stairway, hallway, or in other public place.

SECTION 2 MAINTENANCE OF NUISANCES ON PRIVATE PROPERTY PROHIBITED

No person shall permit any nuisance to remain on his premises to the annoyance of any other person.

SECTION 3 ORDINANCE TO REQUIRE CUTTING OF WEEDS AND GRASS

- (a) A general growth of “weeds and grass” on those lawns specified in Subsection (c) below in excess of twelve (12) inches is hereby declared to be a public nuisance.
- (b) It shall be unlawful for any owner, occupant, lessee, or agent in charge of land in the Village to permit “weeds and grass” on those laws specified in Subsection (c) below to remain uncut and exceed a general height of twelve (12) inches.
- (c) The term “weeds and grass”, as used herein, shall mean and include all weeds and grasses (1) on the front lawn of a residence; (2) on the side lawns of residence extending to the back edge of the building, and (3) in case of a vacant lot in residential area, on any lawns within forty (40) feet of the paved portion of a public highway or fifty-five (55) feet from the centerline of a graveled public highway.
- (d) Upon the failure, refusal, or neglect of an owner, occupant, lessee, or agent to cut “weeds and grass” as required hereby, the Police Chief or his designee shall notify such owner, occupant, lessee, or agent of such condition and shall order such person to eliminate such “weeds and grass”

within ten (10) days. Such order shall be in writing and may be served personally on, or sent by certified mail, return receipt requested, to the owner of the property at the address shown on the assessment records of the Town of Rockingham.

- (e) If said order is not complied with within said ten (10) day period, the Police Chief or his designee may cause the “weeds and grass” to be cut and removed, or may have such failure prosecuted as a violation of the Ordinance, or both.
- (f) Whenever it shall be necessary for the Village to have the “weeds and grass” cut and removed, as above provided, the cost thereof shall constitute a debit owed to the Village.
- (g) Each 30 day period that the “weeds and grass” remain uncut and exceed a general height of twelve (12) inches following the ten (10) day compliance period referenced in subsection (e) above shall constitute a new violation.

**SECTION 4 VIOLATION IN CREATING, CONTINUING. OR PERMITTING NUISANCES**

Any person or entity who shall cause or permit the creation or continuance of any condition or occurrence which is or creates a public nuisance, will be in violation of this section. **(Amended 10/10/1995 – Book 1, Page 275)**

SECTION 5 Reserved

SECTION 6 Reserved

SECTION 7 Reserved

**SECTION 8 REMOVAL OF DOG DEFECATION FROM PUBLIC AND PRIVATE PROPERTIES (Added 8/12/1997 – Book 1, Page 308)**

- (a) An owner or person having custody of any dog shall not permit said dog to defecate on any public park or cemetery, school ground, public sidewalk or street pedestrian walkway, or on any privately owned property of another person without such person's consent unless said defecation is removed immediately and properly disposed of. Further, no defecation shall be dumped or left at or on any public park or cemetery, school ground, public street, or sidewalk or pedestrian walkway, or any private property without consent of the owner, within the Village.

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- (b) Any person having control or custody over a dog whether or not the owner, who allows the dog off his or her premises (that is, premises occupied by that person) and has knowledge that such dog is defecating on any public park or cemetery, school ground public sidewalk or street, pedestrian walkway, or any private property within the Village and does not remove and properly dispose of the defecation shall be in violation of this ordinance.
- (c) Public dog licensing records shall constitute prima facie evidence of the ownership of a dog. A person shall be deemed to keep a dog or to be the dog's keeper if, at the time, the dog is in the custody of such person or if such person has assumed the responsibility for custody of such dog in the absence of an owner.
- (d) For the purposes of this ordinance, a failure to comply with this section shall be deemed a public nuisance.

**ARTICLE III            OFFENSES AGAINST PERSONS**

**SECTION 1    DISTURBING LAWFUL MEETINGS**

No person or persons shall disturb or interfere with a lawful assembly of people, or organized meeting of any kind.

**SECTION 2    DISORDERLY CONDUCT (Amended 10/14/1997 – Book 1, Page 313)**

- (a) No person shall engage in disorderly conduct nor intentionally cause public nuisance, unreasonable noise, disturbance or annoyance, or with reckless disregard of the risk thereof, by:
  - (1) Engaging in fighting or in violent or tumultuous behavior which a reasonable person would believe to be threatening; or
  - (2) Making unreasonable noise; or
  - (3) In a public place or upon private property generally accessible to the public, engaging in conduct, including uttering words or making gestures, which a reasonable person would believe constitute threats to his or her personal safety, combative behavior or interference with public peace and order; or
  - (4) Obstructing or impeding vehicular, or pedestrian traffic upon any street, or highway, or sidewalk, or stairway; or

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- (5) Allowing his or her residence, apartment or other property to be used for disorderly conduct; or
  - (6) Obstructing, impeding, or in any way inhibiting access to an entrance to public or private property.
- (b) Prior to issuing a citation to any person under paragraph (a)(6), a law enforcement officer shall give notice to the person that his or her conduct is in violation of a Village Ordinance and shall order the person to cease such conduct and leave that place. Upon the person's failure to comply with such order, a citation for violation of paragraph (a)(6) may be issued and the person's refusal to comply with the order of the law enforcement officer shall create a permissible inference that the proscribed conduct was done intentionally or recklessly.
- (c) In addition to citing a person for violating the provisions of paragraphs (a)(1-5), whenever any law enforcement officer shall observe any act or conduct proscribed in such paragraphs, he may, if he deems it necessary for the preservation of the public peace and safety, order the person engaged in such act or conduct to leave that place. Any person who shall refuse to leave after being ordered to do so by a law enforcement officer, shall be guilty of a violation of this ordinance.
- (d) Should any person violate the terms and provisions of this ordinance, such person, shall be deemed guilty of a misdemeanor and upon conviction thereof by a court of competent jurisdiction, shall be fined and/or imprisoned, but no fine may exceed \$500.00, nor may any term of imprisonment exceed one year.

SECTION 3 DISTRIBUTION OF HANDBILLS

No person shall distribute handbills in a way which obstructs pedestrian or vehicular traffic.

SECTION 4 REQUEST TO DISPERSE

When three or more persons congregate and engage in disorderly conduct, a law enforcement officer may order the participants and others in the immediate vicinity to disperse.

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SECTION 5 VIOLATION

A person is in violation of section 4, failure to disperse, if the person knowingly fails to comply with an order made pursuant to Section 4. **(Amended 10/10/1995 – Book 1, Page 275)**

**ARTICLE IV INDECENT AND OBSCENE OFFENSES**

SECTION 1 INDECENT EXHIBITIONS

No person shall expose or exhibit his genital organs, buttocks, or breast in any public place or in public view under circumstances in which the person knew or reasonably should have known that his actions would be offensive or alarming to , or with intent to offend, shock or alarm, a viewer of ordinary sensibilities.

SECTION 2 EXHIBITION TO MINORS

No person shall intentionally expose their genital organs, buttocks or breast to any unrelated minor in any public place. **(Amended 10/10/1995 – Book 1, Page 276)**

SECTION 3 RELATED OFFENSES

It shall be a violation of this ordinance for any person to defecate or urinate in any place which is in public view; or on private property without permission.

**ARTICLE V MISCELLANEOUS OFFENSES**

SECTION 1 DESTRUCTION OF PROPERTY

It is a violation of this ordinance for any person or persons to mark, paint, damage, destroy, or to otherwise deface any public or private property without permission. **(Amended 10/10/1995 – Book 1, Page 276)**

SECTION 2 SHOOTING AND THROWING STONES

No person shall throw stones or project by mechanical or physical means any object, bullet, missile, or other substance in or onto any public street, highway, court, square, avenue or place within the Village; or in such a manner as to endanger or injure the person or property of another. Safe use of private property is not prohibited by this section.

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SECTION 3 DISCHARGE OF FIREARMS

No person shall, except in the performance of a legal duty, or in protection of life or property, discharge any firearm within the village.

**ARTICLE VI OFFENSES AGAINST POLICE OFFICERS**

SECTION 1 DECLARATION OF POLICY

The preservation and protection of the Public Health and Welfare and the rights and property of the residents of Bellows Falls Village requires that Agents of the Village, including its police officers, not be prevented, impeded, or harassed in the performance of their duties. This article is enacted for that purpose.

SECTION 2 POLICE OFFICERS DEFINED

As used in this Article, the term Police Officer shall include all regular and special officers of the Bellows Falls Police Department and any Constable, Sheriff, or Vermont State Police officer, while performing official duties within the corporate Limits of Bellows Falls Village Corporation. The term shall include non-uniformed officers after they have identified themselves as police officers at the scene.

SECTION 3 PROHIBITED CONDUCT

- a) It shall be unlawful for any person by his words or conduct to impede, hinder or otherwise interfere with a police officer in the performance of his duty.
- b) It shall be a violation of this article to make gestures or utter words which are obscene or profane, or can be reasonably understood to be obscene or profane, in an aggressive or belligerent manner toward a police officer. Nothing in this section shall prevent a person from expressing his opinion, disagreeing with the opinion of a police officer, or exercising other protected rights.
- c) It shall be unlawful for any person to interfere with, or attempt to interfere with, prevent or impede a police officer by profane, obscene, or threatening words or gestures, (or in any other manner) with interrogation of a witness or suspect by a police officer or with any arrest by a police officer after the person has been warned to cease or desist by a police officer. This provision shall apply regardless of the propriety of the arrest

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or interrogation; and whether or not the words or actions, in fact, impeded the officer.

SECTION 4 IDENTIFICATION OF SUSPECTS AND WITNESSES

if a police officer has reason to believe that a crime has been committed, he shall have the power to make inquiry of any person who he has reason to believe may have been a witness to or a perpetrator of, or, accessory to, the crime for that persons name and address. It shall be unlawful for any person to refuse to give his name and address to a police officer who identified himself as such, in response to a proper request under this paragraph.

SECTION 5 OTHER MUNICIPAL AGENTS

No person shall impede any municipal agent or employee in the lawful performance of his duty in words or actions.

**ARTICLE VII NOISE (Article VII added in entirety 2/12/2002 – Book 1, Page 329)**

PURPOSE

- A. It is the goal of this Article to allow all residents of the Village of Bellows Falls to peacefully coexist in a manner that is mutually respectful of the interests and rights of others.
- B. The Trustees, finding that excessive levels of sound can be detrimental to the physical, mental and social well-being of the residents as well as to their comfort, living conditions, general welfare and safety, and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the village.

SECTION 1 DEFINITIONS

As used in this Article, the following terms shall be defined as follows:

- (1) Construction Operation: The erection, repair, renovation, demolition or removal of any building or structure and the excavation, grading and regulation of lots in connection therewith.
- (2) Emergency: Any occurrence or set of circumstances that a reasonable person believes will cause trauma or property damage and demands immediate attention.

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- (3) Landlord: Means the owner, lessor, or where applicable, the sublessor of a residential or commercial unit or the building of which it is a part.
- (4) Motor Vehicle: Includes, but is not limited to, all vehicles propelled or drawn by power other than muscle power, except tractors used entirely for work on the farm, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, snowmobiles, all-terrain vehicles or implements of husbandry, or tracked vehicles.
- (5) Noise: Any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.
- (6) Noise Disturbance: Any sound that:
  - a. Endangers or injures the safety of humans or animals;
  - b. Annoys or disturbs a reasonable person of normal sensitivities;
  - c. Endangers or injures personal or real property.
- (7) Person: Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state. Whenever used in any clause prescribing and imposing a penalty, "person" includes the individual members, partners, officers and managers or any of them of partnerships and associations and, as for corporations, the officers and managers thereof or any of them.
- (8) Person in Charge of Party or Social Event: A person or organization which holds such event on private property and the person or representative of the organization is present at the event and/or resides on the premise involved and has authorized or been given authorization to use said premises.
- (9) Property Line (Boundary): An imaginary line drawn through the points of contact of adjoining lands, apartments, condominiums, townhouses and duplexes owned, rented or leased by different persons, a demarcation or a line of separate properties, and also for any two or more buildings sharing common grounds, the line drawn midway between such buildings. All areas devoted to public rights-of-way shall be deemed to be across the property line. For the purpose of this definition, the property line includes all points on a plane formed by projecting the property line in a manner deemed appropriate by the enforcing police officer.
- (10) Public Right-Of-Way: Any street, avenue, boulevard, highway, sidewalk, alley or similar place that is owned or controlled by a governmental entity.
- (11) Public Space: Any real property or structures thereon that are owned or controlled by a governmental entity.

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- (12) Real Property: All land, whether publicly or privately owned, whether improved or not improved, with or without structure, exclusive of any areas devoted to public right-of-way.
- (13) Sound Production Or Sound Reproduction Device: any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any musical instrument, radio, television, tape recorder, phonograph, compact disc player, or any other sound amplifying equipment.
- (14) Tenant: Means a person, organization, corporation or any other entity entitled to occupy a residential or commercial unit to the exclusion of others.
- (15) Vocal Disturbance: Yelling, shouting, whistling, singing, or making any other loud vocal disturbance. This definition does not include vocal activities by spectators or participants in an athletic event or assembly sponsored by public or private schools.

SECTION 2 PENALTIES

A. First Offense

- i) A first offense of any provision of Article VII by a person during any twelve (12) month period shall be deemed a violation and punishable by a fine of one hundred (\$100) dollars. Any law enforcement officer may issue a municipal complaint ticket for such offense.

B. Second and Subsequent Offenses

- i) A second violation during a twelve (12) month period shall be deemed to be a civil offense and shall be punishable by a fine of two hundred (\$200.00) dollars. A third violation in a twelve (12) month period shall be deemed a civil offense and shall be punishable by a fine of four hundred (\$400.00) dollars. A fourth or subsequent violation during a twelve (12) month period shall be deemed a civil offense, and carry a fine of five hundred (\$500.00) dollars.
- ii) A Civil Penalty of not more than five hundred (\$500.00) dollars may be imposed for a violation of this article. Each day the violation continues shall constitute a separate violation.

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C. Failure to Pay After Judgment

- i) Upon an entry of judgment in favor of the municipality, the Defendant shall have 30 days to pay the fine. Failure to pay may result in additional costs for the collection of the judgment. The Village shall be entitled to statutory service costs, interest on the judgment, court costs and fees, and attorney's fees.
- ii) Failure to pay the judgment shall, upon due recordation in the land records of the Town in which any real or personal property of the Defendant is located, constitute a lien on that real or personal property and may be enforced within the time and manner provided for in the collection of taxes.
- iii) Continued failure to pay may result in the Defendant being found in civil contempt.
- iv) In case of a continued failure to pay, the Village shall also exercise the right to make a report to the primary credit reporting agencies including but not limited to Experian, Equifax, and TransUnion.

SECTION 3 PROHIBITED ACTS; VIOLATIONS

A No person shall make, continue or cause to be made or continued any noise disturbance, nor shall any person suffer, allow or permit any noise disturbance to be made or continued from any property, whether real or personal, that is subject to such person's right to control.

B. Express Prohibitions

The following acts, which enumeration shall not be deemed to be exclusive, are declared to be noise disturbances and therefore in violation of this chapter:

- i) Radios, television sets, musical instruments, and other sound production or reproduction devices. The operation or permitting the use or operation of any device for the production or reproduction of sound:
  - (1) At any time in such a manner as to cause a noise disturbance across a property line (boundary) or between the hours of 10 p.m. and 7 a.m. so as to be plainly audible across a property line (boundary);

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- (2) In such a manner as to create a noise disturbance across a property line (boundary), or at 25 feet from such device, whichever is less, when the device is operated in or on a motor vehicle, or hand carried, on a public right-of-way or public space; or
    - (3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger of a common carrier.
  - ii) No person in charge of a party or other social event shall allow that party or event to cause a noise disturbance.
  - iii) Landlord Culpability
    - (1) A landlord who, after notice, fails to take reasonable steps to prevent subsequent violations, by the tenant, of this Article shall be in violation of this Ordinance and subject to enforcement as enumerated in Section 5.
    - (2) Notice:
      - (a) Prior to issuing a ticket to a landlord, the landlord must receive written notice from the Municipality or Police Department stating that a tenant of the landlord has been issued a ticket for violation of Article VII, Noise. The landlord shall have five (5) days in which to issue a written warning requesting that the tenant discontinue the violating behavior.
    - (3) Tenant Refusal:
      - (a) If the tenant continues to violate Article VII, Noise, after the landlords request to discontinue, the landlord shall not be in violation of this Ordinance if reasonable steps have been taken to prevent the tenant from continuing his/her violating behavior. Reasonable steps shall include but are not limited to sending the tenant a notice to terminate the tenancy.

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iv) Vocal Disturbance

- (1) Engaging in loud or raucous yelling, shouting, hooting, whistling or singing:
  - (a) On public streets between the hours of 9:00 p.m. and 7 a.m.; or
  - (b) At any time or place in such a manner as to create a noise disturbance.
  - (c) Construction
    - (1) Operating or permitting the operation of any tools or equipment used in construction operations, drilling, or demolition work between the hours of 10 p.m. and 7 a.m. such that the sound creates a noise disturbance across a residential real property line (boundary), except for emergency work.

vi) Domestic Power Tools

- (1) Operating or permitting the operation of any power equipment or machinery including, but not limited to, saws, sanders, drills, leaf blowers, power-driven garden tools, lawn mowers and tractors, hedge trimmers between the hours of 10 p.m. and 7 a.m. so as to cause a noise disturbance across a residential property line (boundary), except in emergency situations.

vii) Loudspeakers

- (1) The use of loudspeakers or other sound amplification equipment upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or site is prohibited.

viii) Burglar Alarms

- (1) No person shall operate or cause to be operated a continuous or intermittent audible burglar alarm or any continuous or intermittent motor vehicle burglar alarm unless such continuous or intermittent alarm shall be capable of automatically terminating within 15 minutes after first activation. Any member of the police department shall have the authority to take such reasonable steps as may be necessary to disconnect such alarm. (It is recommended that a phone number be displayed in order to contact the owner).

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ix) Animals

- (1) No person shall permit or allow any animal under his/her control to bark, whine, howl, or make any other noise continuously for a period of 10 minutes or more at a volume that creates a noise disturbance.

x) Exhaust Systems (**Added 9/9/2003 – Book 2, Page 1**)

- (1) No person shall operate or cause to operate any motor vehicle on public lands, private property, or public highways as defined in Title 23 VSA § 4, unless the exhaust system of such vehicle:
  - (a) Is free from defects, which may cause sound level magnification;
  - (b) Is equipped with a muffler similar in design and make as original vehicle equipment; and
  - (c) Has not been modified in such a manner which will amplify or increase the sound level emitted by the motor of such vehicle above that emitted by a muffler originally installed on the vehicle as manufactured for initial sale.

Section 4 EXEMPTIONS

Noise from the following sources shall be exempt from the prohibitions specified herein:

- A All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work, including, but not limited to, police, fire, and rescue vehicle.
- B. The repair and maintenance of municipal facilities, services, or public utilities when such work must be accomplished outside daytime hours.
- C. Snow removal equipment operated within the manufacturer's specifications and in proper operating condition.
- D. Musical, recreational, dramatic, and athletic events conducted by and on the site of a school or educational institution.

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- E. Events conducted by or permitted by the Village. Persons operating an event under authority of an entertainment permit, parade, street event permit, or parks special use permit shall comply with all conditions of such permits with respect to noise control issues.
- F. Construction or repair work that must be done to address an emergency health or safety concern and that cannot be accomplished during daytime hours and which is not work which includes normal maintenance and repair.