

TITLE 25

CHAPTER 5

Injurious Practices in Streets and Public Places

Section

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§ 4451. Digging ground or breaking pavement; permit required; fees

Except as provided in Title 21 for installation of poles, wires and electrical conduits, no person shall break or dig up the ground or pavement in any street, lane, alley, sidewalk, or common in the city, or erect any staging for building thereon, or in dangerous or inconvenient proximity thereto, or place or deposit any stone, earth, brick, lumber or other building materials thereon, without first obtaining a written permit from the commissioner of public works and complying in all respects with the conditions of such permit; which permit shall state the time allowed for the continuance of the obstructions

within the public highway or street, Before such permit is issued to a person he should pay a fee of \$2.

§ 4452. -Conditions; safety precautions; restoration

- (a) Whenever any street, lane, alley, or sidewalks, or other public place in the city, shall, under any permit or license granted by authority of the city, be dug up, obstructed, encumbered or otherwise thereby rendered unsafe or inconvenient for travel, the persons so permitted shall put, and at all times keep up, a suitable railing or fence around the section of any street, lane, alley, or other public place so obstructed, so long as the same shall be or remain unsafe or inconvenient as aforesaid; and shall also keep one or more lighting devices fixed to such fence, or fixed in some other proper manner, every night from twilight in the evening and throughout the whole night, so long as such railing or fence shall be kept standing, or obstruction remain. No person shall unlawfully remove or disturb any such railing or fence, or unlawfully remove or disturb any such lighting device or extinguish light thereof. When a permit is issued to a person to dig within the limits of a street, highway or common, he shall, within a reasonable time, fix and repair such street, highway or common to the satisfaction and acceptance of the commissioner of public works.
- (b) If, within a reasonable time, the person to whom the permit is issued does not fix and repair such street, highway or common to the satisfaction and acceptance of the commissioner of public works, the work may be done by the City of Rutland and the said City of Rutland may recover the amount it has expended for such work in an action on this section.

§ 4453. Awnings, shades, flags and signs; permits therefore

- (a) No person shall establish or maintain any awning, shade, or flag or suspend or display any sign or article of merchandise in, upon or over any part of any sidewalk, the traveled portion of any street or highway, or the area between the sidewalk and the traveled portion of any highway, without written permit from the board of aldermen, which permit shall be revoked at any time, and any person having such permit so establishing or maintaining the same, shall, in all respects, conform to any directions in relation to the location, extent, material, construction and maintenance thereof; which shall be given by the board of aldermen, provided however, that no permit shall be granted to erect or maintain any awning, shade, sign or flag over any street or sidewalk at a height of less than 7 feet from the sidewalk to the lowest part of the awning, shade, sign or flag; and provided further that no permit shall be granted to erect or maintain any sign more than 5 feet from a building regardless of location of street line; except that marquees may be erected and banners may be erected which extend over and across the public street with the approval of and at the discretion of the board of aldermen, upon written application therefore accompanied by plans and specifications approved by the building inspector. Notwithstanding the above, signs and banners are prohibited on all Federal Aid highways except traffic control signs, banners and devices.

- (b) Permits may be issued by the board of aldermen for the establishment or maintenance of signs on city property or suspended from or attached to any post, pole or other object situated on city property, provided however that such sign shall not exceed 70 square feet; and provided, however, that such sign shall not endanger or hinder vehicular or pedestrian traffic and that the applicant shall conform to all regulations and restrictions made by the board of aldermen.
- (c) Applications for the establishment of such signs shall bear the approval of the chief of police and shall be made on the official city signed application form provided by the city clerk. The applicant shall pay to the city clerk annually, before May 1st, for such sign established or maintained on city property not in excess of 3 square feet, the sum of \$1 and each additional square foot, or fraction thereof, the sum of 50¢.
- (d) The aforementioned fee may be waived by the board of aldermen, in the exercise of their discretion, on the application of a non-profit organization.

§ 4454. Porticos, doorsteps, etc.

No person shall erect, set up or maintain any portico, platform or doorstep, extending into any highway, street or sidewalk.

§ 4455. Disposition of trash

No person, firm or corporation shall at any time deposit on any land within the city limits other than such public dumping ground as may be authorized and maintained by the city, any waste or discarded materials or matter of any kind, except ashes, dirt, bricks, stones or such other materials as commonly used for and are suitable for filling purposes only, and then only for filling purposed and with the consent and approval of the owner and occupant of the land on which such materials are deposited.

§ 4456. Enclosing or obstructing public ways

No person shall enclose any part of any highway, or street, or erect any fence, building or other encroachment, or make any obstructions, or put any nuisance on any highway or street, or continue any such enclosure, fence, building, encroachment or nuisance on any highway or street.

§ 4457. Barbed wire or rail along any sidewalk or street

No person shall erect or maintain any barbed wire fence or railing upon the line of any sidewalk or street in the city or near thereto, or so located as to be within reach of and dangerous to any passerby, upon such street or sidewalk.

§ 4458. Sale of merchandise in street, sidewalk or other public place

No person shall display for sale any merchandise in any street or public place or on any sidewalk in the city unless such person has first procured a license therefore from the board of aldermen.

§ 4459. Tampering with signs, lamps, etc.

- (a) No person shall injure, deface or destroy any traffic control light, power pole or any building, fence, post or any other thing erected for use or ornament of the city; nor shall any person move, mutilate, or destroy any privately owned sign, sign-post, awning, or other thing erected upon any street, highway or public place in the city.
- (b) It shall be unlawful for any unauthorized person to deface, injure, tamper with, open, break, destroy or remove the immobilizer, impair the usefulness thereof or attempt to do any of those acts. A violation of this section will be considered a civil violation of Rutland City ordinance. This can carry with it a fine up to \$500.00 plus any cost of collection and/or cost of repair or replacement of the immobilization device.

§ 4460. Protection of trees and plants

No person shall cut down or remove, mutilate, or otherwise injure or destroy any fruit, shade or other ornamental tree or plant or flower now growing, or which may hereafter be growing in any public street, lane, alley common or other public ground in the city without the permission of the board of aldermen, or upon private premises, without permission of the owners thereof. No person shall fasten any horse or other animal to any such tree or place or leave such horse or other animal so as to endanger or deface the same.

§ 4461. Littering street—By cleaning of building

No person shall wash or clean or cause to be washed or cleaned, between the hours of 8 o'clock in the morning and 10 o'clock in the evening, any window or part of a building located upon any business street in the city, in such manner as to wet or litter up any portion of the sidewalk or street.

§ 4462. —Sidewalks, streets and sewers

No person shall sweep, throw or place any store 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 into any sewer.

§ 4463. Franchises for use of streets and public places

No exclusive privilege or permanent franchise shall be granted by the city with reference to the occupancy and use of any street or public place within the city by any corporation,

firm or individual for any purpose whatever without obtaining a permit from the board of aldermen. Every corporation, firm and individual granted a franchise permitting the occupancy and use of any street or public place within the city shall at all times defend, keep harmless and indemnify the City of Rutland of and from all damages, cost and expense to which the city may be subjected or made liable by any proceedings at law or in equity or otherwise growing out of the exercise or enjoyment of the rights and privileges within the streets and public places of the city by any such corporation, firm or individual.

§ 4464. Skateboards, roller skates, roller skis and play vehicles

- (a) Findings. The Board of Aldermen finds that unregulated operation of play vehicles, skateboards, roller skates, or roller skis on public streets, sidewalks, parking lots and the public parks is a hazard both to the public and to individuals operating such play vehicles because such operation tends to conflict the efficient and safe vehicular and pedestrian use of such areas. The Board of Aldermen further finds that unregulated operation of play vehicles on private property without permission of the owner of such property is an infringement upon private property rights and leads to confrontations between property owners and persons riding such play vehicles.
- (b) Definitions. As used in this ordinance, the following terms and terms derived from them shall have the following meanings, unless the context clearly indicates that a different meaning is intended.

Person: Any natural person, whether minor or adult.

Play vehicle: A coaster, skateboard, roller skates, sled toboggan, ice-skates, roller blades or roller skis or other like vehicle excluding bicycles.

Ride or riding: Either wholly or partially sitting, standing, or lying upon a play vehicle by a person whether such play vehicle is in motion or stationary.

- (c) It shall be unlawful for any person to ride a skateboard, roller skates, roller skis or play vehicle in Depot Park in the downtown of the City of Rutland or on any sidewalk, street, parking lot or public park in the downtown of the city (as defined by 27 ROR 4705(a)) unless such person shall yield the right-of-way to other pedestrians using public sidewalks, and such person shall not otherwise endanger or interfere with pedestrian traffic on those sidewalks, or on any public property where signs are posted prohibiting such use, such as sidewalks, streets, parking lots and parks.
- (d) Persons riding roller skates, roller skis, skateboards or play vehicles in an area where such riding is allowed shall yield the right-of-way to other pedestrians and/or vehicles using public sidewalks or streets/right-of-ways and shall not otherwise endanger or interfere with pedestrian or vehicular traffic.
- (e) Warning. For a first offense a written warning shall be issued to the offender and no civil penalty shall be imposed. If the offender is under the age of eighteen (18)

years, a parent or guardian of the offender shall be notified and shall be handed or mailed a copy of the written warning.

- (f) Penalty. Any person violating the provisions of this ordinance after a written warning shall pay civil penalty of not less than \$25.00 nor more than \$500.00 with a waiver penalty option to be established by the Board of Aldermen for each offense.
- (g) Waiver penalty. Offender has the option of paying penalty without hearing by use of waiver in an amount set by the Board of Aldermen.
- (h) Pending resolution of the civil ticket, either through payment by waiver or payment of fine in full, the play vehicle, skateboard, roller skates, or roller skis may be retained by the police department of the City of Rutland as evidence.

§ 4465. Raising or lowering cargo into or over street; cellar doors and coal-holes in sidewalks

- (a) No person shall raise or lower goods, merchandise or materials into or from a building, into or over any portion of the street except with written permission of the chief of police.
- (b) No person shall construct any cellar door or cellar doorway projecting into any sidewalk beyond the street line, or leave open any trap-door or coal-hole in any sidewalk in the city. The upper surface of every coal-hole cover and all metal 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.

§ 4466. Fences immediately adjoining streets and public places

No person shall erect or cause to be erected any fence immediately adjoining any street or public ground in the city without first having ascertained the bounds and grade of such street or public ground by application to the city engineer.

§ 4467. Street littering by debris falling from vehicles

No person shall convey paper, excelsior, lawn clippings, nauseous or offensive substances or refuse of any kind through or upon any street in the city unless the vehicle holding such matter is strong and tight, with the sides so high above the load or contents that no part of such contents shall fall, leak or spill therefrom; and the vehicle shall be so covered that its contents cannot be blown out and about or scattered in the streets.

§ 4468. Nuisances and obstructions on public ways and places; on private premises

No person or persons shall permit any nuisance or obstruction, for which he or they may be responsible, to remain upon any street, lane or other public ground, nor permit any nuisance or noxious object or practice to exist or remain upon his or their premises, to the injury of any other person or persons. For a violation of this section, in addition to the penalty provided in section 4470 of this chapter, such person or persons shall, by

direction of the board of aldermen, after hearing, remove such nuisance; and in case of his or their failure so to do, the board of aldermen shall cause said nuisance to be removed and abated, and such person or persons shall pay all expense of removing and abating the same.

§ 4469. Maintenance of vacant lots; expenses; enforcement

- (a) Any person or persons owning a vacant lot in the City of Rutland shall, before August 1 of each year, cause the lot to be cleaned and cut of all weeds, hay, brush, deleterious, unhealthful growths or other noxious matter that may be growing, lying or located thereon. Upon failure, neglect or refusal of any owner to cut, remove and/or destroy weeds, hay, brush, or deleterious, unhealthful growths or other noxious matter, growing, lying or located on such owner's property, the health officer is hereby authorized and empowered to pay for the cutting, or other noxious matters or to order the removal by the city, or to order the city to pay for its removal. When the city has effected the removal of such obnoxious growth or other noxious matter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of 6 percent per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the city, and said charge shall be due and payable by said owner at the time of payment of such tax bill. Where the full amount due the city is not paid by such owner within 14 days after the cutting, destroying, cleaning and/or removal of such weeds, hay, brush, or deleterious, unhealthful growths or other noxious matter then, and in that case, the health officer shall cause to be recorded in the land records of the City of Rutland a sworn statement showing the cost and expense incurred for the work and the date, place or property on which said work was done, and recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made; such cost and expenses shall be collected in the manner fixed by law for the collection of taxes and, further, shall be subject to a delinquent penalty of 1 ½ percent plus warrant fee and collection costs of the collector of taxes in the event such cost and expenses are not paid in full on or before the tax bill upon which such charge appears becomes delinquent; sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.
- (b) Nothing contained in subsection (a) of this section shall be construed to be in substitution for the punishment by a fine by prosecution contained in section 4470 of this chapter but is to be construed as supplemental and an addition thereto.

§ 4470. Violations and penalties

Any person who shall violate any of the provisions of this chapter, or neglect or refuse to conform to any directions or orders of the board of aldermen or any proper officer or committee of the city, shall pay a civil penalty of not less than \$25.00 nor more than \$500.00 for each offense; and each day of such violation of such provisions or neglect or refusal to conform to any directors or orders of the board of aldermen or any proper officer or committee of the city in the premises, shall be counted as a separate violation.

§ 4471. Limitation of actions

No person shall be prosecuted or tried for any breach of the provisions of this chapter, unless complaint for the same shall be instituted and commenced within 6 months from the time of committing such offense.

§ 4472. Use of sound devices in public places to attract public attention

No person shall use, operate or play any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the streets or other public places to attract or solicit the attention of the public for the purpose of commercial or political advertising. Nothing herein shall be deemed to prohibit the playing of Christmas seasonal music during the period from the first day of December to the second day of January.

§ 4473. Snow and ice removal from sidewalks

Every person, partnership, corporation, joint stock company or syndicate in charge or in control of any building, structure or lot within the area serviced by parking meters, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away or cause to be removed and cleared snow and ice from so much of said sidewalk as is in front of or abuts said building or lot of land.

Snow and ice shall be so removed from the sidewalks within 8 hours after the secession of any fall of snow, sleet or freezing rain; or within 6 hours of daylight whichever shall come first.

In the event that snow and ice on a sidewalk has become so hard that it cannot be removed without the likelihood of damage to the sidewalk, the person or entity charged with this removal shall, within the time mentioned above, cause enough sand or other abrasive to be put on the sidewalk to make travel thereon reasonable safe and shall then, as soon thereafter as weather permits, cause said sidewalk to be thoroughly cleaned.

§ 4474. Failure to remove

Each person, partnership, corporation, joint stock company or syndicate who violates any provision of the ordinance codified herein, shall be subject to a civil penalty of not less than \$100 nor more than \$500 per violation. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

§ 4476. Enforcement

The commissioner of public works or the chief of police shall be responsible for the enforcement of the ordinance codified herein.