

## **ARTICLE 17 IMPROPER USE OF PUBLIC WAY AND ABATEMENT OF PUBLIC NUISANCES**

### **Article 17-1 Purpose**

The purpose of this ordinance is to protect the public safety, to provide for the efficient and intended use of the Town of Bennington's public ways and regulate public nuisances.

### **Article 17-2 Authorization**

By authority of 24 VSA, Chapter 61, Section 2291(1), 14, municipalities are enabled to regulate the use of its public highways and sidewalks.

### **Article 17-3 Definitions**

- A. Sled for the purposes of this ordinance shall mean any vehicle whose purpose is to slide on snow or ice and is designed to carry one or more persons.
- B. Coaster for the purposes of this ordinance shall mean any vehicle other than a sled having no other form of locomotion than gravity or the energy of its occupant.
- C. Vehicle for the purposes of this ordinance is a device for carrying passengers, excepting bicycles.
- D. 'Clear and unimpeded access area' for the purposes of this ordinance shall refer to an area of public walkway, sidewalk or road within 10 feet of the entrance to private property, a commercial business and/or other public or private facility.
- E. Children as used herein shall mean any child at or under twelve years of age at the time of activity governed by this Ordinance.
- F. 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.

G. *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. However, this ordinance is not intended to proscribe any activity permitted by the Vendor's Ordinance or 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 any other applicable Town ordinance, regulation, license or permit.

H. *Public place* shall mean a place where a governmental entity has title to and 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 thereupon.

I. *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.

J. *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.

#### **Article 17-4 Prohibitions**

- A. No person shall engage in the playing of ball or any other game in any public

streets, highways or sidewalks.

B. No person, after verbal notice from a law enforcement officer of this prohibition shall continue to sit, lie down, or otherwise block, impede, impair or in any way obstruct or inhibit the free flow of pedestrian traffic within any "clear and unimpeded access area".

C. No person shall urinate or defecate in any public place or upon private property (I) within view of a public street, highway, or sidewalk or (II) within view of a paved walkway that connects directly to a public street, except in facilities specifically provided for this purpose. For the purposes of this ordinance, urination and defecating in public is deemed to be a public nuisance.

D. No person shall coast, course or slide on any sled, coaster or other vehicle on any public streets, highways or sidewalks except as may be designated by the Select Board.

E. No person shall make major repairs or change any fluids of any vehicle while the vehicle is located on any public streets, highways or sidewalks. This section shall not apply to roadside emergency repairs following a breakdown.

F. No pedestrian shall travel upon a public highway as an alternative to traveling upon a sidewalk when a sidewalk is available.

G. No person shall allow an animal under his/her control to defecate in any public place or on private property without the owner's permission unless he/she immediately removes such deposit.

For the purposes of this Ordinance, a failure to comply with this Section shall be deemed to be a public nuisance.

H. No person shall park or leave standing any motor vehicle or conveyance that is plainly inoperable, not legally registered; or properly inspected upon any public place.

I. No vehicle parked on a public street, highway, sidewalk or other public place shall be used as housing or for the purpose of sleeping beyond that of a short rest for the purpose of safety.

Any vehicle found contrary to the above sections 17-4(H) & 17-4(I) shall be removed immediately by the owner. Should the owner fail to remove the vehicle within 24 hours, then a police officer shall cause the vehicle to be removed at the owner's expense.

The Police will make any reasonable attempt to locate the owner prior to removing the vehicle.

- J. No person shall solicit in an aggressive manner in any public place.
- K. No person shall solicit on private or residential property without permission from the owner or other person lawfully in possession of such property.
- L. No person shall solicit within fifteen (15) feet of any entrance or exit of any financial institution or within fifteen (15) feet of any automated teller machine without the written consent of the owner of the property or another person legally in possession of such facilities.
- M. No person shall solicit while under the influence of alcohol or a controlled substance.
- N. No person shall misrepresent the use of proceeds from solicitation.
- O. 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 dedicated walkway to such parking lot or structure.
- P. No person shall solicit within ten (10) feet of an entrance to a building.
- Q. No person shall solicit within fifteen (15) feet of any valid vendor location.
- R. No person shall solicit within fifteen (15) feet of any pay telephone or public information booth, board or other structure.
- S. 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.

#### **Article 17-5 Exclusions**

- A. Nothing contained herein shall be construed or interpreted to prohibit the use of the public way and particularly sidewalks for the use of children being pushed or pulled in strollers, carriages or sleds; children riding bicycles, tricycles or other such vehicles in a safe manner; or wheelchairs whether self propelled or motorized.
- B. By special order and exemption the Town Manager or Select Board may allow special events such as street fairs, to use the public highways and sidewalks for a specified time.

#### **Article 17-6 Enforcement**

A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 VSA Section 1974a and 1977 et seq. A civil penalty of not more than \$75

may be imposed for violation of this civil ordinance and a waiver fee of \$50 shall be set. Each day that a violation continues shall constitute a separate violation of this ordinance.

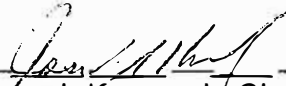
#### **Article 17-7 Severability**

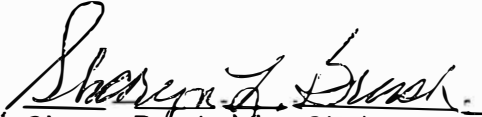
This ordinance and the various parts, sentences, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, section, or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

#### **Article 17-8 Effective Date**

This ordinance shall take effect sixty (60) days from date of adoption by the Select Board.


This Ordinance is hereby adopted by the Select Board of the Town of Bennington, Vermont on this 25 day of NOVEMBER, 2013. It shall be printed in full in the minutes of the Select Board, posted in five (5) conspicuous places within the Town of Bennington and published once in the Bennington Banner within fourteen (14) days of its adoption and shall become in full force and effect sixty (60) days after the date of adoption subject to the right of petition as provided by law.

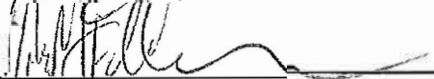
  
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