

**CHAPTER V**  
**STREETS AND SIDEWALKS**

**ARTICLE I IN GENERAL**

**SECTION 1 DECLARATION OF POLICY**

It is the policy of the Bellows Falls Village Corporation that the streets, sidewalks and other public places within the limits of said village shall be kept, maintained and regulated for the public good and safety, convenience and welfare of residents of the Village.

**SECTION 2 PURPOSE**

It is the intent and purpose of the chapter to establish reasonable standards and regulations to insure that the streets, sidewalks and other public places within the corporate limits shall be kept available for reasonable uses by members of the public and maintained so as to foster and encourage reasonable individual and commercial enterprises within the Village.

**ARTICLE II LOITERING (Amended 10/14/1997 – Book 1, Page 310)**

**SECTION 1** For the purpose of this section, “loitering” means the act of standing or remaining in or about any public street, public sidewalk, public overpass or public bridge or other places specifically enumerated herein.

**SECTION 2** It shall be unlawful for any person to commit the offense of loitering when she or he:

- 1) loiters on any public street, public sidewalk, public overpass, public bridge or public place so as to hinder or impede or tend to hinder or impede the passage of pedestrians or vehicles;
- 2) loiters in or on school property not having any legitimate reason for being there;
- 3) loiters in any place with one (1) or more persons knowing that a narcotic or dangerous drug is being unlawfully used or possessed;

**SECTION 3** It is unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for safety of person or property in the vicinity.

- 1) Among the circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer or fails to identify themselves and explain his or her presence and conduct. No person shall be convicted of an offense under this subsection (3) if the law enforcement 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.

- 2) Should any person, firm or corporation, their agents, serves or employees, violate the terms and provisions of this ordinance, such person, firm or corporation 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.

### **ARTICLE III VENDORS**

SECTION 1 No itinerant vendors, peddlers, door to door salesmen or those selling goods, wares, merchandise, or service who engage in a transient or temporary business, or who sell from an automobile, truck, wagon, or other conveyance shall sell or operate within the Village without first registering or obtaining a license pursuant to this Article.

SECTION 2 The provisions of this Article shall not apply to sales or solicitations by non-profit or charitable organizations undertaken for the purposes of their work, except the requirement of Section 4 regarding registration shall apply.

SECTION 3 Sales or concessions operated in connection with a parade or open air meeting properly conducted pursuant to chapter V, Article VI of these ordinances may with the advice and consent of the Village Manager, be regulated and controlled by the organizers of said parade or open air meeting.

SECTION 4 Before making any sales or soliciting any business within the Village of Bellows Falls any person, persons, or organization specified in Section 1 hereof shall register with the Village Police Department and shall provide said department with such information and references as it shall require.

SECTION 5 **LICENSES (Amended 12/28/2003 – Book 2, Page 11)**

No person, persons or organization shall sell or solicit sales of goods, merchandise or services from an automobile, truck, wagon, or other conveyance, display or stand located or to be located on public lands or highways within the village without a license pursuant to this section.

(1) Application:

A person or organization seeking a license under this section shall apply to the Village Manager and pay to the village a fee of \$10.00.

(2) License:

The Village Manager shall grant or deny a license within ten (10) days after application has been made and the fee paid.

The Village Manager, after review of the application and such other investigation as he shall deem appropriate shall grant a license for a period not to exceed six (6) months and subject to such conditions as he shall deem appropriate unless he finds that:

- (a) The applicant is not a suitable person or organization in terms of integrity and fair dealing so there is a reasonable risk that the public may be defrauded or otherwise harmed if a license is granted, or
  - (b) No public location in the Village is suitable for the business intended, or
  - (c) Granting the license would interfere with the safe and orderly movement of pedestrian or vehicular traffic, or
  - (d) The license, if granted, would not comply with zoning and other laws of the Village of Bellows Falls or Town of Rockingham, or
  - (e) For any other reason the public health, safety or welfare would be adversely affected by granting the license.
- (3) Conditions:

The Village Manager or Trustees on appeal, may impose such conditions on the licensee as he shall deem appropriate. Such conditions may include but are not limited to the following:

- (a) Location
- (b) Hours of operation
- (c) Signs
- (d) Methods of solicitation
- (e) Refuse disposal
- (f) Health regulations
- (g) Limitations on products or services offered
- (h) stopping, standing, or loitering by customers or others

Any licensee who violates any conditions of a license issued under this Article may have his license revoked two (2) days after notice of said violation is given to the licensee unless the violation is cured. More than two substantial violations of conditions occurring during a license period shall entitle the Village to revoke the license without regard to any subsequent corrective acts by the licensee.

- (4) Appeal:

If the Village Manager fails to issue a license as herein provided or denies an application for a license, the applicant may within twenty (20) days of said failure to issue or denial appeal the Manager's decision to the Board of Trustees whose decision, after hearing the applicant and other interested parties, shall be final.

## SECTION 6 PENALTIES

A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. S1974a and 1977 et seq. A civil penalty of up to \$500.00 may be imposed for a violation of this civil ordinance and the waiver fee shall be set at \$100.00 for each offense. Each day that the violation continues will

constitute a. separate violation of this ordinance. (**Amended 10/10/1995 – book 1, Page 262A**)

SECTION 7 This ordinance does not apply to sale by landowners or renters of products of their land.

#### **ARTICLE IV CURFEW (amended 10/15/2003 – Book 2, Page 7)**

##### SECTION 1 DEFINITIONS

For purpose of this article, the following definitions shall apply:

- A. “Curfew Hours” shall mean 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, until 5:30 a.m. of the following day, and from 11:00 p.m. on any Friday or Saturday until 5:30 a.m. of the following day.
- B. “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term “emergency” includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- C. “Establishment” means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
- D. “Guardian” means a person who, under court order, is the guardian of the person of a minor.
- E. “Minor” means any person who has not yet reached seventeen (17) years of age, but does not include a judicially emancipated minor or a married minor.
- F. “Operator” means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- G. “Parent” means a natural parent, adoptive parent, or step-parent, or any person who has legal custody by court order or marriage, or any person who is authorized in writing, by the natural parent, adoptive parent, step-parent, legal custodian or guardian to be a caretaker for the minor.
- H. “Public Place” means any place to which the general public has a right to resort, including, but not limited to, public lands and buildings, entrances to businesses, and religious buildings, recreational areas and facilities and public streets, highways, bridges and sidewalks within the limits of the Bellows Falls Village Corporation.
- I. “Remain” means to linger or stay, or fail to leave the premises when requested to do so by a police officer or the owner, operator, manager or other person in control of the premises.
- J. “Serious Bodily Injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
- K. “Supervise, Supervision, Supervising” means to watchful of, and have direct and immediate control over a minor’s actions and activities.

## SECTION 2 PURPOSE

- A. Due to the fact that persons under the age of seventeen (17) years are particularly susceptible, because of their lack of maturity, judgment, and experience, to participate in unlawful activity, and to be the victims of older perpetrators of crime; and
- B. Because the Bellows Falls Village Corporation has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility of children, for the protection of the general public, and for the reduction of the incidence of juvenile related criminal activity; and,
- C. Because a curfew for those under the age of seventeen (17) years will be in the interest of the public health, safety, and general welfare and will help to attain these objectives and to diminish the undesirable impact of criminal conduct on the citizens of the village of Bellows Falls;
- D. The Bellows Falls Village Corporation determines that passage of a curfew will protect the welfare of minors by:
  - (1) Reducing the likelihood that minors will be the victims of criminal acts during the curfew hours;
  - (2) Reducing the likelihood that minors will become involved in criminal acts or exposed to criminal acts during the curfew hours; and
  - (3) Aiding parents or guardians in carrying out their responsibility to exercise reasonable supervision or minors entrusted to their care.

## SECTION 3 OFFENSES

- A. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the village of Bellows Falls during the designated curfew hours.
- B. A parent or guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the village of Bellows Falls during the designated curfew hours.

## SECTION 4 EXCEPTIONS

An offense shall not be deemed to have occurred section 3, above, if the minor was:

- A. Accompanied by the minor's parents or guardian or other adult supervising the minor with the parent or guardian's knowledge and consent;
- B. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- C. In a motor vehicle or train involved in interstate travel;

- D. Engaged in an employment activity or going to, or returning home from an employment activity, without any detour or stop;
- E. Involved in an emergency;
- F. On the sidewalk that abuts the minor's residence or that abuts the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
- G. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by a government entity, a civic organization, or other similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by a government entity, a civic organization, or other similar entity that takes responsibility for the minor;
- H. Exercising First Amendment rights protected by the United State Constitution, including free exercise of religion, freedom of speech, and the right of assembly.

#### SECTION 5 ENFORCEMENT

- A. Before taking any enforcement action under this Article, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a civil violation under this Article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no recognized defense is proffered or is present.
- B. A minor alleged to be in violation of this Article will be transported to the Bellows Falls Police Department and released to the custody of a parent or guardian. If no one claims responsibility for the minor, the minor may be taken to the minor's residence or placed in the custody of the Vermont Department of Social and Rehabilitative Services (or it's successor body) or turned over to another appropriate agency as directed by a Judicial Officer sitting as Family Court.

#### SECTION 6 PENALTIES

- A. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of Title 24 VSA§ 1974a and Title 24 VSA§ 1977 et seq. A civil penalty of not more than \$500 may be imposed for a violation of this civil ordinance and the waiver fee shall be set at \$50.00;
- B. Each day a violation continues will constitute a separate violation of this ordinance;
- C. Parents or guardians may, upon each conviction for violating this Article, be required to complete parenting classes by order of the Judicial Bureau.

## ARTICLE V OBSTRUCTIONS

### SECTION 1 OBSTRUCTIONS BY USE RESTRICTED

No person or persons shall use the public streets, sidewalks, parking areas, commons, or other public places in a manner so as to obstruct traffic and free use of said areas by pedestrians, except for a limited time as provided by the Parade and Open Air Meeting ordinance this chapter.

### SECTION 2 OBSTRUCTION OF SIDEWALKS BY TREES, SHRUBBERY. ETC., PROHIBITED

No person shall allow limbs of trees, shrubbery, fence posts, gates or other material to obstruct the sidewalks so as to interfere with their free use by pedestrians.

### SECTION 3 COASTING, SLEDDING ON SIDEWALKS, FOOTWALKS, AND STREETS, PROHIBITED

- (a) No person shall course, coast, or slide or skate upon any board, sleigh, sled, vehicle, or other thing, upon any sidewalk or footwalk or on any streets or highways, except such areas that may be designated by the Village Trustees.
- (b) No person shall course, coast, ride, slide or skate upon any board, sleigh, sled, vehicle, skate, bicycle or other thing, upon any sidewalk or footwalk within the "Business Area".

For the purposes of this section, the "Business Area" shall include: Rockingham Street from the intersection of Rockingham Street and Canal Street, south to the square; Canal Street from the intersection of Canal and Island Streets south to the Square; Bridge street from the Post Office west to the intersection of Bridge Street and Westminster Street; Westminster Street from the intersection of Westminster and Bridge Streets south to the intersection of Westminster Street and Henry Street. **(Amended on 05/10/1994 – Book 1, Page 245)**

### SECTION 4 ROOF GUARDS REQUIRED IN CERTAIN INSTANCES

A person owning or controlling a building from which snow, ice or water slides or falls, or may slide or fall upon a street, sidewalk, or other public way within the limits of the village, shall construct and maintain such guards upon the roof of said building as will prevent snow, ice or water from sliding or falling from the same upon the street, sidewalk or other public way.

**SECTION 5 REMOVAL OF FALLING SNOW AND ICE FROM SIDEWALKS. STREETS AND OTHER PUBLIC WAYS REQUIRED**

All snow and ice falling from buildings as described in Section 4 of this article, must be removed by the owner of said building within 24 hours after the accumulation thereof.

**SECTION 6 SAME - BY VILLAGE UPON OWNERS FAILURE: COLLECTION OF COSTS**

- (1) In the event that any property owner shall neglect or otherwise fail to remove all snow and ice within 24 hours of the accumulation thereof, the village may remove or cause to be removed the same at the expense of the property owner.
- (2) In the event that said property owner shall not reimburse the village for such expenses within a reasonable time after receiving notice thereof, the village may recover such expense, together with all legal costs, in an action of contract brought under this section.

**SECTION 7 PENALTIES**

A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. S1974a and 51977 et. seq. A civil penalty of up to \$250.00 may be imposed for a violation of this civil ordinance and the waiver fee shall be set at \$50.00 for each offense. Each day that the violation continues will constitute a separate violation of this ordinance. **(Amended 10/10/1995 – Book 1, Page 262A)**

**ARTICLE VI PARADE AND OPEN AIR EVENTS (Amended 4/22/03 – Book 1, Page 337)**

**GENERALLY**

**SECTION 1. PURPOSE**

This Article is not designed to hinder any Constitutional Rights nor hinder a person's freedom of religion, speech, assemblage or petition. Nor is it meant to prohibit the free exercise thereof; or abridge the freedom of speech; or the right of a person peaceably to assemble. Its purpose is, however, set forth for the protection of public welfare, good order, peace, and safety of the people in our Village, and all of its provisions shall be construed for the accomplishment of the purposes set forth herein. The required fees set forth herein are not for the purpose of prohibiting an event but are established to cover the expenses generated by the requested parade or open air event.

## SECTION 2. DEFINITIONS

As used in this Article, the following terms shall have the respective meanings here assigned to them:

Open Air Event – shall mean, and is not limited to, any congregation or gathering of citizens held out doors and upon any street, park, or other public property for the purpose of viewing recreational events, hearing speakers, discussions or demonstrations with respect to, some matter of common interest where the number of participants expected may be reasonably expected to affect the normal flow of pedestrian and/or vehicular traffic.

Street, Park, or Public Property – is any street, sidewalk, park or public property within the boundaries of the Village with the exception of such property under the control of the School District.

## SECTION 3. UNREASONABLE INTERFERENCE WITH PARADES AND OPEN AIR EVENTS PROHIBITED

With exception of duly authorized law enforcement and/or emergency personnel, no person may unreasonably hamper, obstruct, impede, disrupt, or interfere with the conduct of any lawful parade, or open air event or with any person, vehicle or animal participating or used in such parade or open air events.

SECTION 4. With exception of duly authorized law enforcement and/or emergency personnel, no person shall cause a motor vehicle to be driven between the motor vehicles, persons, or animals comprising a parade when such motor vehicles, persons, or animals are in motion and are conspicuously designed as a parade.

## SECTION 5. RESTRICTIONS OF PARKING ON PARADE ROUTE OR EVENT AREA

The Police and Fire Chief shall have the authority, when reasonably necessary, to prohibit or restrict the parking of motor vehicles on a street or part thereof in the vicinity of the area where an open event is to be conducted. The Police and Fire Chief shall also have the authority to alter the direction and the flow of traffic during any parade or open air event as it relates to the safety of participants in the parade or open air event and pedestrian and vehicular traffic. The Police Chief shall post signs to such effect and it shall be unlawful for any person to park or leave an unattended vehicle in violation thereof.

## SECTION 6. REQUIRED: EXCEPTIONS

No person shall participate in any parade or open air event unless a permit therefore shall have been obtained from the Village Trustees or in their stead, the Village Manager pursuant to the provisions of this Article provided, however, that the provisions of this Article shall not apply in case of;

1. Funeral Processions
2. Students going to and from school classes, or participating in school sponsored activities, providing such conduct is under the supervision of the proper school authorities.

3. A governmental agency, including, among other units of the armed forces of the state and federal government, acting within the scope of its proper function. All parties within this provision of exceptions shall notify the Chief of Police, whenever such activity can be reasonably assumed to affect the proper flow of pedestrian and/or vehicular traffic. Such notification shall be made 48 hours prior to the scheduled activity.

#### SECTION 7. APPLICATION – CONTENTS

A person seeking issuance of a permit for a parade or open air event pursuant to this subdivision shall file an application with the Village Manager on forms provided by such officer. The application forms shall include the following information:

1. The name, address, and telephone number of the person seeking to hold such parade or open air event;
2. If it is proposed that the parade or open air event be conducted for, on behalf of, or by an organization, the name, address and responsible heads of such organizations;
3. The name, address and telephone number of the person who will be directly responsible for its conduct;
4. The date when the parade or open air event is to be held;
5. The times at which the parade or open air event will start and will terminate;
6. In the case of a parade, the route to be traveled, the starting point and the termination point; in the case of an open air event, the place or area in which it will be held;
7. In the case of a parade, the approximate number of persons who, and animals and vehicles which, will constitute such parade, the type of animals and the description of the vehicles; in case of an open air event, the approximately number of persons who will attend such event and the names, if applicable, of the persons who will address such event;
8. In the case of a parade, a statement as to whether the parade will occupy all or only a portion of the width of the streets it is proposed to traverse, and the interval of space to be maintained between units of the parade;
9. In the case of a parade, the location by streets of any assembly areas for such parade and the time at which units of the parade will begin to assemble at such assembly areas or areas;
10. If the parade or open air event is to be held by, on behalf of, or for any person other than the applicant, the applicant shall file with the application a statement in writing signed by such persona authorizing the applicant to apply for such permit for or on behalf of such person.
11. Any additional information which the Village Manager shall find reasonably necessary to a fair determination as to whether a permit should be issued.

## SECTION 8. FILING PERIOD

An application for a permit to hold a parade or open air event required by this Article shall be filed with the Village Manager not less than three (3) days (excluding Saturdays, Sundays and Holidays) before the date of the proposed parade or open air event; provided, however, that the Village Manager shall have the authority to consider an application which has been filed less than three (3) days before the date on which it is proposed to hold such parade or open air event and to issue a permit thereof.

As three (3) days may not be adequate time in which to consider larger parades or open air events, applications in such instances shall be filed no less than two (2) weeks prior to the proposed parade or open air event.

## SECTION 9. TIMELY ACTION REQUIRED

The Village Manager shall act upon each application for a permit for a parade or open air event required by this division within two (2) days (excluding Saturdays, Sundays, and Holidays) after the date of the filing of such application. If the Village Manager shall deny such application, he or she shall mail or deliver to the applicant on the date of such denial, a written notice of action which shall state the reasons for the denial of the permit.

## SECTION 10. STANDARDS FOR ISSUANCE

The Village Manager shall issue a permit for a parade or an open air event required by this Article, as provided hereinafter, unless upon consideration of the application and other information as he may otherwise obtain, he finds there is a substantial likelihood that;

1. The conduct of the parade or the open air event will cause or promote a breach of the peace, cause injury to persons or property, provoke disorderly conduct, or create a substantial public nuisance or,
2. The conduct of the parade or the open air event will substantially interrupt for an unreasonable time the safe and orderly movement of pedestrian and vehicular traffic at or contiguous to the route of such parade and its assembly areas of the place of such open air event or unreasonably interfere with the rights of other persons who utilize the public ways, or,
3. The conduct of the parade or the open air event will require the diversion of so great a number of police officers of the Village properly to police the assembly areas, the route of such parade and the areas contiguous thereto or the place of such open air event as to prevent the maintenance of normal police protection throughout the Village, or,
4. The conduct of the parade or the open air event will unreasonably interfere with the movement of fire-fighting equipment en route to a fire or otherwise prevent the maintenance of normal fire protection throughout the Village, or,
5. The conduct of the parade or the open air event will unreasonably affect or interrupt business and commerce within the area through which the parade will proceed or the open air event will be held or within any other area of the Village, or,

6. The concentration of persons, animals and vehicles at assembly areas or along the route, of the parade or the concentration of persons and vehicles at or near the place of the open air event will unreasonably interfere with the maintenance of normal police and fire of, or ambulance service to, areas contiguous to such assembly areas, the route of the parade or the place of such open air event or to any other part of the Village, or,
7. The conduct of the parade or the open air event will be detrimental to the health, safety or welfare of the residents of the Village, or any section thereof.

#### SECTION 11. ALTERNATE PERMIT

The Village Manager, in denying an application for a permit for a parade or open air event, may issue an alternate permit authorizing the conduct of the parade or open air event on a date, at a time, over a route or at a place other than that stated in the application. An applicant shall indicate his acceptance of such alternate permit in writing within one (1) day after the date of the denial of the original application. An alternate permit shall conform to the requirements of this Article and shall have the full effect of a permit under this Article.

#### SECTION 12. APPEAL FROM DENIAL

Any person whose application for a permit for a parade or an open air event required by this division shall have been denied, or any persons who shall have been issued such a permit and shall have had such permit revoked prior to the time set in said permit for such parade or open air event, may make an appeal from the action of the Village Manager in denying or revoking such permit to the Village Trustees. The appeal shall be taken by filing a notice thereof with the Village Manager within three (3) days (except Saturdays, Sundays and Holidays) after the mailing or delivery of the notice of denial or revocation. The Village Trustees shall act upon the appeal within seven (7) days (except for Saturdays, Sundays and Holidays) after its receipt by the Village Manager.

#### SECTION 13. NOTICE TO VILLAGE OFFICIALS

Immediately upon the issuance of a permit for a parade or open air event, or upon the revocation of such a permit, the Village Manager shall send a copy of such permit or of such notice of revocation to the Police Chief, the Fire Chief, the Public Works Director and the president of the Village Trustees.

#### SECTION 14. DUTIES OF PERMITTEE

A permittee under the provisions of this Article shall comply with the provisions of the permit and with all applicable laws and ordinances. The chairman or other person responsible for the conduct of the parade or open air event shall carry the permit upon his person during the conduct of the parade or open air event.

## SECTION 15. REVOCATION

The Village Manager, at any time after the issuance of a permit for a parade or open air event required by this Article and prior to the time set in said permit for such parade or open air event, may revoke such permit upon a finding that the conduct of such parade or open air event will not meet the standards for the issuance of such a permit as set forth in Section 10. If the Village Manager shall so revoke a permit, he shall mail or deliver to the person to whom the permit was issued a written notice of revocation which shall state the reason for the revocation.

## SECTION 16. FEES AND COSTS

Each applicant under this ordinance shall pay a minimum fee of \$5.00 to the Village, at the time an application for a permit is filed, to help defray administrative expenses.

If the parade or open air event will interfere with the movement of pedestrian or vehicular traffic to such an extent that substantial extra police support will be required to adequately supervise the event or to maintain normal police protection throughout the Village, then, the permit fee as herein provided may be increased as necessary to pay for the increased cost to the Village of providing such extra protection.

The Village Manager will consult with the Police Chief regarding additional police support and, after such consultation, will notify the applicant of the increased fee necessary to provide any needed police support.

An applicant will be notified of the need for additional police support after the application for a permit has been reviewed. Notice will be given as soon as possible after the review process has been completed.

If an extra fee is imposed by the Village Manager, the applicant may appeal the extra fee as provided in Section 12.

## **ARTICLE VII USE OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES**

### SECTION 1 SHORT TITLE

This ordinance shall be known as the Alcoholic Beverage Control ordinance of 1975.

### SECTION 2 DEFINITIONS

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. The word "shall" is to be construed as mandatory and not merely directory.

- (a) "Alcohol" is the product of distillation of any fermented liquor rectified either once or oftener whatever may be the origin there of, and includes ethyl alcohol and alcohol which is considered non-potable.

- (b) "Malt beverage" is any fermented beverage of any name or description manufactured for sale from malt, wholly or in part, or from any substitute thereof, known as beer, porter, ale, and stout, containing not less than one percent nor more than six percent of alcohol by volume at sixty degrees Fahrenheit.
- (c) "Person" is an individual, partnership, corporation, association, trust, or other institution or entity.
- (d) "Possession is the detention and control, or the manual or physical custody of a container or containers of a beverage for which possession is prohibited under the terms of this ordinance.
- (e) "Public Place" is a place to which the general public has a right to resort, including, but without limitation thereto, public lands and buildings, entrances to business and religious buildings, recreational areas public streets, highways, bridges and sidewalks within the limits of the village corporation.
- (f) "Spirits" is any beverage containing alcohol obtained by distillation, fortified wines and liquors and any other beverage containing more than twenty percent of alcohol by volume at sixty degrees Fahrenheit.
- (g) "Vinous beverage" is all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of fruits, or other agricultural products, containing sugar, the alcoholic content of which is not less than one percent nor more than twenty percent by volume at sixty degrees Fahrenheit.

### SECTION 3 PROHIBITION

- (a) It shall be unlawful for any person to have in his or her possession any spirituous liquor, vinous or malt beverages, as defined herein, on, under or above any land or premises owned by the Rockingham Town School District.
- (b) It shall be unlawful for any person to have in his or her possession any opened container containing any quantity of spirituous liquor, malt, or vinous beverages as defined herein on, under or above in any public place whatsoever.

### SECTION 4 PERMITS

Upon first obtaining a written permit, which may be included the regular permit granted for use of such property, any publicly recognized organization or organized group, or family group, may be exempt from the provisions of this ordinance for a short period of time only, not to exceed twenty-four (24) hours, except that no permits shall be issued for school property.

SECTION 5 VIOLATIONS

In any complaint or information, and in any action or proceeding brought for the enforcement of any provision of this ordinance, it shall not be necessary to negate any exception, excuse, provision, or exemption contained in this ordinance, and the burden of proof of any such exception, excuse, provision, or exemption shall be on the defendant.

SECTION 6 PENALTY

A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. S1974a and 51977 et seq. A civil penalty of not more than \$500.00 maybe imposed for a violation of this civil ordinance and the waiver fee shall be set at \$100.00 for each offense (**Amended 10/10/1995 – Book 1, Page 262B**)