

Chapter 13

OFFENSES AND MISCELLANEOUS PROVISIONS

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ARTICLE I. IN GENERAL

Sec. 13-1. Throwing stones prohibited.

No person shall throw stones or other missiles in or upon any public street, common, or other public place in the town. A person who violates this section shall be fined fifty dollars (\$50.00) and the waiver fee shall be twenty five dollars (\$25.00).

Sec. 13-2. Begging prohibited.

No person shall beg in or upon a street or other public place within the town. A person who violates this section shall be removed immediately by an officer, sheriff, deputy sheriff, or state police.

Sec. 13-3. Discharge of firearms restricted.

No person shall, except in the performance of a legal duty, or on a regular firing range, indoor or outdoor, duly approved and recognized as such by the chief of police, or on other property duly approved and recognized by the chief of police, or in the reasonable protection of life or property, discharge a pistol or other firearm within or into the following described geographic area:

Beginning at the northeast corner of the township; thence running westerly along the Dummerston town line to the westerly side of the public highway known as Interstate 91; thence running southwesterly along the westerly side of said Interstate 91 to its intersection with Route 30; thence running in a general northwesterly direction along said Route 30 to the Dummerston town line; thence running westerly along the Dummerston town line thence running westerly along the Dummerston town line to a point due north of the northerly most point of the Hillwinds North Road; thence running in a southerly direction to the northwestern most point of Hillwinds North; thence running southerly along Hillwinds North to Hillwinds South; thence running diagonally southeast to the northwest corner of

the intersection of Meadowbrook Road and Upper Dummerston Road; thence running south along Meadowbrook Road to the intersection with Orchard Street Extension; thence running in a generally northwesterly direction parallel to Marlboro Road, so-called (Vermont Route No. 9) and approximately one-half mile north of Marlboro Road past the outer most roadway boundary on the north side of the Mountain Home Trailer Park and proceeding due west to the intersection of Sunset Lake Road; thence running in a southwesterly direction to meet the end point of Regina Vista Road and thence southerly in a straight line to the intersection of Marlboro Road (Route 9); thence continuing in a southeasterly direction in a straight line to the Sherwood Hollow water tower; thence continuing in a southeasterly direction in a straight line to the intersection of Mather Road, so-called, with Greenleaf Street, so-called; thence continuing in a southerly direction along the westerly side of said Mather Road to its intersection with Bonnyvale Road, so-called; thence running in an easterly direction in a straight line and along the southerly side of Thayer Ridge, so-called, to its intersection with South Street; thence running in a general southeasterly direction to the southerly side of Hillcrest Terrace, so-called, and continuing along the southerly side of said Hillcrest Terrace to its intersection with Guilford Street; thence running easterly in a straight line passing through the intersection of U.S. Route No. 5 and Interstate 91 to the southerly side of Sunny Acres Road, so-called; thence running in an easterly direction along said Sunny Acres Road to the intersection of Old Guilford Road and South Main Street; thence running southwesterly along Old Guilford Road to its intersection with Fessenden Road; thence running in an easterly direction along the southerly side of said Fessenden Road to a dirt blockade; thence running in a general northeasterly direction to the Fort Dummer monument; thence continuing easterly to the Connecticut River and the New Hampshire state line; thence running in a general northerly direction along said Connecticut River and the New Hampshire state line to the point and place of beginning.

A person who violates this section shall be fined five hundred dollars (\$500.00) and the waiver fee shall be two hundred fifty dollars (\$250.00).

Sec. 13-4. Air guns, slingshots, etc. - Use restricted.

No person shall project by means of any air gun, slingshot, bow and arrow, bean shooter, air pipe, blow pipe, popgun, spring gun, bow gun, crossbow or other similar contrivance, any missile or substance whatsoever in or into any public street, highway, court, square, park, avenue or place within the limits of the town, or in such a manner so as to endanger or injure the person or property of another. A person who violates this section shall be fined one hundred dollars (\$100.00) and the waiver fee shall be fifty dollars (\$50.00).

Sec. 13-5. Same - Seizure; hearing.

When any contrivance enumerated in Section 13-3 is seized or taken by a

police officer, the police officer who makes such seizure shall forthwith give notice thereof to the grand juror or the town agent of the town. Such grand juror or town agent shall attend and act in behalf of the town at the hearing against the contrivance so seized. Such police officer shall retain possession of the contrivance so taken until final disposition of the charge made under Section 13-3. If the respondent is convicted of violating the provisions of such section, the court wherein such conviction is had shall cause the owner, if known, and possessor and all persons having the custody of or exercising any control over the contrivance seized and the respondent to appear and show cause, if any they have, why a forfeiture order should not issue. Such hearing may be held as a collateral proceeding to the trial of such respondent in the discretion of the court.

Sec. 13-6. Same - Forfeiture upon violation of section 13--3.

If, upon hearing, it appears that any contrivance enumerated in section was used contrary to the provisions of such section, it shall be adjudged forfeited, and shall be turned over to the chief of police of the town who shall destroy the same.

Sec. 13-7. Violations of article - Investigation; abatement.

If any complaint shall be made in writing under any of the sections of this article it shall be the duty of the selectmen to investigate the same. A person shall, upon the direction of the board of selectmen, abate such nuisance and in case of failure so to do, the board of selectmen shall cause the same to be abated, and such person shall pay all the expenses of abating the same.

Secs. 13-8 - 13-34. Reserved.

ARTICLE II. CURFEW

Sec. 13-35. Definition.

The definition of the words "delinquent child" and "dependent child" as used in this article shall be the same as adopted and set forth in section 5444 of Chapter 226 of the Public Laws of Vermont, 1933 and section 5502 of Title 33 Vermont Statutes Annotated.

Sec. 13-36. Signal.

(Eliminated by Amendment dated 2/20/96)

Sec. 13-37. Established; exception.

Any child under sixteen (16) years of age who shall be found wandering about or loitering on the streets, or found in any public resort or other public place in the town after 9:30p.m. shall be taken into custody by the chief of police, or any of

his deputies or assistants, and dealt with as the statutes respecting delinquent and dependent children provide. However, the above shall not apply to any child who may be engaged in performing any legitimate errand or business, or who is accompanied by a proper custodian.

Sec. 13-38. Parents and custodians; penalty for permitting violation of article.

A parent or proper custodian of a child under sixteen (16) years of age, which child has been found guilty of a violation of this article, or who permits said child to become delinquent and dependent as hereinbefore defined, shall be fined one hundred dollars (\$100.00) and the waiver fee shall be fifty dollars (\$50.00).

Secs. 13-39 - 13-84 Reserved.

ARTICLE III. PARADES AND OPEN AIR MEETINGS

Repealed 06/2010 Now Found in Chapter 11

ARTICLE IV. STREET MUSICIANS AND ENTERTAINERS

Repealed 06/2010 Now Found in Chapter 11

ARTICLE V. PUBLIC NUDITY

Sec. 13-85. Authority.

This ordinance is enacted pursuant to the authority granted the town to promote the public health, safety, welfare and convenience contained in 24 V.S.A. §2291, and Article IV, Sections 27 - 29 of the Charter of the Town of Brattleboro. This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

Sec. 13-86. Definitions.

As used in this article, the following term shall have the meaning here assigned:

"Nudity" shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion of the areola. A woman breastfeeding her child, irrespective of whether her breast is covered, shall not be considered in a state of nudity.

"Prohibited Public Location" shall mean any location likely to be observed by members of the public and where the public is present or likely to be present, including streets, sidewalks, parks, parking lots, and business and commercial

establishments (both for profit and not-for profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement) bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal, or similar organizations.

"Prohibited Public Location" shall not include doctor's offices, hospitals, enclosed single sex public restrooms or functional showers, locker and/or dressing room facilities; nor shall it include those places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor shall it include a person appearing in a state of nudity in a modeling class operated by: (1) a proprietary school licensed by the state; a college, junior college, or university supported entirely or partially by taxation; (2) a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation or an accredited private college; or (3) or any school of art operated for profit or not for profit within the Town of Brattleboro.

Sec. 13-87. Public Nudity Prohibited.

1. **In Public Areas.** Nudity is not acceptable in Prohibited Public Locations. The officer observing any person in a state of nudity or receiving the complaint should order the person to dress. The penalty for failure to stay clothed shall be as outlined in Nos. 3, 4 & 5, below.
2. **On private land out of view of the public.** The town has no legitimate interest and citizens in various stages of dress or undress should be left alone.
3. **Civil Penalty.** An issuing municipal official is authorized to recover civil penalties in the amount of \$100.00 for each violation.
4. **Waiver Fee.** An issuing municipal official is authorized to recover a waiver fee, in lieu of civil penalty, in the amount of \$50.00, for any person who declines to contest a municipal complaint and pays the waiver fee.
5. **Other Relief.** In addition to the enforcement procedures available before the traffic and municipal ordinance bureau, the Town of Brattleboro is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

ARTICLE VI. OBJECTIONABLE NOISE

Sec. 13-100. Authority. This ordinance is adopted under authority granted in 24 V.S.A. §2291(14), and 24 V.S.A. Chapter 59.

Sec. 13-101. Purpose. The purpose of this ordinance is to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of Brattleboro through the reduction, control and prevention of objectionable noise. The intent of this ordinance is to establish standards which will eliminate and reduce unnecessary noises which are physically harmful or otherwise detrimental to the enjoyment of life, property and maintenance of business.

Sec. 13-102. Express Prohibitions. The following acts are declared to be loud, objectionable, and unnecessary noises, are therefore a public nuisance, and are prohibited by this ordinance.

a. Radios, television sets, musical instruments, phonographs and similar devices. The operation or permitting the use or operation of any musical instrument, radio, television, phonograph, or other device for the production or reproduction of sound in such a manner as to be plainly audible through walls between units within the same building, from another property or from the street between the hours of 10:00 p.m. and 7:00 a.m. or in such a manner as to unreasonably disturb the peace, quiet or comfort of the public.

b. Motor vehicle sound equipment. The operation or permitting the operation of any radio, stereo or other sound amplification equipment from a motor vehicle that is audible at twenty-five (25) feet from such vehicle. The term "motor vehicle" shall mean any car, truck or motorcycle.

c. Defect in vehicle or operation of vehicle. The operation of any automobile, motorcycle or other type of motor vehicle in such a manner as to create squealing of tires or loud and unnecessary grating, grinding, exploding, rattling or other types of noises;

d. Parties and other social events. It shall be unlawful for any person who is participating in a party or other social event to actively make unreasonably loud noise. A party or other social event is defined as a gathering upon the premises of one or more persons not residing at the premises. Unreasonably loud noise is noise that unreasonably interferes with the peace or health of members of the public or is plainly audible between the hours of 10:00 p.m. and 7:00 a.m. through the walls between units within the same building, from another property or from the street. It shall also be unlawful for any resident of a premises to allow a party or other social event occurring in or about the premises to produce unreasonably loud noise. There is a rebuttable presumption that all residents of the premises have allowed such party or other social event to occur in or about the premises. All residents of the premises are responsible for such unreasonable noise made, each having joint and several liability.

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 7:00 a.m. except in emergency situations.

f. Loudspeakers. The use of mechanical loudspeakers or amplifiers or other sound amplification equipment upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or site;

g. Exhausts. The discharge into the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;

h. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle except as a danger warning, the creation by means of any other signaling device or any unreasonably loud or harsh sound and the sounding of any device for unnecessary and/or unreasonable periods of time;

i. Firearms. The use or discharge of a firearm within the Town of Brattleboro. An exception shall be made for the use and operation of firearms while legally hunting in the Town of Brattleboro outside the limits depicted on the "Firearm Safety Limits" map adopted July 2004.

j. Construction noise. Noises emanating from the excavation, demolition, alteration or repair of buildings, structures, property or highways between the hours of 9 p.m. and 7 a.m., except for emergency repairs necessary to protect people or property.

k. Noise in general. Any noise which is deemed objectionable because of volume, frequency or beat and which is not muffled or otherwise controlled.

Sec. 13-103. The creation of, permitting or operation of any of the above sets, instruments, devices or vehicles causing said noise in such a manner as to be plainly audible at a distance of twenty five (25) feet from a building, structure or vehicle from which noise emanates shall be prima facie evidence of a nuisance and a violation of this ordinance.

Sec. 13-104. Notification by Property Owners of Rental Housing.

Notification by property owners of rental housing. Owners of rental housing shall be required to provide a copy of this section to a tenant at the start of the tenancy. However, the failure of an owner to provide a copy of the ordinance shall not be a defense to a violation of this section.

Sec. 13-105. Exemptions. Noise from the following sources shall be exempt from the prohibitions specified herein:

- (1) 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.
- (2) The repair and maintenance of municipal facilities, services or public utilities when such work must be accomplished outside daytime hours.
- (3) Snow removal equipment operated within the manufacturer's specifications and in proper operating condition.
- (4) Musical, recreational and athletic events conducted by and on the site of a school or educational institution.
- (5) Events and activities conducted by or permitted by the Town of Brattleboro. Persons operating an event or activity under authority of an entertainment permit, parade/street event permit, solid waste license, or parks special use permit shall comply with all conditions of such permits or licenses with respect to noise control issues.
- (6) 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.

Sec. 13-106. Enforcement and penalties. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et. seq. A civil penalty of not more than Five Hundred (\$500.00) Dollars may be imposed for a violation of this civil ordinance, and the waiver fee shall be set at Fifty (\$50.00) Dollars for the first offense, One Hundred (\$100.00) Dollars for the second offense within a six month period and Two Hundred Fifty (\$250.00) Dollars for each subsequent offense within a six-month period. Each day of a violation shall constitute a separate violation of this ordinance.

Sec. 13-107. Enforcement by Law Enforcement Officers. Any law enforcement officer may issue a municipal complaint ticket for offenses of the noise control ordinance.

Sec. 13-108. Severability. Each of the provisions of the ordinance is severable, and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

Sec. 13-109. Effective date. This ordinance shall become effective 60 days

after its adoption by the Brattleboro Selectboard. If a petition is filed under 24 V.S.A. § 1973, the taking effect of this ordinance shall be governed by that statute.

ARTICLE VII

ENTERTAINMENT CLUBS AND RESTAURANTS

Section 13-200. Authority.

This ordinance is enacted pursuant to the authority granted the town to promote the public health, safety, welfare and convenience contained in 24 V.S.A. §2291, and Article IV, Sections 27 - 29 of the Charter of the Town of Brattleboro.

Section 13-201. Definitions.

As used in this Ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (a) *Town*: Town of Brattleboro.
- (b) *Affected Premises or Club Premises*: Any place where a restaurant or an entertainment club is operated or maintained, including all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours.
- (c) *Entertainment club*: Premises whether possessing a first and/or third class liquor license or not which are open to the public providing recorded music for fee (i.e. jukebox), or live public music or performance on the premises.
- (d) *Live public music or performance*: Includes but is not limited to bands, DJs, karaoke, Stand-up comedy, and dancers.
- (e) *Exceptions*:
 - (1) Theaters where the patrons sit in parallel rows of fixed seats
 - (2) A banquet, party or celebration conducted for invited guests which is not open to the public
 - (3) Dances or events sponsored and operated by a governmental entity, an educational, fraternal, or social organization and other like uses

(f). *Over Twenty-one club*: Any entertainment club which restricts its admission to persons age 21 years and over.

(g). *Person*: One or more natural persons, corporations, partnerships, associations or other entities capable of having an action of law brought against such entity.

(h). *Teen club*: Any entertainment club which restricts its admissions to persons under the age of 21.

Section 13-202. Entertainment Club/Restaurant Permit Required.

It is unlawful for any person to own, lease, operate, manage or maintain an entertainment club or restaurant in the Town without first obtaining an entertainment club/restaurant permit from the Town Selectboard. For multi-use facilities which include an entertainment club or restaurant, a separate and additional permit must be issued for the entertainment club or restaurant operation.

Section 13-203. Application for Permit.

Application for an entertainment club/restaurant permit shall be completed and filed with the office of the Town Manager. The application shall include, but not be limited to, the following information:

(a). Name, residence, address, social security number, date and place of birth for all individuals, partners or corporate directors.

(b). The specific types of entertainment to be conducted at the entertainment club and the hours of operation.

(c). Information regarding the activity to be permitted setting forth all measures proposed to insure that adequate traffic control, crowd protection, noise control and security, both inside and outside the premises will be maintained.

(d). Signatures indicating review of the application with any suggested conditions of the Town Manager, Fire Chief, Police Chief, Zoning Administrator, and Town Treasurer.

(e). A statement of whether the applicant, applicant's officers, directors, partners or any other person involved in the operation or management of the entertainment club has been convicted of a felony within the preceding five years.

- (f). Authorization for a criminal history records examination of local, State and Federal record repositories.
- (g). Statement that applicant agrees to comply with all applicable local and State laws.
- (h). Certification that all statements and information provided on the application are true.
- (i). Signature of individual applicant, partners or authorized agent of corporation.
- (j). Certification that the following has been completed:
 - (1) Inspection by the Zoning Administrator; and
 - (2) Inspection by the Fire Department for a determination of Life Safety Code and Fire Prevention Code Compliance including an occupant load certificate.
- (k). Statement from the Treasurer's Office that all property or entertainment, rooms or meals taxes, water and sewer fees and parking fines have been paid, and that a taxpayer ID number for rooms, meals and entertainment tax has been obtained.

Section 13-204. Duration of Permits; Permit Periods; Renewals.

- (a). All permits issued under the provision of this title shall continue and be in effect until the first day of May next following the date thereof, unless otherwise proved or unless sooner revoked.
- (b) Existing permits may be renewed annually by filing application for renewal by March 30.

Section 13-205. Permit Fees.

A fee of One hundred and twenty-five Dollars (\$125.00) shall be paid to the Town Manager's Office on the granting of an entertainment club permit by the Selectboard. In addition, the applicant shall be responsible for the actual costs incurred by the Town in connection with performing the criminal history records examination.

Section 13-206. Procedures for Issuance of Permit.

After receiving a completed application for an entertainment club/restaurant permit, as specified in §13-203 above, the Town Manager's Office shall follow the following procedures:

After the Town Manager receives the completed application from the applicant with the comments and suggested conditions from the Town Manager, Chief of Police, Fire Chief, Zoning Administrator and Treasurer, the Town Manager shall forward the application to the Police Department for a background investigation and then forward the application to the Selectboard for their review and consideration. Incomplete applications shall be returned to the applicant by the Town Manager's Office.

Section 13-207. Conditions of Permit; Disapproval.

(a). The Selectboard may approve each permit with any condition it deems reasonable and necessary including but not limited to the following:

- (1). Any of the suggested conditions of the Town Manager, Fire Chief, Police Chief, Zoning Administrator and Town Treasurer.
- (2). Compliance with all Town Ordinances and regulations and State laws and regulations.
- (3). Compliance with all State liquor law Statutes and regulations.
- (4). Any other conditions the Selectboard deems reasonable and necessary.

(b). Any of the following may be grounds for disapproval of the permit:

- (1). Non-compliance with all applicable Town Ordinances and regulations and State laws and regulations.
- (2). The application does not show adequate measures for the protection of the public health, safety and welfare of persons regarding traffic control, crowd protection, noise control and security, both inside and in the areas surrounding the premises, and the monitoring of the ages of patrons admitted to an entertainment club.
- (3). Any other reasons the Selectboard deems appropriate and reasonable for disapproval.

Section 13-208. Restrictions on Multi-Use Facilities.

(a). No teen club shall be located on premises used at any time during the week as a facility to serve alcoholic beverages.

(b). Subject to the provisions of subparagraph (a) above, a teen club may only be located on the same premises with another permitted business if:

- (1). All businesses on the premises comply with the provisions of this ordinance relating to teen clubs; or
- (2). The teen club is physically segregated from the space used by the other businesses and has a separate entrance into the building which is exclusively for the use of its patrons; or
- (3). Only one business operates at a time on the premises, and the premises are closed altogether for not less than one hour between the close of one business operation and the opening of another.

Section 13-209. Access by Town Officials.

All Police officers and other authorized town officials of the Town of Brattleboro shall have access to all entertainment clubs and restaurants for the purpose of inspection and to enforce compliance with the provisions of this ordinance at all times.

Section 13-210. Operating Rules and Regulations.

The following operating rules and regulations shall apply to all entertainment clubs and restaurants in the Town:

- (a). Persons of the following ages shall not be permitted to enter or remain on the premises of a teen club:
 - (1). Under the age of 13 years unless accompanied by a parent, legal guardian or chaperone.
 - (2). 21 years of age or older except for bona fide employees or entertainers hired by the permittee to work in the club, or a parent, guardian, or chaperone of a person under 21 years of age present in the club.
- (b). No person under the age of 21 years shall be permitted to enter or remain on the premises of an over twenty-one club unless accompanied by a parent or legal guardian, except for entertainers hired by the permittee to work in the club.
- (c). It shall be the obligation of the permittee to employ an adequate number of qualified security personnel who will be present on club premises during all operating hours to maintain peace and order and to ensure compliance with all applicable laws of the State and of the Town.
- (d). It shall be the obligation of the permittee to insure that no alcoholic beverages or controlled substances are offered for sale or

consumed on the entertainment club premises that are designated as teen clubs or that do not have liquor licenses.

(e). It shall be the obligation of the permittee to provide proper and adequate illumination of all portions of the club premises which are available for public use.

(f). It shall be the obligation of the permittee to prevent the creation of public nuisances or disturbances of the peace by any patrons of the restaurant or entertainment club on affected premises or in the immediate vicinity.

(g). It shall be the obligation of the permittee to clean up all litter resulting from club operations. The cleanup shall occur within eight hours after the end of each day's operation.

(h). It shall be the duty of the permittee to notify the Town of Brattleboro of the existence of any warnings, tickets, citations or other enforcement of whatever nature issued to the permittee.

Section 13-211. Checking the Age of Patrons.

(a). It is the responsibility of the permittee to require picture identification or a reasonable equivalent showing the age of each person admitted to an entertainment club. It is unlawful for any person knowingly or recklessly to allow a person to enter or remain on the premises of an entertainment club in violation of the age restrictions of this Ordinance.

(b). It is unlawful for any person to misrepresent his or her age for the purpose of obtaining admission to, or remaining at, an entertainment club in violation of the provisions of this Ordinance or of the club's permit.

Section 13-212. Suspension or Revocation of Permits.

(a). The Selectboard may, at any time, suspend or revoke an entertainment club/restaurant permit based on any of the following grounds:

(1). Violation of any Town Ordinance or regulation or State laws or regulations including Vermont liquor control laws and regulations

or any other condition of the permit.

(2). Failure to comply with the operating rules and regulations of restaurants and/or entertainment clubs specified in this Ordinance.

- (3). Material misrepresentation, or failure to disclose any material information to the Town, in connection with any application for the entertainment club/restaurant permit or any permit renewal.
 - (4). Knowingly allowing conduct on the permitted premises that violates any Federal, State or Town criminal or penal statute, law or ordinance.
 - (5). Whenever operation of the restaurant / entertainment club becomes the proximate cause of a significant increase in disturbance on the premises or in the immediate vicinity of the premises.
- (b). The permittee shall have notice of any action to suspend or revoke the permit and the opportunity to be heard prior to the imposition of any penalty.
- (c). Any action taken pursuant to this Ordinance by the Selectboard will be taken at a regular meeting of the Board or a special meeting duly warned for that purpose, with written notice by first class mail to the holder of the permit at the address provided on the application that such action is on the agenda for said meeting.

Section 13-213. Duty to Provide Ash Receptacles.

(a). Cigarette Butt and Ash Receptacles Required.
Within the Town of Brattleboro, any person or entity holding a license to sell or distribute cigarettes or tobacco products, pursuant to 32 V.S.A. §§ 7701, et seq., or holding a license to sell malt or vinous beverages, pursuant to 7 V.S.A. §§ 221, et seq., or holding an entertainment club/ restaurant permit, shall be required to maintain an appropriate receptacle for disposal of cigarettes and ash within fifteen (15') feet of the door to the establishment. Appropriate receptacles include ashtrays, gravel-filled cans, or other receptacles designed to be inflammable and used for disposal of cigarette butts and ashes.

(b) Penalty.
Failure to comply with Section 13-213(A) shall be deemed a public nuisance and unlawful. Persons found in violation of Section 13-213(A) shall receive a warning for the first offense and a One Hundred (\$100.00) Dollar fine for each subsequent offense and the waiver fee shall be Fifty (\$50.00) Dollars. Each day that a violation shall continue to exist shall constitute a separate violation.

Section 13-214. Severability.

The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or entity or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions of application.

Section 13-215. Civil Ordinance.

This ordinance shall be designated a civil ordinance pursuant to 24 V.S.A. §1971(b). It shall be the duty of any police officer or the health officer of the town to enforce these provisions against any person or entity found in violation thereof. All law enforcement officers shall have the authority to shut down temporarily a restaurant or club or facility found in violation of this chapter or other life safety codes or state licenses in order to ensure compliance with this ordinance or compliance with other licenses or life safety codes applicable to the premises. A maximum fine of \$ 500.00 shall be imposed for a violation of this ordinance.

WAIVER FINES

(within the same twelve month period)

\$100.00 1st Offense

\$200.00 2nd Offense

\$300.00 3rd Offense

A waiver fine shall not be available if the violation of this ordinance has resulted in personal injury or property loss.

Section 13-216. Other Relief.

In addition to the enforcement procedures available before the district court, the Town of Brattleboro is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

ARTICLE VIII

(added 05/26/12)

CAMPING ON PUBLIC LANDS OR IN PUBLIC PARKS

Section 13-300. Authority.

This ordinance is enacted pursuant to the authority granted the town to promote the public health, safety, welfare and convenience contained in 24 V.S.A. §2291, and Article IV, Section 6 of the Charter of the Town of Brattleboro. This ordinance shall be a criminal ordinance within the meaning of 24 V.S.A. Chapter 59.

Section 13-301. Definitions.

The term “to camp” shall include the placing of any bedding, sleeping bag or other material at a site to serve as a sleeping area; the placing of any tent, lean-to, other structure or vehicle at a site to serve as a sleeping or living area; or the use of any public park for sleeping between the hours of 9:00 p.m. and 8:00 a.m.

Section 13-302. Camping Prohibited.

No person shall camp on any public lands or in any public park in the Town of Brattleboro unless camping on public lands or in that park is authorized by the Town Manager or Department of Recreation and Parks Director.

Section 13-303. Criminal Ordinance.

This ordinance shall be designated a criminal ordinance pursuant to 24 V.S.A. § 1971(b). It shall be the duty of any police officer of the town to order any person camping on public lands or in a public park in the Town of Brattleboro to vacate, and to enforce these provisions against any person to be found in violation thereof. A maximum fine of \$500.00 shall be imposed for a violation of this ordinance.

Section 13-304. Other Relief.

In addition to the enforcement procedures available before the superior court, the Town of Brattleboro is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.