

Chapter 11 -- OFFENSES AND MISCELLANEOUS PROVISIONS**Sec. 11-1. False fire alarms prohibited.**

(a) It shall be unlawful for any person to ring, cause to be rung, conspire to ring and/or participate in the ringing of a false fire alarm within the city. Provisions of this section may be enforced by any law enforcement officer.

(b) A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A., Secs. 1974a and 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 the first offense, \$200.00 for the second offense within a six month period, and \$300.00 for all subsequent offenses within a six month period. Each day that the violation continues will constitute a separate violation of this ordinance. Provisions of this section may be enforced by any law enforcement officer. (Ord. No. 1983-1, 1-13-83, Ord. No. 97-2, 7-20-97)

Cross reference--Fire protection and prevention, Ch.6.

State law reference--Similar provisions, 13 V.S.A. Sec. 1751 et seq.

Sec. 11-2. Hitchhiking prohibited.

It shall be unlawful for a person, while in the traveled portion of a street, or in a public parking lot, to solicit a ride, employment or business from the occupant or occupants of any vehicle using a street or public parking lot.

Sec. 11-3. Distribution of handbills, etc., on motor vehicles prohibited.

It shall be unlawful for any person to distribute handbills, circulars, dodgers, pamphlets, cards, pictures or any other advertising matter of any kind whatsoever, by placing the same in or upon any motor vehicle standing or parked in a public parking lot or street within the city.

Sec. 11-4. City of Barre Youth Protection and Curfew Ordinance. (Ord. No. 2006-03, 2-20-07)

(a) **Legislative Intent.** The City of Barre recognizes that there is a health, safety, and welfare concern relating to crimes committed by, and committed against minors during nighttime hours; and believes that this problem can be dealt with more effectively by regulating the hours during which minors may remain in public places and certain establishments without adult supervision, and by defining more clearly certain duties and responsibilities upon those who have the custody and responsibility for care of such minors. Therefore, the City of Barre hereby enacts this ordinance to enhance the health, safety, and welfare of minors within the City of Barre and strengthen parental responsibility for such minors. (Ord. No. 2006-03, 2-20-07)

(b) **Definitions.** For purposes of this ordinance, the following terms, phrases, and words shall have the meaning given herein:

CITY – The City of Barre, Washington County, Vermont.

ESTABLISHMENT – Any privately owned place of business operated for profit to which the public is invited, including but not limited to any place of amusement or entertainment.

MINOR – Any person under the age of 16.

OPERATOR – 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 the corporation.

PARENT – Any person having legal custody of a minor as a natural or adoptive parent or as a person to whom legal custody has been given by order of court.

PUBLIC PLACE – Any place to which the public or a substantial group of the public has access and includes, but is not limited to, the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

REMAIN – To linger or unnecessarily stay, or fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

STREETS – A way or place, of whatsoever nature, open to use by the public as a matter of right for purposes of vehicular travel, or in the case of a sidewalk thereof, for pedestrian travel. This includes the legal right-of-way, including but not limited to the cart way or traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right-of-way of the “street”. The term “street” applies irrespective of what it is called or formally named, whether alley, avenue, court, road or otherwise. (Ord. No. 2006-03, 2-20-07)

(c) **Unlawful Conduct of Minors.** No minor shall be or remain upon any public place, street, or any establishment between the hours of 10:00 P.M. and 5:00 A.M., unless such minor is accompanied by a parent, step-parent, guardian or a person who stands in loco parentis, subject to the exceptions specified in section (g) of this ordinance. (Ord. No. 2006-03, 2-20-07)

(d) **Unlawful Conduct of Parent or Guardian.** No parent, step-parent, guardian, or custodian of a minor shall allow or permit said minor to remain in or upon any public place, street, or any establishment in violation of section (c) of this ordinance. (Ord. No. 2006-03, 2-20-07)

(e) **Unlawful Conduct of Establishment Operator.** No operator of an establishment, firm, or corporation, or in charge of any place of amusement, entertainment or refreshment, or other place of business, shall allow or permit any minor to remain in or upon any public place or establishment in violation of section (c) of this ordinance. (Ord. No. 2006-03, 2-20-07)

(f) **Penalties.** Any minor who violates section (c) of this ordinance, and any parent or guardian who violates section (d) of this ordinance shall be guilty of a civil offence. The violation shall be enforced in accordance with the provisions of 24 VSA Section 1974(a) and Section 1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this ordinance. A

waiver fee shall be set at:

- First Offense: Fined \$50.00, or referral to the Barre Justice Center, or both.
- Second Offense: Fined not more than \$300.00 nor less than \$100.00
- Third Offense: Within a six-month period. Fined not more than \$500.00 nor less than \$300.00.

Each time that the violation occurs, it will constitute a separate violation of this ordinance. Any law enforcement officer can enforce this section. (Sec. 11-34 added by Ordinance Number 2000-05, 7-07-00)

Any operator who violates section (e) of this ordinance shall be guilty of a civil offense. The violation shall be enforced in accordance with the provisions of 24 VSA Section 1974(a) and Section 1977 et seq. A civil penalty of not more than \$2,000.00 shall be imposed for a violation of this ordinance. A waiver fee shall be set at:

- First Offense: \$25.00 for each minor present. Not more than \$2,000.00.
- Second Offense: Within a six-month period. \$50.00 for each minor present. Not more than \$2,000.00.
- Third Offense. Within a six-month period. \$100.00 for each minor present. Not more than \$2,000.00.

Each time that the violation occurs or for each offense, it will constitute a separate violation of this ordinance. Any law enforcement officer can enforce this section. (Sec. 11-34 added by Ordinance Number 2000-05, 7-07-00)(Ord. No. 2006-03, 2-20-07)

(g) Exceptions.

- (1) A juvenile who is traveling to or from an activity involving the exercise of first amendment rights of speech, freedom of assembly or freedom of religion. A juvenile who wished to exercise their rights pursuant to this section must notify the Chief of Police or his/her designee in writing at least 24 hours in advance of the gathering where these rights will be exercised. Said travel must be a direct path and must be for a period thirty (30) minutes before and thirty (30) minutes after said event. The parent must have knowledge of the event.
- (2) The provisions of this ordinance shall not apply to any minor who is engaged in gainful, lawful employment during the curfew hours or who is traveling in a direct path to or from such employment.
- (3) The provisions of this ordinance shall not apply to any minor who is attending any scheduled school, artistic, civic, cultural, educational, religious, or sporting event, or traveling to or from any scheduled school, artistic, civic, cultural, educational, religious, or sporting event. Said travel must be a direct path and must be for a period thirty (30) minutes before or thirty (30) minutes after said event. The parent must have knowledge of the event.
- (4) The provisions of this ordinance shall not apply to a minor who is on the sidewalk of the

place where the minor resides or on the sidewalk abutting the minor's residence. (Ord. No. 2006-03, 2-20-07)

Sec. 11-5. Regulation of firearms.

(a) **RESERVED.** (Ord. No. 96-5, 12/08/96)

(b) **PERMIT REQUIRED FOR DISCHARGE.** No person shall discharge within the limits of the city any air-powered gun, spring activated or BB gun, so called, rifle or firearm, or any instrument with firing powers which contains pellets, or bullets, and whether or not loaded with powder or other explosive substance or compound, without a permit from the chief of police.

Sec. 11-6. Explosives; permit for discharge required.

No person shall discharge, set off or use in any manner dynamite, gunpowder, nitroglycerine or other explosive substance for any purpose within the limits of the city, without first obtaining a permit to use any such explosive from the chief of police and then only under the supervision and control of a person trained in the use of such explosive substance.

Permits issued by the chief of police or in his absence the deputy chief or captain of police, shall be in writing, designating the date, purpose of the permit, and the location where the explosive or firearms shall be used with the names of persons so supervising and authorized.

Sec. 11-7. Violation of firearm and explosive regulations; penalty.

Any person who shall violate any provisions of this chapter relating to firearms and explosives or who fails or refuses to comply or conform with the provisions of any required permit issued shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than ninety (90) days or both.

Cross reference--Fire prevention and protection, Ch.6.

Sec. 11-8. Entry of peddlers, etc., prohibited; penalty; exception.

It is hereby enacted by the council that the practice of going in and upon private residences by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited so to do by the owner or owners, occupant or occupants of said private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of or peddling or hawking the same is hereby prohibited and punishable by a fine not to exceed seventy-five dollars (\$75.00). This section shall not apply to vendors of meats, farm produce or provisions.

Sec. 11-9. Open fires.

No person shall make an open fire in the city without the permission of the fire chief. No person shall build a fire in a yard or lot without attendance by some reasonable person who shall see that the fire is extinguished before leaving it. (Ord. No. 1983-1, 1-13-83)

Cross reference--Fire prevention and protection, Ch. 6.

Section 11-10. Loitering, Establishment of Pedestrian Way, and Aggressive Panhandling.

a) Loitering prohibited.

(1) Definitions. As used in this section:

- (a) "Loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly loafing or walking about aimlessly.
- (b) "Public place" used herein shall mean all city streets, sidewalks, parks, parking lots and any other property under the control and/or jurisdiction of the City of Barre.
- (c) Certain types of loitering prohibited. No person shall loiter in a public place in such manner as to:
 - (1) Create or cause to be created a breach of the peace.
 - (2) Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.
 - (3) Obstruct the free passage of pedestrians or vehicles.
 - (4) Obstruct, molest, or interfere with any person lawfully in any public place as defined in Section 11-10a(1)(c)(1-3) of this code. This paragraph shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to, or in those hearing, they are made.

(2) Discretion of police officer. Whenever any police officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing any of the conditions enumerated in Sec. 11-10a(1)(c), he may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.

(3) Penalty: A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance, however the waiver fee shall be set at:

- o First Offense: \$75.00 (not more than \$500.00)
- o Second Offense (within a 6-month period): \$100.00 (not more than \$500.00)
- o Third Offense (within a 6-month period): \$150.00 (not more than \$500.00)
- o Each time that the violation occurs, it will constitute a separate violation of this ordinance. Any law enforcement officer can enforce this section.

b) Establishment of pedestrian way on Main Street

(1) Intent. This section is enacted to protect the public safety and to provide for unencumbered passage for pedestrians and disabled citizens on Main Street and to promote the economic vitality of the downtown area.

- (2) Establishment of pedestrian way. An area of nine (9) feet on each side of the Main Street is hereby established as a pedestrian way. This area shall be used exclusively for pedestrian passage. For purposes of this section, the use of wheelchairs and motorized carts by disabled citizens shall be considered a pedestrian use. The pedestrian way shall extend nine (9) feet in from the curb line ending at the property line or approved encumbrance whichever is lesser. "Main Street", for the purpose of this section shall be defined as the section of Main Street starting at Rt. 62 in a southerly direction including both sides of the Street ending at the South Side of City Hall Park. This shall include the Park, the sidewalk in front of the Aldrich Library and the walkway in front of the Post Office.
- (3) Prohibition. No person, after notice from a law enforcement officer of this prohibition, shall continue to sit, lie down or otherwise block in any way the free flow of pedestrian traffic within this designated pedestrian way. It shall also be prohibited to place any encumbrance in the pedestrian way including, but not limited to, sandwich board signs or other types of advertising.
- (4) Exception. Exceptions are in cases where a business or property owner is authorized by the City to place an encumbrance within the Pedestrian right-of-way.
- (5) Penalty: A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance, however the waiver fee shall be set at:
- o First Offense: \$75.00 (not more than \$500.00)
 - o Second Offense (within a 6-month period): \$100.00 (not more than \$500.00)
 - o Third Offense (within a 6-month period): \$150.00 (not more than \$500.00)

Each time that the violation occurs, it will constitute a separate violation of this ordinance. Any law enforcement officer can enforce this section.

c) Aggressive panhandling prohibited

- (1) Findings. The Barre City Council finds that aggressive begging, panhandling, or solicitation negatively affects the following significant governmental interests:
- (a) Protection of citizens from physical threats or injury and from damage to property;
 - (b) Prevention of harassment and intimidation of members of the public;
 - (c) Prevention of violent crime;
 - (d) Traffic control and public safety;
 - (e) Orderly movement of traffic and pedestrians; and
 - (f) Provision and maintenance of a safe, aesthetically attractive environment in areas designed to attract tourist revenue.

The city council finds that aggressive begging, panhandling or solicitation is extremely disturbing and disruptive to the public and contributes to a loss of access to and enjoyment of public place, and to an enhanced sense of fear, intimidation, and disorder. This law is intended to promote these governmental interests and combat the negative effects of aggressive begging,

panhandling or solicitation. It is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity.

(2) Definitions. For the purpose of this section:

(a) Aggressive manner shall mean any of the following:

- (1) Approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another or damage to or loss of property or otherwise be intimidated into giving money or other thing of value;
- (2) Continuing to solicit from a person or continuing to engage that person after the person has given a negative response to such soliciting;
- (3) Intentionally or recklessly touching or causing physical contact with another person or that person's property without that person's consent in the course of soliciting;
- (4) Intentionally or recklessly blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
- (5) Using violent, obscene or threatening gestures toward a person solicited;
- (6) Following the person being solicited, with the intent of asking that person for money or other things of value;
- (7) Speaking in a volume unreasonably loud under the circumstances;
- (8) Soliciting from anyone who is waiting in line.

(b) Soliciting shall mean asking for money or objects of value in a public place, with the intention that the money or object be transferred at that time, and at that place. Soliciting shall include using the spoken, written or printed word, bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services. However, this ordinance is not intended to proscribe any demand for payment for services rendered or goods delivered. Nor is this ordinance or the definition of solicitation intended to include or proscribe fixed advertising attached to an existing premises. Nor is it intended to include or proscribe signs or written material allowed under City Ordinance Section 21-5 or any other applicable city ordinance, regulation, license or permit.

(c) Public place shall mean a place where a governmental entity has title to or which the public or a substantial group of persons has access, including but not limited to any street, highway, parking lot, plaza, transportation structure, facility or vehicle, school, place of amusement, park, playground or sidewalk or to the doorways and entrances to buildings or dwellings, or grounds enclosing them.

(d) Financial institution shall mean any banking corporation, credit union, foreign exchange office or like institution as defined in §11101 of Title 8 of the Vermont Statutes Annotated.

- (e) Check cashing business shall mean any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to Title 8 of the Vermont Statutes Annotated.
 - (f) Automated teller machine shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.
 - (g) Automated teller machine facility shall mean the area comprised of one or more automatic teller machines and any adjacent space which is made available to banking customers after regular banking hours.
- (3) Prohibited acts.
- (a) No person shall solicit in an aggressive manner in any public place.
 - (b) No person shall solicit on private or residential property without permission from the owner or other person lawfully in possession of such property.
 - (c) No person shall solicit within fifteen (15) feet of public toilets.
 - (d) No person shall solicit within fifteen (15) feet of any entrance or exit of any financial institution or check cashing business or within fifteen (15) feet of any automated teller machine without the consent of the owner of the property or another person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.
 - (e) No person shall solicit while under the influence of alcohol or a controlled substance.
 - (f) No person shall solicit by stating that funds are needed to meet a specific need, when the solicitor has the funds to meet that need, does not intend to use funds to meet that need or does not have that need.
 - (g) No person shall solicit in any public transportation vehicle, or within fifteen (15) feet of any handicapped parking space, taxicab stand, bus, train or subway station or stop or in any public parking lot or structure or dedicated walkway to such parking lot or structure.
 - (h) No person shall solicit within fifteen (15) feet of an entrance to a building.
 - (i) No person shall solicit within fifteen (15) feet of any valid vendor location as set forth in Chapter 23 of this Code of Ordinances.
 - (j) No person shall solicit within fifteen (15) feet of any pay telephone or public information booth, board or other structure, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility.

- (k) No person shall solicit in an area unless the area is sufficiently illuminated to allow the solicitee to fully observe the solicitor at a distance of fifteen (15) feet.

4) Penalty:

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance, however the waiver fee shall be set at:

- o First Offense: \$75.00 (not more than \$500.00)
- o Second Offense (within a 6-month period) \$100.00 (not more than \$500.00)
- o Third Offense (within a 6-month period) \$150.00 (not more than \$500.00)

Each time that the violation occurs, it will constitute a separate violation of this ordinance. Any law enforcement officer can enforce this section. (Ord. No. 2008-02, 7-01-08)

Sec. 11-11. Nuisances prohibited; abatement.

No person shall permit any obstruction or nuisance, for which he, they, or it shall be responsible, to remain in or upon any street, highway, lane or other public place in the city, nor suffer any nuisance or immoral, indecent, obscene or unlawful practices, games or occupations to exist or remain upon or in his or its premises, or upon or in premises occupied or controlled by him or it. And such person shall immediately on request or written order of any member of the council, police officer or superintendent of streets, remove, abate or discontinue such obstruction, nuisance or practice. And in case said person shall fail to obey or comply with such request or order, either of said officers may remove, or cause to be removed and abated, such obstruction, nuisance or practice at the expense of the person, firm or corporation causing, suffering or permitting the same.

Sec. 11-12. Cellar doors, etc.; restrictions.

No person shall construct any cellar door, coal door, or trap door, projecting into any sidewalk, or leave the same open without the consent of the council. The upper surface of every coal-hole cover and all iron plates on cellar and trap doors in any sidewalk in the city shall be made and kept at all times roughened or studded over so as to prevent danger or injury to pedestrians.

Sec. 11-13. Certain noises prohibited.

No person shall cry any wares, or ring, or cause to be rung any bell or bells or use or cause to be used, any drum, horn, or other noisemaking instrument in any street, to the disturbance of the peace and comfort of the inhabitants thereof, for the purpose of advertising or for giving notice of the exercise of the business or calling, or for the sale of any article. And no person shall while operating an automobile or motor vehicle upon any street in the city open the muffler cutout but this shall not apply to motor-driven fire trucks.

Sec. 11-14. Coasting, sliding, etc., prohibited.

No person shall coast, course, slide or skate on any sleigh, sled, or other vehicle in any of the streets, or highways of the city or upon the sidewalks thereof. (Ord. No. 1983-1, 1-13-83)

Editor's note--Ord. No. 1985-4, enacted May 7, 1985 amended the Code by deleting Sec. 11-15. Formerly Sec. 11-15 pertained to riding bicycles and other similar vehicles on sidewalks and derived from the Code as enacted Nov. 16, 1976.

Sec. 11-15. Unreasonable Noise.

(a) **AUTHORITY**

Under authority granted in 24 V.S.A. 2291(14), and 24 V.S.A. Chapter 59, the City Council of the City of Barre hereby ordains the following civil ordinance regulating unreasonable and objectionable noise.

(b) **PURPOSE**

The purpose of this section is to preserve the public health, safety, and welfare by prohibiting excessive and disturbing noise and to prevent noise which is prolonged , unreasonable or unsuitable for the time and place and which is detrimental to the peace and good order of the community. It is the goal of this section to allow all residents of our city to peacefully coexist in a manner which is mutually respectful of the interests and right of each others.

(c) **DEFINITIONS**

As used in this section, the following term shall be defined as follows, all others as outlined in 24 V.S.A..

(1) Unreasonable Noise. Noise that, either by persistence, loudness, content, or time of occurrence, annoys, disturbs, injures, or endangers the reasonable quiet, comfort, repose or the health or safety of others within the City of Barre.

(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.

(2) Defined prohibitions. The following acts, which the list shall not be deemed to be exclusive, are declared to be unreasonable and therefore a noise disturbance and a civil violation of this ordinance:

- a) Radios, television sets, musical instruments, phonographs and similar devices. The operation of, or permitting the use of, any musical instrument, radio, television, phonograph, or other devices for the production or reproduction of sound in such a manner with regards to volume, duration, or content, as to disturb the reasonable peace, quiet, or comfort of the public or in such a manner as to be audible through walls of nearby property or from the street.

- b) Motor vehicle sound equipment. The operation or permitting the operation of radio, stereo or other sound amplification equipment from a motor vehicle that is audible from twenty-five (25) feet from the vehicle or audible upon a city sidewalk. The term “motor vehicle” shall be as defined in 23 V.S.A., Chapter 1, Section 4 (21).
 - c) Motor vehicle noise.
 - (i) No motor vehicle shall be operated with muffler and/or exhaust system louder than the vehicle’s original equipment.
 - (ii) Misuse of power exceeding tire traction limits in acceleration sometimes known as “laying down rubber” or “peeling rubber”.
 - (iii) Misuse of braking power exceeding tire traction limits in deceleration where there is no emergency.
 - (iv) Rapid acceleration by means of quick up shifting of transmission gears with either a clutch & manual transmission or automatic transmission.
 - (v) Rapid deceleration by means of quick downshifting of transmission gears with either a clutch and manual transmission or automatic transmission.
 - (vi) Racing of engines by manipulation of the accelerator, gas pedal, carburetor, or gear selection whether the vehicle is either in motion or standing still.
 - (vii) The blowing of any horn except as a warning signal or the use of any other noise making device whether the vehicle is either in motion or standing still.
 - d) Parties and other social events. It shall be unlawful for any person in charge of a party or other social event to allow that party or event to produce unreasonable noise. A person shall be deemed to be in charge of a party or social event when that event occurs on private property and the person is present at the event and resides on the premises involved or is a person who lives in or on the premises involved and who has authorized the use of the premises for such event.
 - e) Machinery. The operation or permitting or directing the operation of any power equipment or machinery outdoors between the hours of 9:00 p.m. and 6:00 a.m. except in emergency situations.
 - f) Construction noise. The excavation, demolition, erection, construction, alteration or repair of any premises or structure between the hours of 9:00 p.m. and 6:00 a.m. except in emergency situations.
 - g) Loudspeakers. The use of loudspeakers or other sound amplification equipment from any property onto the public streets or from upon the public streets for any purpose unless given prior approval in accordance with Subsection (3)(e) below.
- (3) 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 sirens.
- 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 and conduct.
- d) Musical, recreational and athletic events conducted by and on the site of a school or educational institution.
- e) Events and activities conducted by or permitted by the city. Persons operating an event or activity under authority of an entertainment permit, parade/street event permit, solid waste license, or special event permit shall comply with all conditions of such permits or licenses with respect to noise control issues.
- f) Construction or repair work which 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.

(e) PENALTIES

(1) First offense. A first offense of any provision of this ordinance by a person during any twelve month period shall be deemed a civil violation and shall be punishable by a fine of one hundred fifty dollars (\$150.00), the waiver fine shall be one hundred dollars (\$100.00).

(2) Second and subsequent offenses. A second offense during a twelve-month period shall be deemed to be a civil violation and shall be punishable by a fine of two hundred fifty dollars (\$250.00), the waiver fine shall be two hundred dollars (\$200.00). Each subsequent offense shall be deemed a civil violation and shall be punishable by a fine of five hundred dollars (\$500.00), the waiver fine shall be four hundred dollars (\$400.00).

(f) ENFORCEMENT

Any certified Vermont Law Enforcement officer shall be the designated enforcement officers. They shall issue complaints and may be the appearing officer at any hearing.

(g) SEVERABILITY

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance

(h) EFFECTIVE DATE

This ordinance shall become effective 20 days after its adoption by the Barre City Council and publication in the Times Argus. If a petition is filed under 24 V.S.A. 1973, the taking effect of this ordinance shall be governed by that statute. (Ord. No. 1989-9, 8/29/89) (Ord. 97-2, 7/20/97) (Revised Ord. No. 2002-01, 3/14/02)

Sec. 11-16. Washing windows and sweeping; restrictions.

No person shall wash, or clean, or cause to be washed or cleaned, between the hours of 9:00 a.m. and 10:00 p.m. any window or part of a building located upon any street in the city, in such a manner as to wet or litter up any portion of the sidewalk or street. And no person shall sweep, throw or place any store or house sweepings, dirt or rubbish of any kind upon any sidewalk, or street or in any sewer, or so sweep, throw or place any such sweepings, dirt or rubbish that it will be liable to be pushed, blown, washed or otherwise carried upon any sidewalk or street or into any sewer.

Sec. 11-17. Defacing buildings, etc., prohibited.

No person shall deface by marking with paint or other material, or in any other way injure or deface any building, fence or post within the city.

Sec. 11-18. 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, nor behave himself in a rude or disorderly manner, or use any indecent, profane or insulting language in any street, lane or alley, or public place in the city, or near any dwelling, house or building therein, or saunter or loiter upon any sidewalk or public place after being directed by a police officer to move on, or be or remain upon any doorstep, portico or other projection from any such house or other building, to the annoyance or disturbance of any other person. No person shall make any indecent figures or obscene words upon any fence, building or other public place within the city.

Sec. 11-18A. Prohibition of baseball playing at North Barre Recreation Field.

The playing of baseball is hereby prohibited at the North Barre Recreation Field. (Ord.No. 1989-5, 5-16-89).

Sec. 11-19. Deposit of rubbish, etc., prohibited in streets, streams, etc.

No person shall put, place or deposit, or cause to be put, placed or deposited, in any street, lane or alley, or other public place in the city, or upon the banks of, or in the streams running through the city, or in or upon any vacant lot abutting on or adjacent to any such street, lane, alley or public place, any mill, shop, factory or house dirt, ashes, shreds, shavings, filth, offal, or rubbish of any other kind, except under the direction of the board of health. No person shall leave in or upon any street, lane or alley of the city any wood, stone, boxes, barrels or bags or any other object or thing liable to obstruct public travel.

Sec. 11-20. Deposit of trash in fountains prohibited.

No person shall place any substance or material in any drinking fountain, trough or basin of water set up and established in any street, square or park for the use of man or beast.

Sec. 11-21. Injuring, destruction of light post, etc., prohibited.

No person shall injure, deface or destroy any guide post or guide board or electric light post or light thereon, or any building, fence, post or other thing, set, erected, or made for use or ornament of the city, nor shall any person move, mutilate or destroy without the consent of the owners thereof, any sign, signpost, awning-post, or other thing, the private property of individuals lawfully set, erected, or placed in or upon any street, highway or public place in the city.

Sec. 11-22. Snow, ice, water; falling from buildings prohibited; required guards.

A person owning a building from which snow, ice or water slides or falls, or may slide or fall, upon a street or sidewalk, shall put and maintain such guards upon the roof of the building as will prevent snow, ice or water from sliding or falling from the same upon the street or sidewalk.

Sec. 11-23. Deposit of snow and ice on sidewalk, into street, or water way prohibited; penalty for violation.

(a) No person shall plow, dump, throw, shovel, propel, deposit or cause to be plowed, dumped, thrown, shoveled, propelled or deposited, snow or ice from private property into the street or public sidewalk, or into the water way.

(b) If snow or ice is plowed, dumped, thrown, shoveled, propelled or deposited on the street or, public sidewalk or into the water way from private property, the superintendent of streets shall remove such snow and ice at the expense and charge of the abutting and/or offending property owner or tenant, which expense and charge may be recovered with full costs, in an action of contract in the name and behalf of the city, and the person, partnership, or corporation causing such snow or ice to be plowed, dumped, thrown, shoveled, propelled or deposited from private property onto the street, public sidewalk or into the water way, shall be fined one hundred dollars (\$100) for a first offense, five hundred dollars (\$500) for a second offense, and one thousand dollars (\$1,000) for a third or subsequent offenses.

(c) The chief of fire or police or his/her designee shall promptly notify the superintendent of streets of any violation of the provisions of this section. (Ord. 2015-01, 7-28-15)

Sec. 11-24. Defacing, etc. signs on streets prohibited.

No person shall willfully tear down, injure or deface any sign or painting placed on any part of any street.

Sec. 11-25. Loaded vehicles; hazards prohibited; penalty.

No person shall operate on the streets or roads within the limits of the city any vehicle with any size load, unless the vehicle is so constructed or so loaded as to prevent such load or any portion from becoming dislodged, detached or in any manner a hazard to other users of said streets and roads or which caused said street or road to be littered. Violation of this provision shall be punishable by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

Sec. 11-26. Open excavations and pits prohibited; fencing required.

From and after the effective date of this section, no person, firm, partnership or corporation shall, within the city, maintain an open excavation, gravel or granite refuse (sludge) pit without adequate protective fencing around such areas.

The owner, operator, contractor, or custodian of any such excavation, gravel or granite refuse (sludge) pit which is located in the city shall, while such areas are in use and operation, maintain adequate protective fencing around all such areas exposed to the public. Such protective fencing shall be a four-foot high steel chain linked fence and shall not be removed unless and until all dangerous conditions incident to these areas have been removed.

Violation of any provision of this section shall be subject to a fine of not more than fifty dollars (\$50.00) per day for each day the violation continues. (Ord. No. 1976-3, 7-27-76; Ord. No. 1983-1, 1-13-83)

Sec. 11-27. Liquor Control.

(a) AUTHORITY

Under authority granted in 7 V.S.A. Chapters 1-25, and 40; 1 V.S.A. Chapter 9; 11A V.S.A. Chapter 8; 12 V.S.A., Part 10, Chapter 213; 13 V.S.A., Part 1, Chapters 51, 85; 17 V.S.A. Chapter 35; 18 V.S.A., Part 2, Chapter 37; 20 V.S.A. 20, Part 5, Chapter 111; 24 V.S.A., Part 2, Chapter 61, Subchapter 11; V.S.A. 32, Subtitle 2, Part 5, Chapter 239; the City Council of the City of Barre hereby ordains the following civil ordinance regulating liquor.

(b) PURPOSE

The purpose of this section is to preserve the public health, safety, and welfare by regulating the sale and the consumption of alcoholic beverages within the City of Barre. It is the goal of this section to allow alcohol related businesses and the residents of the City to peacefully coexist in a manner which is mutually respectful of the interests and rights of each other. This Ordinance is intended to amend and replace the prior Sec. 11-27 contained within the Official Code of Ordinances and referred to as "Ord. No. 1977-3, 9-6-77, Revised Ord. No. 1989-8, 8-1-89."

(c) DEFINITIONS

As used in this section, the following terms shall be defined as follows, all others as outlined in 7 V.S.A., Chapter 1, Sec 2.

- (1) **Public Place.** A public place shall mean any bridge, culvert, roadway, street, square, fairground, sidewalk, alley, playground, park, or school property or other place that is open temporarily or permanently to the public with respect to general circulation of motor vehicles or pedestrians within the City Of Barre.
- (2) **Open Beverage Container.** A container, bottle, can or vessel containing malt or vinous beverages or spirituous liquors, which is opened.
- (3) **Minor.** A person who has not attained the age of 21.
- (4) **Under 21/Teen Night.** An event held by an establishment holding a First Class Cabaret license for the expressed purpose of entertaining patrons who are under the age of 21 and where no alcoholic beverages are consumed.
- (5) **Motor Vehicle.** "Motor Vehicle" means any vehicle, which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, and motorcycles.
- (6) **Licensee.** An establishment holding a first class cabaret license approved by the City of Barre Liquor Control Board.

(d) **GENERAL PROVISIONS**

This ordinance is meant to compliment or amplify any applicable state or federal regulations, laws, statues, 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.

b) Notwithstanding subsection (a)(i) and (a)(ii) hereof, it shall not be unlawful to possess an open beverage container or to consume the contents thereof in the Municipal Auditorium and its grounds, the Barre Opera House and its upstairs lobby, Rotary Park Picnic area, or any other city-owned public place when the event where alcoholic beverages will be consumed has been authorized by the City Council with the following restrictions:
(Amended Ord. No 2008-04, 9-08-08)

- (i) The contents of the open beverage container must be consumed between the hours of 7:00 a.m. and 9:00 p.m. daily.

- (ii) No possession or consumption occurs on the roadways, sidewalks or parking lots within such city owned areas, as defined within this subsection (b) without specific City Council approval. (Amended Ord. 2008-04, 9-08-08)
 - (iii) No possession or consumption is of or from glass containers or beer kegs, so called.
- c) Notwithstanding subparagraphs (a) and (b) hereof, the City Council may give specific advance approval for possession and consumption from open beverage containers, including beer kegs, within city property up to and after 9:00 p.m. daily.

(e) RESTRICTIONS OF MINORS

(1) It shall be prohibited, under the terms of this subsection and applicable Federal and State regulations, for any Minor to purchase, possess or consume any malt or vinous beverage or spirituous liquor within the City of Barre.

- a) The odor or presence of malt or vinous beverage or spirituous liquor upon the breath of any minor shall be prima facie evidence of possession for the purposes of this subsection. If a law enforcement officer has reasonable grounds to believe that the Minor has consumed any malt or vinous beverage or spirituous liquor, the officer may require the Minor to submit to a field evidentiary test.
- b) The parents, guardian, or custodian of a Minor under the age of 18 years old, alleged to be in violation of this subsection, shall be notified as soon as reasonably possible of the alleged violation.
- c) A Minor who violates this subsection commits a civil offense which is punishable by an initial fine of two hundred dollars (\$200.00), the waiver fine will be one hundred fifty dollars (\$150.00). At the discretion of the City of Barre Liquor Control Board, the initial fine may be waived upon successful completion of an approved alcohol and drug screening program. For a second violation, the fine will be three hundred dollars (\$300.00), the waiver fine will be two hundred and fifty dollars (\$250.00). For the third and any subsequent violation, the fine will be five hundred dollars (\$500.00), the waiver fine will be four hundred and fifty dollars (\$450.00).

(2) A Minor who falsely represents his or her age for the purpose of procuring malt or vinous beverages or spirituous liquor commits a civil offense which is punishable by a penalty as outlined in Subsection I 1 and 2 of this ordinance.

(3) It shall be prohibited, under the terms of this subsection and applicable Federal and State regulations, for anyone to serve, purchase for, or possess for a Minor any malt or vinous beverage or spirituous liquor within the City of Barre.

(4) It shall be prohibited, under the terms of this subsection, for any Minor to be a patron in any establishment holding a Cabaret license, as defined in 7 V.S.A., Chapter 1, Section 2(5), after the hour of 8:00 P.M, on a daily basis, until closing time of such an establishment except as noted in Section (G) UNDER 21/TEEN NIGHT EVENTS.

(f) HOURS OF OPERATION

Notwithstanding the language of 7 V.S.A., Chapter 3, Section 62, as amended, the Liquor Control Board of the City of Barre further defines the hours of operation as follows:

- (1) First or First & Third Class. First or First & Third class licensees may sell malt and vinous beverages or spirituous liquor between the hours of 8:00 a.m. and 2:00 a.m. the next morning, or to the hours as specified in 7 V.S.A. §62, whichever is earlier. (Amended Ord. No. 2009-03, 09-08-09, Amended Ord. No. 2009-04, 10/20/09)
- (2) Second Class. Second Class licensees may sell malt and vinous beverages between the hours of 6:00 a.m. and 12:00 a.m. the next morning, Sunday through Saturday.

(g) UNDER 21/TEEN NIGHT EVENTS

(1) Permit Requirements.

- a) Under 21/Teen Night Events (the “Event”) shall be limited to licensees in good standing.
- b) Licensee shall register the event with the Barre City Police Department at least 21 calendar days prior to the scheduled Under 21/Teen Night event. The Police Department shall provide each applicant with the event registration form BA11-27R (dated March 1, 2002) or any form deemed to be a successor form or replacement form for BA11-27R.
- c) Using the registration form, the licensee shall provide a detailed plan outlining the staffing levels, the training status of employees, and the other resources available to host the event. The staffing levels, not to include bar personnel, entrance admittance personnel, or other functions (i.e. kitchen, janitorial) shall be at a level of at least one staff person per 30 patrons solely for the purpose of monitoring patron activities. At the discretion of the City Council, the licensee may be required to have a uniformed officer from the Barre City Police Department on the premises at all time at the licensee’s expense.
- d) Within five calendar days of submitting the event registration, the Barre City Police Department will determine if there will be sufficient law enforcement and public safety resources available on that date to deal with any safety, health, and public welfare issues associated with the event. If it is determined there are insufficient resources available, the event will not be permitted.
- e) The establishment authorized to hold this event must, at all times, be in compliance with all City and State laws, ordinances, regulations and statues and must comply with all restrictions and conditions required by the permit issued under this subsection (G).

Violation of any laws, ordinances, regulations or statutes or specific conditions of the permit issued under this subsection (G) is grounds for suspension or revocation of the permit.

- f) The application shall be presented to the City of Barre Liquor Control Board for its approval. Once approved, the Barre City Manager is responsible for administration of the permit.

(2) Event Restrictions.

- a) No malt or vinous beverages or spirituous liquors will be served at any time during the event.
- b) No patrons, 21 years old or older, will be allowed into the event or on the licensed premises if the event should occupy less than the entire licensed premises.
- c) The Barre City Council reserves the right to amend the ages limits of the event.
- d) These events will be “no smoking and “no tobacco products” events in total.
- e) All malt and vinous beverages and spirituous liquors will be locked up and hidden from the view of the patrons.
- f) No admittance of anyone after 11:00 p.m.
- g) No re-entry of anyone.
- h) No free distribution of glassware.

(h) **FEES**

The fee schedule is as outlined in 7 V.S.A. Section 231 Fees for Licenses.

(i) **PENALTIES**

Expected as authorized in Section (E)(1)(c), which provides its own set of penalties for violations of that section, penalties for violations of any other provision of this ordinance (Sec 11-27) shall be as follows:

- (1) First offense. A first offense of any provision of this ordinance by a person during any twelve month period shall be deemed a civil ordinance violation and shall be punishable by a fine of one hundred fifty dollars (\$150.00), the waiver fine shall be one hundred dollars (\$100.00).
- (2) Second and subsequent offenses. A second offense during a twelve-month period shall be deemed to be a civil offense and shall be punishable by a fine of three hundred dollars (\$300.00), the waiver fine shall be two hundred fifty dollars (\$250.00). Each subsequent

offense shall be deemed a civil offense and shall be punishable by a fine of five hundred dollars (\$500.00), the waiver fine will be four hundred fifty dollars(\$450.00).

(j) ENFORCEMENT

Any certified Vermont law enforcement officer shall be the designated enforcement officers. They shall issue complaints and may be the appearing officer at any hearing.

(k) SEVERABILITY

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

(l) EFFECTIVE DATE

This ordinance shall become effective 20 days after its adoption by the Barre City Council and published in the local newspaper. If a petition is filed under 24 V.S.A. 1973, the taking effect of this ordinance shall be governed by that statute. (Ord. No. 1977-3, 9/6/77, 1989-8, 8/1/89, Ord. 2002-02, 3/14/02)

Sec. 11-28. Harassment of police dogs prohibited.

Any person who shall torture, torment, harass, beat, kick, strike, mutilate, injure, disable or otherwise mistreat a dog owned or used by the Barre City Police Department or a police agency of the state or any of its political subdivisions, or whoever, willfully by any action whatsoever, interferes with the lawful performance of such dog shall be punished by a fine of not more than two hundred and fifty dollars (\$250.00). (Ord. No. 1985-8, 1/7/86)

Sec. 11-29. Collection of Bad Debts.

Miscellaneous accounts receivable, parking tickets, and associated interest and penalties which are deemed to be un-collectable by the City Tax Collector or the City Treasurer shall be turned over to a collection agency designated by the City Council once said debts are more than sixty (60) days past due. (Ord. No. 1986-1, 9-30-86)

Sec. 11-30. Penalties for False Security Alarms.

- (a) An alarm system user shall be responsible for all false alarms generated by their system or devices.
- (b) The City Treasurer shall charge and collect from the alarm system user the following user fees for false alarms:
 - (1) Each alarm user shall be entitled to one (1) false alarm during a six (6) month period, without being assessed a service fee.

- (2) A Service fee of \$40.00 shall be imposed for all sceeding false alarms occurring during the same six (6) month period.
- (3) The fee must be paid within seven days or a 50 % penalty will be added thereto. (Ord. 1991-3, 6/25/91)

Sec. 11-31. Trespassing in City Parks, Playgrounds, Recreation and Smoke-Free Areas.
(Ord. No. 2013-01, 09/04/12)

(a) Hours of operation. Public Parks as defined herein within the City shall be open for use between the hours of 6:00 A.M. and 10:00 P.M. only; provided, however, that for programs or events sponsored or approved by the City, or for which a City Permit has been issued, said hours of operation may be extended during any such program or event and for a period of sixty minutes following the conclusion of such program or event. Signs stating park hours shall be posted prominently in each park. (Ord. No. 2013-01, 09/04/12)

(b) Hours of operation. Public playgrounds and recreation areas as defined herein within the City shall be open for use between the hours of 8:00 A.M. and 9:00 P.M. only; provided, however, that for programs or events sponsored or approved by the City, or for which a City Permit has been issued, said hours of operation may be extended during any such program or event for a period of sixty minutes following the conclusion of such program or event. Signs stating hours of operation shall be posted prominently in each playground and recreation area. (Ord. No. 2013-01, 09/04/12)

(c) Smoke Free Areas. Smoke-Free Areas within the City may be designated by the City Council for programs or events sponsored or approved by the City. Signs stating program or event, or represented by emergency vehicles, barricades and/or staff shall be prominent during said program or event. (Ord. No. 2017-03, 06/06/17)

(d) Effective twenty days following publication after Council approval, the City Council sall have the authority to restrict smoking at all public areas serving the Heritage Festival at its discretion and upon majority vote. (Ord. No. 2017-03, 06/06/17)

(e) Public Parks, Playgrounds and Recreation Areas and on public property twenty-five (25) feet beyond the physical boundaries of Public Parks, Playgrounds and Recreation Areas shall be designated as Smoke-Free areas. (Ord. No. 2013-01, 09/04/12; Ord. No. 2017-03, 06/06/17)

(f) No food and/or drink around Youth Triumphant. No food and/or drink is allowed on or around the Youth Triumphant memorial, including the statue, bench, steps, apron and all granite areas surrounding the memorial. (Ord. No. 2013-04, 09/04/12)

(g) Definitions. The following are defined as public parks within the City of Barre:

- (1) City Hall Park.
- (2) Currier Park.
- (3) Dente Park.
- (4) Rotary Park.

The following are defined as public playgrounds and recreation areas within the City of Barre:

- (1) Rotary Park. Includes picnic shelters, ball field, tennis courts, basketball courts, skate park, pool, playground and all parking areas.
- (2) Matthewson Playground.
- (3) Garfield Playground.
- (4) Vine Street Playground.
- (5) Nativi Playground.
- (6) Wobby Park Playground.
- (7) Tarquinio Park.
- (8) North Barre Ice Rink.
- (9) Bailey Recreation Field.
- (10) Lincoln School Recreation Field. (Ord. No. 2013-01, 09/04/12)
- (11) Cow Pasture. (Ord. No. 2017-03, 06/06/17)

“Tobacco products” and “Tobacco substitute” shall have the meanings given in 7 V.S.A. §1001. (Ord. No. 2017-03, 06/06/17)

(h) Separability. The provisions of this ordinance are separable, and the invalidity of any part of this ordinance shall not affect the validity of the rest of the ordinance.

(i) Enforcement. Provisions of Section 11-31 may be enforced by any law enforcement officer. (Ord. 1996-2, 6/10/96)(Ord. No. 2013-01, 09/04/12)

(1) Where a person fails to remedy a violation to the satisfaction of the law enforcement officer, the officer may bring appropriate action to enforce the provisions of this ordinance. Enforcement may be by any means allowed under state law including, but not limited to:

- (a) The law enforcement officer may issue, or direct to have issued, a Municipal Complaint and pursue enforcement before the Judicial Bureau in accordance with the provisions of 24 V.S.A. §1974 and §1977 with penalties as prescribed below:
 - i. First offence. A first offence of this ordinance shall be punishable by a fine of one hundred fifty dollars (\$150.00), the waiver fine shall be one hundred dollars (\$100.00).(Ord. No. 2017-03, 06/06/17)
 - ii. Subsequent offences. Any subsequent offences of the same provision of the bylaws within a 12 month period shall be punishable by a fine of three hundred dollars (\$300.00), the waiver fine shall be two hundred fifty dollars (\$250.00). Each subsequent offense shall be deemed a civic offense and shall be punishable by a fine of five hundred dollars (\$500.00), the waiver fine shall be four hundred fifty dollars (\$450.00).(Ord. No. 2017-03, 06/06/17)
- (b) The law enforcement officer may notify the City Attorney of the violation who can take action in Superior Court seeking injunctive relief as appropriate with penalties as prescribed below:

- i. Any person who violates this ordinance shall be fined not more than the amount prescribed under 24 V.S.A. Chapter 83 which at the time of the development of these regulations is \$200.

Effective Date

Section 11-31 of this ordinance shall be effective January 1, 2018, unless otherwise modified by the Council, with the exception of Sec. 11-31(d) as specified below. (Ord. No. 2017-03, 06/06/17)

Sec. 11-31(d) shall be effective twenty days after publication in a newspaper of general circulation following Council adoption, as per City Charter.(Ord. No. 2017-03, 06/06/17)

Sec. 11-33. Licensure and regulation of circuses, carnivals and other shows.

- (a) Authority. This ordinance is enacted by the City Council to promote the public health, safety and welfare of the City under the authority it is granted to regulate public entertainment activities set forth in 24 V.S.A., Section 2291 and Section 104 of the Barre City Charter. This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.
- (b) Purpose. It is the purpose of this ordinance to regulate circuses, carnivals, and all other shows by requiring a license before any such event be held.
- (c) Definitions.
 1. "Show" as used herein shall mean any circus, carnival, menagerie, street show or itinerant show.
 2. "Show" shall also mean any form of live entertainment or performance open to the public such as, but not limited to, concerts, plays, dances with live music or a disc jockey, dance reviews, clowns, magicians, or comedians.
- (d) Regulation of shows.
 1. No show shall be conducted within the City of Barre unless a license has been obtained from the City Council, nor shall any show be conducted in violation of the provisions of this ordinance.
 2. A license issued under this ordinance shall be effective on issuance and shall remain in effect pursuant to Section 3 unless the City Council provides for expiration on an earlier date. A license which expires on December 31st shall remain in effect beyond December 31st if the holder of the license applies for a new license before December 31st and the application for new license is pending before the City Council on December 31st.
 3. Any license issued under this Ordinance may be revoked by the City Council, for just

cause, after notice to the license holder and provision of an opportunity for a hearing before the City Council.

(e) Application of license.

1. An application for any license under the provisions of this Ordinance shall be filed with the City Clerk at least twenty-one (21) days before the date set for the opening of the show.
2. A license may be issued to owner/leasee of a facility which offers or hosts a show. Such a venue license, whenever issued, shall have a maximum effect of one (1) year expiring on December 31.
3. A license may be issued to the Manager/promoter or other party with responsibility over the content and conduct of such a show. Such an event/show license shall have a maximum effect of fourteen (14) days from date of issuance.
4. Such application shall include:
 - a) The name of the owner/leasee and operator.
 - b) Place or location.
 - c) The intended hours of operation, and the number of days that the show will be conducted.
 - d) A description of the show, proposed exhibit, or entertainment.
 - e) Any other information required by the City Council or the City Manager.

(f) Approval Standards. Prior to the issuance of any license under this Ordinance, the City Council shall determine that the proposed show satisfies the following standards:

- 1) The proposed show is in conformance with any applicable City Ordinances including the Barre Zoning Regulations and Subdivision Regulations.
- 2) The proposed show will not result in undue adverse traffic congestion and unsafe conditions regarding the use of public roads.
- 3) The proposed show will not present or create a threat to the safety of persons or property because of fire, explosion or other hazards.
- 4) The proposed show will not create unhealthy conditions regarding water supply, sewage disposal or solid waste disposal.
- 5) The proposed show will not interfere with the use of neighboring property for its customary use by the creation of noise, dust, noxious odors, lighting or other activities which extend beyond the boundary of the activity.
- 6) The proposed show will not overburden the public infrastructure of the City. Special attention shall be given to the cumulative impacts of other activities which may be

occurring at the same time.

- 7) The proposed show will not have an adverse effect on public health, safety, welfare and convenience of the inhabitants of the City.
- (g) Approval conditions. When issuing a license under this Ordinance, the City Council may attach such reasonable conditions as they may deem appropriate to mitigate or eliminate any impacts reviewable under the Approval Standards set forth above. Such conditions may include but are not limited to:
1. Establishing specific hours for the proposed show;
 2. Establishing noise limits;
 3. Requiring the provision of traffic control personnel at no cost to the City;
 4. Requiring the provision of crowd control and medical personnel at no cost to the City;
 5. Requiring the provision of fire fighting equipment and personnel at no cost to the City;
 6. Requiring the posting of security bonds or escrow accounts to ensure compliance with applicable ordinances and license conditions;
 7. Requiring that trash and litter on public streets attributable to the proposed activity be collected and removed at no cost to the City;
 8. Restricting or prohibiting the consumption of alcoholic beverages in connection with any show;
 9. Prohibiting the sale of admission or seating tickets in excess of the established capacity of the event area;
 10. Minimum separation between audience/attendees and show performers.
- (h) Fees will be assessed for annual venue licenses and per event/show licenses. The fee for the permits shall be designated by the city council and upon adoption of the rates the council shall publish in the local newspaper the rate changes thirty (30) days prior to the effective date of the rate changes. (Ord. No. 2005-1, 8/18/05)
- (i) Exemptions. Activities conducted by schools licensed by the State Department of Education and/or churches, on school or church grounds, are exempt from the requirements to obtain a license and pay a permit fee. Activities conducted at City facilities shall also be exempt from the requirements to obtain a license and pay a permit fee.
- (j) Enforcement. Any person who violates a provision of this civil ordinance shall be subject to a civil penalty of up to \$500.00 per day, per violation for each day that such violation continues. No person who owns, leases, or controls property shall knowingly allow an unlicensed show to operate. Such persons shall be subject to a separate violation with the same penalties. Police Officers of the city of Barre shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint.
- (k) Waiver Fee. An issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a

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municipal complaint and pays the waiver fee:

- First Offense \$ 50
- Second Offense \$125
- Third Offense \$200
- Fourth Offense \$275
- Fifth and subsequent offenses \$300

Offenses shall be counted on a calendar year basis.

(l) Civil Penalties. An issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

- First Offense \$100
- Second Offense \$200
- Third Offense \$300
- Fourth Offense \$400
- Fifth and subsequent offenses \$500

Offenses shall be counted on a calendar year basis.

(m) Other Relief. In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the City Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief, or remedy authorized by law, and to request revocation of a license by the City Council. (Ord. No. 97-4, 12/19/97)

Sec. 11-34. 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.

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than \$ 500.00 may be imposed for a violation of this civil ordinance, however the waiver fee shall be set at:

	Waiver Fine	Civil Penalty
First Offense	\$ 75.00	Not more than \$500.00
Second Offense, within a six-month period	\$100.00	Not more than \$500.00
Third Offense, within a six-month period	\$150.00	Not more than \$500.00

Each time that the violation occurs, it will constitute a separate violation of this ordinance. Any law enforcement officer can enforce this section.(Sec. 11-34 added by Ord. No. 2000-5, 7-7-00)

Sec. 11-35. 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

A violation of this section shall be a civil matter and enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance, however the waiver fee shall be set at:

	Waiver Fine	Civil Penalty
First Offense	\$ 75.00	Not more than \$500.00
Second Offense, within a six-month period	\$100.00	Not more than \$500.00
Third Offense, within a six-month period	\$150.00	Not more than \$500.00

Each time that the violation occurs, it will constitute a separate violation of this ordinance. Any law enforcement officer can enforce this section. (Sect. 11-35, added by Ord. No. 2000-6, 7-7-00)

Sec. 11-36. Child Safety Ordinance

(a) Definitions. For the purpose of this article, the following terms shall have the respective meanings ascribed to them.

- (1) "Sex offender" means sex offender as defined in Vermont statute; reflected in 13 V.S.A. chapter 167, subchapter 3, § 5401 (10).
- (2) "School" means a licensed or accredited public or private school or church school that offers instruction in pre-school, including other businesses permitted as a school by the City of Barre, or any of grades K through, 12. This definition shall not include private residences in which students are taught by parents or tutors.
- (3) "Recreation facilities" means a park, playground, recreation center, bathing beach, swimming pool or wading pool, gymnasium, sports field, or sports facility, including the parking area and land surrounding any of the aforementioned facilities, which is owned by or under the jurisdiction of any department, agency, or authority of the City of Barre.
- (4) "Licensed daycare" means any City of Barre licensed daycare facility registered with the appropriate state agency.
- (5) "Third Party" means any Landlord, Homeowner, Lessee, or Government Agency.

(b) Residency Prohibitions. It shall be unlawful for any sex offender to establish a residence or any other living accommodations, permanent or temporary, whose property lines fall within one thousand (1,000) feet of a school or recreation facility in the City of Barre. The one thousand (1,000) foot restriction shall be measured from the nearest property line of the school or recreation facility to the nearest property line upon which the house, apartment complex, condominium complex, motel, hotel, or other residence is located.

(c) Established Residents. A sex offender residing within one thousand (1,000) feet of a school or recreation facility is not in violation if the residency was established prior to the date of passage of this ordinance and residency has been consistently maintained. Changes to property within one thousand (1,000) feet of a sex offender's registered address which moves a school or recreation facility into the prohibited proximity to the residence of the sex offender which occur after a sex offender establishes residency shall not form the basis for finding a sex offender in violation of Section 11-36 if the residency has been consistently maintained.

(d) Sex Offender Violation by Current Resident. Those citizens of Barre already having established residency within one thousand (1,000) feet of a school or recreation facility who are convicted of a violation making them a sex offender as defined by subsection (a1) of this section shall be found in violation of this ordinance.

(e) Notice to Move. Sex offenders in violation of subsection b and/or d of this ordinance shall, within fifteen (15) days of receipt of written notice of the sex offender's noncompliance with this section, move from said location to a new location, but said new location may not be within one thousand (1,000) feet of any school or recreation facility. The first day following the fifteen day written notice shall be considered the first violation. Following the first violation, every day that the sex offender continues to reside within one thousand (1,000) feet of any school or recreation facility shall be considered a separate violation.

(f) Third-Party Violations. It shall be unlawful for a third-party to knowingly allow or aid a sex offender in violating this statute. Third-party violations are subject to the same fines and penalties as outlined in subsection (h).

(g) Sex Offender Presence.

(1) Violations. It shall be unlawful for a sex offender to be present on the property of any school, recreation facility, or licensed daycare. If a police officer reasonably believes that a sex offender is on the property of any school, recreation facility, or licensed daycare in violation of this section, the officer shall require the suspected sex offender to provide his/her name, address, and telephone number. If it is established that the individual is a sex offender, then the officer shall issue a written warning that he/she is in violation of this chapter and require the person to leave the school, recreation facility, or licensed daycare. Subsequently, if the person refuses to leave or is found at any school, recreation facility, or licensed daycare in the City of Barre in violation of this subsection, the penalties set forth in subsection (h) of this section shall apply.

(2) Exceptions. A sex offender who enters upon school, recreation facility, or licensed daycare property does not commit a violation of this ordinance if any of the following apply:

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(a) The property also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to BOTH of the following conditions:

(1) The sex offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and

(2) The sex offender shall not participate in any religious education programs that include individuals under the age of 18.

(b) The property also supports a use lawfully attended by a sex offender's natural or adopted child(ren), which child's use reasonably requires the attendance of the sex offender as the child's parent upon the property, subject to the following condition:

(1) The sex offender's entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public.

(c) The property also supports a polling location in a local, state, or federal election subject to all of the following conditions:

(1) The sex offender is eligible to vote;

(2) The property is the designated polling place for the sex offender; and

(3) The sex offender enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and vacates the property immediately after voting.

(d) The property also supports a school lawfully attended by the sex offender as a student under which circumstances the sex offender may enter upon the property supporting the school at which the sex offender is enrolled, for such purposes and at such times as are reasonably required for the educational purposes of the school.

(e) The property also supports a court, government office, or room for public governmental meetings, subject to all of the following conditions:

(1) The sex offender is on the property only to transact business at the government office or place of business or attend an official meeting of a government body; and

(2) The sex offender leaves the property immediately upon completion of the business or meeting.

(h) Penalties. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. section 1974a and section 1977 et seq. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance.

The waiver fee shall be set at:

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- First offense: \$150.00 waiver fee.
- Second and subsequent offenses: \$300.00 waiver fee and notification to offender's parole officer and/or probation officer, and the Vermont Department of Corrections.

Any law enforcement officer can enforce this section. (Sec. 11-36 added by Ord. No. 2008-03, 7-29-08)