

Agenda Item #8-C May 20, 2025

City of Barre

Chapter 25 – CONDUCT IN PARKS AND PUBLIC SPACES

#2024-03

The City Council of the City of Barre, Vermont will hold a first reading on Tuesday, May 20, 2025 at 7:00 P.M. in the City Council Chambers to discuss the following revision to the Code of Ordinances, adding a new section Chapter 25 – Conduct in Parks and Public Spaces, and making conforming amendments, as follows:

The City Council of the City of Barre hereby ordains that the Code of Ordinances of the City of Barre, Vermont is hereby amended by adding a Chapter 25 – Conduct in Parks and Public Spaces, and amending Chapter 11 – Offenses and Miscellaneous Provisions, to read as follows:

Note: **Bold/Underline indicates additions**
[brackets/~~Strikeout~~ indicates deletions]

CHAPTER 25 – CONDUCT IN PARKS AND PUBLIC SPACES

(Chapter amended Ordinance No. 2024-03)

ARTICLE I. GENERAL PROVISIONS

Section 25-1. Authority.

This ordinance is enacted pursuant to the authority granted to the City to promote the public health, safety, welfare and convenience contained in 24 V.S.A. §2291. This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. Chapter 59, section 1971(b). The Council hereby expressly delegates its authority to issue a municipal ticket and/or a notice of trespass to any authorized City representative including any police officer of the Police Department in the exercise of their official duties.

Section 25-2. Purpose.

The purpose of this section is to establish boundaries on acceptable community conduct in parks and public spaces and enable an authorized representative of the City to issue a municipal ticket and/or notice of trespass and enforce that notice against an individual whose conduct is harmful, dangerous, illegal, or unreasonably disruptive, while recognizing the rights of individuals to engage in constitutionally protected activities on public or City-owned property at certain times, in certain places, and in certain manners. Further, this section empowers the City to police properties that have become a public nuisance by exhibiting a notorious atmosphere of criminal and other unacceptable conduct so elevated as to endanger the common public health, safety, welfare or convenience.

Section 25-3. Definitions.

As used in this chapter the following terms shall have the following meanings:

(a) “Boundaries on Behavior” means limitations on a person’s conduct such that the conduct is reasonable, not intimidating, not threatening, not unreasonably loud or disturbing and which prohibit the activities described in Section 25-5.

(b) “Curtilage” means the grounds and land on the parcel surrounding a building or facility extending to the property line.

(c) “Dangerous conditions” means a building code violation, or a high-risk building deficiency identified by the Fire Chief, the Zoning Administrator, or their designees.

(d) “Exigent Circumstances” means any situation in which the issuing City official or officer determines that a person presents an immediate and substantial threat or danger to the health, safety, or welfare of another person or the public in general.

(e) “Premises” means all buildings, interior portions of buildings, and exterior grounds and parking areas associated with the buildings referenced.

Section 25-4. Locations.

(a) Behavioral No Trespass Zones. There are hereby established certain areas or zones on public streets, sidewalks, parking areas, and City property where Boundaries on Behavior shall be enforced:

(1) To encourage a setting that is suitable for all ages without the need for parental guidance and without harmful behaviors for youth to see:

a. Areas within two hundred (200) feet of the curtilage of any public or private schools, youth clubs, and/or youth cultural organizations.

b. Areas within two hundred (200) feet of the curtilage of any public or private facilities that are frequented by youth under the age of 18 or other vulnerable populations as documented in the City Manager’s Office by application of the property owner or organization serving youth under the age of 18 or other vulnerable population.

c. All public parks, playgrounds, cemeteries, recreation facilities and parking lots.

(2) To encourage a setting that promotes the handling of money without fear of theft or solicitation, zones that are located within fifty (50) feet of the following features:

a. Automated teller machines.

b. Parking pay kiosks and meters.

c. Vending machines.

d. Gasoline pumps.

e. Entrances to businesses that have a chronic problem with theft or solicitation of their customers as documented in the City Manager’s Office by application of the property owner or business owner.

(3) To encourage a setting of public decorum and decency that is open, welcoming, and accessible to all members of the community. These areas include the following:

a. City Hall.

b. The Barre Opera House.

c. The Public Safety Building.

d. The Municipal Auditorium, Alumni Hall, and the BOR Arena.

e. Aldrich Public Library.

f. Other municipal or public facility premises that are documented in the City Manager’s Office by application of the responsible manager.

ARTICLE II. PROHIBITED BEHAVIORS

Section 25-5. Prohibited Behaviors.

(a) Prohibited Behaviors – Class A. The following behaviors are designated as Class A behaviors that are prohibited at the locations identified in Section 25-4:

(1) Possession, use, selling, or distribution of any regulated drug or drug paraphernalia.

(2) Activities or behavior that may result in injury or harm to any other person, including challenging another person to fight or engaging another person to fight.

(3) Directing a specific threat of physical harm against an individual or group of individuals.

(4) Engaging in sexual conduct or lewd behavior.

(5) Using City property, assets, or resources in a manner likely to cause personal injury or injury to other persons or property.

(6) Having been found liable for committing a Class B prohibited behavior three (3) or more times in any one (1) year period.

(b) Prohibited Behaviors – Class B. The following behaviors are designated as Class B behaviors that are prohibited at the locations identified in Section 25-4:

(1) Being under the influence of alcohol or a regulated drug.

(2) Possessing an open or unsealed container which contains an alcoholic beverage, or consuming or attempting to consume any alcoholic beverage, except as allowed at a City-approved event with a duly issued liquor license.

(3) Urination or defecation, other than through the proper use of designated bathroom facilities.

(4) Smoking or vaping any substance of any kind.

(5) Destroying, vandalizing, abusing, or damaging City property, assets, or resources or using them in a manner inconsistent with their intended use.

(6) Interfering with the free passage of people on a sidewalk, public street, parking area, facility entrance or hallway.

(7) Engaging in conduct that unreasonably disrupts or interferes with the normal operation of the facility, park, playground or unreasonably disturbs people using the facility, park, or playground, including but not limited to, conduct that involves:

(a) the use of abusive, profane, threatening, or harassing language or gestures;

(b) conduct that creates unreasonable noise; or

(c) conduct that consists of loud or boisterous physical behavior.

(8) Having been found liable for a Class C prohibited behavior three (3) or more times in any one (1) year period.

(c) Prohibited Behaviors – Class C. The following behaviors are designated at Class C behaviors that are prohibited at the locations identified in Section 25-4:

(1) Failing to abide by posted City rules.

(2) Failing to follow the reasonable direction of City staff related to a rule or policy.

(3) Leaving personal belongings unattended.

Section 25-6. Penalties.

(a) Class A Prohibited Behaviors. Any person that has committed a Class A prohibited behavior under this article shall have committed a civil offense and be subject to a fine of two hundred dollars (\$200.00) (with a one hundred dollar [\$100.00] waiver fee) per offense. City police officers are authorized to issue a Vermont municipal complaint for a violation of Section 25-5(a).

(b) Class B Prohibited Behaviors. Any person that has committed a Class B prohibited behavior under this article shall have committed a civil offense and be subject to a fine of fifty dollars (\$50.00) (with a twenty-five dollar [\$25.00] waiver fee) per offense. City police officers are authorized to issue a Vermont municipal complaint for a violation of Section 25-5(b).

(c) Class C Prohibited Behaviors. Any person that has committed a Class C prohibited behavior under this article shall have committed a civil offense and be subject to a fine of twenty-five dollars (\$25.00) (with a ten dollar [\$10.00] waiver fee) per offense. City police officers are authorized to issue a Vermont municipal complaint for a violation of Section 25-5(c).

(d) Trespass. In addition to any other penalties set forth in this section or otherwise permitted by law, a City police officer authorized under Section 25-1 may issue a notice of trespass to any person who has committed a Class A or Class B or Class C prohibited behavior in accordance with Section 25-7 to be in effect until certain conditions are met:

(1) All fines issued for prohibited behaviors to the individual have been paid in full; or

(2) All fines issued for prohibited behaviors to the individual have been waived by the Manager or their designee.

Section 25-7. Enforcement.

(a) Initial Conference. If an individual violates any prohibited behavior per Section 25-5, a City police officer may issue a municipal ticket and/or notice of trespass for a violation which was committed while on or within a location identified by Section 25-4. Prior to issuance, the issuing officer must ensure that the person to whom a municipal ticket and/or notice of trespass will be issued has been informed of the basis for the municipal ticket and/or notice of trespass and has been given an opportunity and a reasonable amount of time to change or address the underlying conduct. No verbal warning is required if the reason for the municipal ticket and/or notice of trespass is an accusation of serious harmful conduct such as arson, assault, harassment or a threat of such conduct or Class A prohibited behavior or if the conduct was observed after the fact through electronic surveillance.

(b) Service of Notice. The municipal ticket and/or notice of trespass must be hand-delivered to the person to whom it is issued by the police officer. The written notice of trespass and/or municipal ticket shall detail the basis for which the punishment was issued, the length of time for which the notice of trespass remains in effect or conditions required for it to be lifted, and the consequences for violating the terms of the notice of trespass; it shall also advise the recipient of the right to contest the municipal ticket and/or notice of trespass and the location at which to file the appeal.

(c) Once a notice of trespass has been issued, unless the notice has been stayed by receipt of an appeal or the notice has been overturned by a decision on appeal, a violation of the notice may be enforced pursuant to 13 V.S.A. § 3705 (a criminal violation). Unless the notice of trespass was issued for conduct involving violence, harassment, or threats of physical harm to an individual, enforcement pursuant to 13 V.S.A. §3705 may only commence with issuance of a citation and a request to leave the premises; however, arrest is permissible for refusal to leave the premises within a reasonable period after issuance of the citation.

Section 25-8. Appeals and Waivers.

(a) The recipient of a municipal ticket and/or notice of trespass may appeal the municipal ticket and/or notice of trespass by appealing, in writing, within seven (7) calendar days of issuance. The recipient may request a waiver at any time the fine is outstanding or the notice of trespass is in effect.

(b)Waiver Requests. An individual who has received a municipal ticket and/or notice of trespass may request a waiver from the Manager or their designee to access the property for which the notice of trespass was issued for purpose of work, residence, access to government services, or the exercise of constitutional rights. The Manager or their designee shall have the authority to waive any waiver fees and/or the trespass notice if the recipient of the ticket or notice of trespass provides proof of completing an approved restoration plan which may include the individual entering an appropriate drug treatment or mental health support program; and/or completing a restorative justice process.

(c) Appeals. A written appeal shall include the appellant's name, address, phone number, and indicate whether a hearing is requested. No fee shall be charged for filing the appeal. The appeal shall be filed at the Manager's Office. Except for in exigent circumstances, any such appeal shall stay the operation of the notice of trespass beyond the day the appeal is filed, pending a hearing and/or written decision.

(d)Exigent circumstances. Under exigent circumstances, an appeal shall not stay the operation of the notice of trespass.

(e)Designated hearing panels. All appeals made under this article shall be heard by the Manager or their designee.

(f) Procedure. When an appeal is filed, the Manager or their designee shall meet to consider the appeal within ten (10) business days. If no hearing is requested, the Manager or their designee may consider any written submissions as part of their decision. If a hearing is requested, the appellant must be provided written notice of the date, time, and location of the hearing at least three (3) business days in advance. The Manager or their designee shall allow oral or written testimony and evidence from the appellant and the issuing officer. In reviewing the notice of trespass, the Manager or or their designee will utilize the preponderance of the evidence standard with the burden of proof on the charging official or their representative. The Manager or their designee shall issue a written decision within ten (10) business days of the hearing, unless otherwise extended by agreement. The Manager or their designee may extend the time period for hearing if the operation of the notice of trespass is stayed or if the appellant consents.

(g) Appeal Decisions. All appeal decisions by the Manager or their designee shall be final.

Section 25-9. Nuisance Properties.

(a) Nuisance Properties. A property may be designated a Nuisance Property when:

(1) The Police Department has been dispatched or caused to respond to the property four (4) or more times within the preceding twelve (12) month period for any incident involving a criminal offense including but not limited to disturbing the peace, trespassing, assault, noise disturbance, disorderly conduct, harassment, resident dispute, threatening behavior, intoxicated person, and drug-related activity; or

(2) The Health Officer and Zoning Administrator collectively have received four (4) or more valid complaints about the property within the preceding twelve (12) month period for noxious, noisome, unsanitary, hazardous, or Dangerous conditions.

(b) Designation. The Manager or their designee may consider evidence and designate a property as a Nuisance Property upon the recommendation of the Police Chief, Health Officer, or Zoning Administrator. Designation as a Nuisance Property may be stayed if the property owner agrees to enter into a management agreement with a timeline to address the underlying issues causing the police responses or valid complaints that is approved by the Manager or their designee. Failure to comply with the approved management agreement may result in the property being designated as a Nuisance Property.

(c) Notification. The Manager or their designee shall notify the owner of a property that has been designated a Nuisance Property in writing by certified mail or by hand. Such notification shall:

(1) List the specific address of the property that has been designated a Nuisance Property;

(2) List the number of police responses or valid complaints which have occurred on the property within a twelve (12) month period;

(3) Inform the property owner of the intention to impose charges to recover the cost of public safety expenses related to that property for the preceding twelve (12) month period and for each subsequent response or valid complaint until the property no longer meets the definition of a Nuisance Property; and

(4) Inform the property owner of the appeal process.

(d) Cost of Public Safety Response. The Police Chief, Health Officer, and Zoning Administrator shall keep an accurate record of the cost of responding to the Nuisance Property and forward that record to the Manager's office.

(e) Penalties. The Police Department is hereby authorized and empowered to issue a municipal ticket violation to the property owner of a Nuisance Property for the costs the City of Barre has incurred for its Police Department, Health Officer, and Zoning Administrator response. The maximum amount of such municipal ticket violation shall not exceed \$800.00 per offense/violation. The Waiver Fee for any municipal ticket issued in conjunction with a Nuisance Property shall be two-thirds (2/3) of the amount of the ticket. The property owner is responsible for payment of the ticket and fine in full within thirty (30) days of receiving the municipal ticket. All amounts collected by the City shall be deposited in the general fund. Any unpaid fines or orders of the Judicial Bureau, including interest and collection costs, shall be subject to civil contempt proceedings in the Judicial Bureau and/or a collection suit in superior court and foreclosure action against the property owner on any judgment order issued by the Judicial Bureau or Court.

(f) Appeal. The property owner of a designated Nuisance Property may, within seven (7) days of receipt of the notification as a Nuisance Property, appeal the decision to assess costs by request, in writing to the Manager or their designee. The written appeal shall include the appellant's name, address, phone number, and indicate whether a hearing is requested. All appeals made under this article shall be heard by the Manager or their designee. When an appeal is filed, the Manager or their designee shall meet to consider the appeal within ten (10) business days. If no hearing is requested, the Manager or their designee may consider any written submissions as part of their decision. If a hearing is requested, the appellant must be provided written notice of the date, time, and location of the hearing at least three (3) business days in advance. The Manager or their designee shall allow oral or written testimony and evidence from the appellant and the issuing official or officer. In reviewing the notice of designation, the Manager or their designee will utilize the preponderance of the evidence standard with the burden of proof on the charging official or their representative. The Manager or their designee shall issue a written decision within thirty (30) business days of the hearing, unless otherwise extended by agreement. The decision may dismiss some or all the costs and/or impose conditions for dismissal. All appeal decisions by the Manager or their designee shall be final.

Section 25-10. Applicability with other ordinances.

(a) To the extent the provisions, fines, and penalties of this Chapter conflict with the any such provision, fines, and penalties in other Chapters, this Chapter shall prevail.

Chapter 11 – OFFENSES AND MISCELLANEOUS PROVISIONS shall be amended to read as follows:

Section 11-7. Unreasonable Noise.

(d) Prohibited noise

(1) General prohibition. It shall be unlawful for any person or persons to make or cause to be made, assist in making, continue or allow to be continued any unreasonable noise. Any such noise shall be considered to be a noise disturbance and a public nuisance and shall be considered a civil violation of this ordinance. **To the extent any person makes unlawful noise consistent with the provisions of Chapter 25, such person shall be subject to the penalties in such Chapter.**

Sec. 11-8. Certain actions in public places prohibited.

~~[No person shall play ball or shall practice in any street or public place any amusement having a tendency to injure or annoy persons therein, or to endanger the security of property.]~~ No person shall place graffiti or other markings (unauthorized writing or drawing on a public surface that is a criminal act of vandalism) upon any fence, building or other public place within the city. **To the extent any person unlawfully places graffiti or other markings consistent with the provisions of Chapter 25, such person shall be subject to the penalties in such Chapter.**

An exception can be street art, or graffiti art, as approved by the City Council, such as an art installation supported by the Public Art Committee, or mural as approved by the Development Review Board.

Section 11-13. Liquor Control.

(d) General provisions. This ordinance is meant to compliment or amplify any applicable state or federal regulations, laws, statutes, ordinances or conditions.

(1) Alcohol Consumption or Possession in Public Places

(a) Prohibitions. Except as authorized in subsections (b) and (c) hereof:

(i) No person shall have constructive or actual possession of an open beverage container in any public place or in any motor vehicle located in a public place.

(ii) No person shall consume the contents of an open beverage container in any public place or in any motor vehicle in a public place.

(iii) To the extent any person unlawfully possesses an open or unsealed container which contains an alcoholic beverage, or consumes or attempts to consume any alcoholic beverage consistent with the provisions of Chapter 25, such person shall be subject to the penalties in such Chapter.

Section 11-16. Trespassing in City Parks, Playgrounds, Recreation and Smoke-Free Areas.

(h) To the extent any person engages in unlawful activity in City parks, playgrounds, recreation and smoke-free areas consistent with the provisions of Chapter 25, such person shall be subject to the penalties in such Chapter.

Section 11-18. Unlawful Trespass.

It shall be unlawful for a person who, without legal authority or the consent of the person in lawful possession, enters or remains on any land or in any place as to which notice against trespass is given by:

- (a) Actual communication by the person in lawful possession or his agent or by a law enforcement officer acting on behalf of such person or his agent: or
- (b) Signs or placards so designed and situated as to give reasonable notice.

(c) To the extent any person unlawfully trespasses consistent with the provisions of Chapter 25, such person shall be subject to the penalties in such Chapter.

Section 11-19. Disorderly Conduct.

It shall be unlawful for a person who, with the intent to cause public inconvenience, or annoyance or recklessly creating a risk therefore:

- (a) Engages in fighting or in violent, tumultuous or threatening behavior; or
- (b) Makes unreasonable noise; or
- (c) In a public place uses abusive or obscene language; or
- (d) Without lawful authority, disturbs any lawful assembly or meeting or persons; or
- (e) Obstructs vehicular or pedestrian traffic.

To the extent any person engages in unlawful disorderly conduct consistent with the provisions of Chapter 25, such person shall be subject to the penalties in such Chapter.