

# Title 1

## ADOPTION, CITATION AND MAINTENANCE, REVISED ORDINANCES OF THE CITY OF RUTLAND

### Chapter

1. Enactment, Repealing and Saving Provisions: Title
3. Maintenance of Revised Ordinances - Repealed No. 176

### CHAPTER 1

#### Enactment, Repealing and Saving Provisions; Title

### Section

101. Authority for revision; title; how to cite
102. Catchlines
103. Continuity of prior ordinances
104. Repeals; saving provisions
105. Notice to public; effective date
106. Separability

§ 101. Authority for revision; title; how to cite  
Pursuant to authority contained in city charter, this Title 1 and the following titles through Title 31 are enacted and shall be known as the "Revised Ordinances of Rutland", hereinafter sometimes referred to as "this Revision". Citations to the Revised Ordinances of Rutland shall be as follows: "R.O.R. § \_\_\_".

§ 102. Catchlines  
Title, chapter and subchapter headings, and section captions are included for convenience of users, but they are not to be construed as a part of the text to which they relate.

§ 103. Continuity of prior ordinances  
Insofar as the provisions of this Revision are in effect the same as ordinances existing in force immediately prior to the effective date of this Revision they shall be construed as a continuation of such ordinances.

§ 104. Repeals; saving provisions  
This Revision shall not affect an act done, a right or obligation accruing, accrued, acquired or established, a penalty incurred, a suit, prosecution or proceeding pending, or the tenure of a person holding office, at the time when it takes effect. Subject to that limitation, and except as may be provided otherwise in any other title of this Revision, all ordinances of the City of Rutland heretofore in force are hereby repealed; but this repeal shall not apply to or affect any ordinance heretofore adopted which accepts or adopts the provisions of any statute of the state or which accepts any grant, gift or other benefit to the city or to any segment thereof. No ordinance which has been repealed heretofore shall be revived by the repeal provisions contained in this section.

§ 105. Notice to public; effective date  
This Revision shall be duly published in accord with the provisions of the city charter, and shall take effect and be in operation on the 21st day after such publication.

§ 106. Separability  
It is the intention of the board of aldermen that each separate provision of these ordinances and any amendments hereto shall be deemed independent of all other provisions therein, and it is the further intention of the board of aldermen that if any provision of this Revision be declared invalid, all other provisions thereof shall remain valid and enforceable.

CHAPTER 3  
Maintenance of Revised Ordinances  
Repealed No. 176

**TITLE 3**  
**THE CITY GOVERNMENT**

Chapter

1. Legislative Department
3. Executive Department
4. Code of Ethics
5. City Seal
6. Administrative Committees
7. Residency Requirements – Repealed No. 240
- 8. Capital Budget and Program** Added July 16, 2012
- 9. Residency Requirements for City Boards & Commissions** (Added 8-15-2014)

**CHAPTER 1**

Legislative Department

Subchapter 1. Legislation

Section

201. Bylaws as ordinances; enacting clause
202. Numbering; adaptation to revised ordinances; catchlines
203. Introduction and adoption at the same meeting
204. Amendments to and repeal of existing ordinances
205. Annotations and filing
206. Publication and distribution
207. Applicability of ordinances
208. Fines and penalties - Repealed No. 176
209. Effective date of ordinances - Repealed No. 176
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Subchapter 3. Records

Section

251. Actions and votes, recorded by city clerk
252. Record books
253. City clerk as custodian of records, availability to public
254. Repealed No. 176

Subchapter 1. Legislation

§ 201. Bylaws as ordinances; enacting clause  
All bylaws of the city shall be termed ordinances; and the enacting style, which shall be but once recited in each ordinance, shall be: "Be it ordained by the board of aldermen of the City of Rutland as follows:".

§ 202. Numbering; adaptation to revised ordinances; catchlines  
(a) Each ordinance shall be numbered consecutively by the city clerk.

(b) Each ordinance shall be so drafted that the titles, chapters, subchapters, sections and subsections thereof shall relate to appropriate title, chapter, subchapter section, and subsection numbers of this Revision.

(c) In the event of enactment of an ordinance without title, chapter, or subchapter headings, or section captions, the city clerk may insert such appropriate headings or captions as may be lacking.

(d) The city clerk shall keep and update an index of the ordinances and all revisions thereto.

(e) If, as a result of any enactment, amendment or repeal of ordinances, renumbering of titles, chapters, subchapters, sections or subsections is appropriate, the city clerk may renumber the affected titles, chapters, subchapters, sections and subsections.

§ 203. Introduction and adoption at same meeting

In each case of the proposed adoption, amendment, change or repeal of an ordinance, the proposal shall be offered in writing at a regular meeting of the board of aldermen, and no ordinance shall be adopted or amended or repealed at the same meeting at which the proposal for adoption, amendment or repeal is offered, unless by the unanimous consent of all the aldermen present.

§ 204. Amendments to and repeal of existing ordinances

In all proceedings to amend an ordinance, or any part thereof, the proposed amendment may contain the entire title, chapter, subchapter, section or subsection to be amended, and upon the actual effective date of the title, chapter, subchapter, section or subsection as amended, the former title chapter, subchapter, section or subsection, as the case may be, shall be repealed. And when any ordinance shall take effect, all ordinances and rules, and parts of ordinances and rules inconsistent therewith shall thereby be repealed: Provided, however, that unless expressly stated therein, the adoption of any ordinance shall not affect any act done, any right or obligation accrued, any penalty incurred, any suit, prosecution or proceeding pending, or the tenure or office of any person holding office, at the time when the ordinance takes effect; nor shall the repeal of any ordinance thereby have the effect of reviving any ordinance theretofore repealed or superseded.

§ 205. Annotations and filing

(a) Each ordinance shall bear the date of its passage by the board of aldermen, as attested by the city clerk and the president of the board of aldermen, the date of its approval by the mayor, or of its reconsideration or enactment by the board of aldermen notwithstanding the objection of the mayor.

(b) All ordinances which are enacted by the board of aldermen shall be recorded by the city clerk in the order in which they have become laws in a book to be kept for that purpose, to be designated "Records of Ordinances of the City of Rutland". This book shall be preserved in the office of the city clerk, open to the inspection of the citizens.

(c) It shall also be the duty of the city clerk to keep, in his/her custody, in one volume, for office reference a compilation of all ordinances currently in effect, designated "Ordinances - Master Set". As ordinances are adopted, amended or repealed, the "Master Set" shall be immediately corrected.

§ 206. Publication and distribution

All ordinances enacted by the board of aldermen shall be published under the direction of the city clerk, in suitable form for the use of the officers and members of the city government, and for general distribution; which publication of ordinances shall be made as soon after their enactment as may be practicable; and printed copies thereof shall be publicly placed in the city clerk's office. The publication herein required shall be in addition to the publication required by the city charter.

§ 207. Applicability of ordinances

The prohibitions, restrictions, regulations and requirements of the city ordinances shall be in force and apply to each and all persons concerned therein, whether as principals, officers, agents, servants or otherwise, and all persons shall be liable to the penalties prescribed.

§ 208. - 210. Repealed No. 176

Subchapter 2. Committees of Board of Aldermen - Repealed No. 176

§ 231. - 232. Repealed No. 176

### Subchapter 3. Records

§ 251. Actions and votes, recorded by city clerk

All action and votes of the board of aldermen shall be fully and seasonably recorded in books to be kept specially for that purpose, and all books of record shall be in the custody of the city clerk and remain in the city clerk's office at all times, except when ordered removed by a court or by the board of aldermen.

§ 252. Record Books

The following named books of record shall be kept as provided in section 251 of this subchapter (but this enumeration shall not exempt the proper officers and committees from keeping such other and further records as by law or custom are required to be kept), viz:

(1) The Board of Aldermen, Board of Civil Authority and Board for Abatement of Taxes: A book to be known as the "Records of the Board of Aldermen, the Board of Civil Authority and the Board for Abatement of Taxes", in which shall be entered all orders, resolutions, votes and transactions of said boards, as contained in the minutes of said boards, together with all action or want of action of the mayor in respect thereto.

(2) Rules and Order of Business of The Board of Alderman: An official copy of the "Rules and Order of Business of the Board of Aldermen of the City of Rutland" shall be maintained on a current basis.

(3) Such other records as the city clerk is required to keep pursuant to state statutes.

(4) Such other records as the city clerk is required to keep pursuant to the city charter.

(5) Such other records as the city clerk is required to keep by order of the board of aldermen.

§ 253. City clerk as custodian of records; availability to public

(a) The records and papers kept or deposited in the city clerk's office are hereby placed under the exclusive care and control of the city clerk, and he/she is hereby declared to be responsible for the safe keeping and custody thereof.

(b) No book or volume of the public records, nor any paper duly filed, shall be taken from the office of the city clerk, except when ordered removed by a court or by the board of aldermen; nor shall it be lawful for any person to enter the record vault of the city without permission of the city clerk, whose duty it shall be to furnish, upon all proper occasions, such public records or papers as may be called for, to the person who shall apply therefore, and to place such records or papers in a convenient place in the city clerk's office for examination in his/her presence.

§ 254. Repealed No. 176

## CHAPTER 3

### Executive Department

Subchapter 1. General Provisions - Repealed No. 176

Subchapter 2. Fiscal

Section

321. Repealed No. 176

- 322. Board of finance
- 323. Processing for payment
- 324. City treasurer
- 325. Repealed No. 176
- 326. Repealed No. 176
- 327. Bill collection
- 328. Repealed No. 176

Subchapter 3. Purchasing Agent - Repealed No. 176

Subchapter 4. City Attorney - Repealed No. 176

Subchapter 5. Department of Public Works - Repealed No. 176

Subchapter 6. Pension Plan

Section

- 401. City of Rutland Pension Plan
- 402. Pension commissioner, powers and duties
- 403. Pension board
- 404. Repealed No. 215
- 405. Repealed No. 176
- 406. Repealed No. 176
- 407. Repealed No. 176
- 408. Repealed No. 176
- 409. Repealed No. 176
- 410. Repealed No. 176
- 411. Repealed No. 176
- 412. Repealed No. 176
- 413. Repealed No. 176
- 414. Repealed No. 176
- 415. Repealed No. 176

Subchapter 7. Emergency Management Department

Section

- 431. Department created; cooperation with other agencies
- 432. Emergency Management Director
- 433. Personnel
- 434. Funds
- 435. Planning and objectives
- 436. Emergency powers and duties
- 437. Emergency Management Advisory Council

Subchapter 8. Physical Examinations – Repealed No. 176

Subchapter 9. Emergency Curfew

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- 441. Definitions
- 442. Proclamation by Mayor
- 443. Imposition of curfew
- 444. Additional regulations

- 445. Emergency powers
- 446. Notification
- 447. Enforcement procedure
- 448. Penalty

Subchapter 1. General Provisions – Repealed No. 176

§ 301. – 306. Repealed

Subchapter 2. Fiscal

§ 321. Repealed No. 176

§ 322. Board of finance

The board of finance shall meet at least once in each month and carefully examine and audit all bills and claims laid before them by the city clerk, and if found correct and duly authorized, shall approve them.

§ 323. Processing for payment

Whenever the board of aldermen shall order the payment of any claims, accounts or demands against the city, other than such as are involved in requisitions made upon the purchasing agent, it shall be the duty of the city treasurer to immediately charge the same to the appropriate department. Whenever any appropriation shall be expended no claim or accounts chargeable to the expended appropriation shall be allowed until the board of aldermen has provided means for paying the same.

§ 324. City Treasurer

The city treasurer shall keep an accurate and true account of all receipts and payments on behalf of the city. He/she shall, following any inter-fund transfers or loan payments, provide written notification to the Board of Aldermen of such inter-fund transfers, loans, loan repayments, at the next regular meeting of the Board of Aldermen. (Amended 2006, No. 247 § 324, eff. June 6, 2007)

§ 325. – 326. Repealed No. 176

§ 327. Bill Collection

Payment for services or charges due to any city department shall be turned over to the city treasurer within 30 days of said charges being incurred. The city treasurer shall immediately bill the responsible party allowing 30 days from the date of billing for payment to the City of Rutland. If said charges are not paid within 30 days of the date of billing interest shall be charged on the unpaid balance at a rate of 12 percent per annum payable together with the said unpaid balance directly to the city treasurer. Should the bill remain unpaid in whole or in part after 6 months from the date of billing of said charge, interest shall accrue at 12 percent per annum and there shall be added to said bill an 8 percent collection fee.

§ 328. Repealed No. 176

Subchapter 3. Purchasing Agent - Repealed No. 176

§ 341. - 343. Repealed No 176

Subchapter 4. City Attorney - Repealed No. 176

§ 361. - 364. Repealed No. 176

Subchapter 5. Department of Public Works - Repealed No. 176

§ 381. - 383. Repealed No. 176

## Subchapter 6. Pension Plan

### § 401. City of Rutland Pension Plan

The City of Rutland pension plan shall be the retirement plan for the employees of the city. The pension plan shall be adopted and directed by the Pension Board and may be amended by the Pension Board.

### § 402. Pension commissioner, powers and duties

The Treasurer of the City of Rutland shall be the Pension Commissioner of this city. He/she shall have the following duties and powers:

(1) To collect and receive all sums of money contributed or paid by employees of this city for pension purposes.

(2) To receive all sums of money appropriated by this city or contributed, received or given from any other source for pension purposes.

(3) To pay to, deposit and invest all sums of money contributed or paid by employees of this city for pension purposes, and such other sums appropriated by this city for such purposes, except as otherwise provided.

(4) To pay or cause to be paid to the persons entitled thereto the sums of money hereinafter in this subchapter specified as pensions.

(5) To contract with and sign the pension plan contract for the purposes herein mentioned, said contract to contain in substance the provisions of this subchapter; and to execute and sign from time to time any other documents necessary or convenient to carry out the provisions thereof.

(6) Such other powers as may be necessary or convenient to carry out the purposes specified in this subchapter.

### § 403. Pension board

(1) The pension board of the City of Rutland shall be comprised of five (5) members of the Board of Aldermen and five (5) members of the Board of School Commissioners and the Pension Commissioner.

(2) Appointment to the Pension Board shall be made by the President of the Board of Aldermen for the five (5) members from the Board of Aldermen and by the President of the Board of School Commissioners for the five (5) members from the Board of School Commissioners approved by the respective Boards.

(3) The Pension Commissioner shall be the presiding officer of the Pension Board and shall be a voting member of the Board.

### § 404.

(1) Pension benefits negotiated or provided to the employees under the direction or control of the Board of Aldermen shall be approved by the Pension Board provided appropriate funding is approved by the Board of Aldermen.

(2) Pension benefits negotiated or provided to the employees under the direction or control of the Board of School Commissioners shall be approved by the Pension Board provided appropriate funding is provided by the Board of School Commissioners.

(3) Appropriate funding will mean funding of the cost of such benefits based upon reasonable financial analysis.

### § 405. - 415. Repealed No. 176

## Subchapter 7. Emergency Management

### § 431. Department created; cooperation with other agencies

There is hereby created within and for the City of Rutland a department of emergency management, which is authorized and directed to cooperate with all appropriate departments and agencies of the State of Vermont and the United States having direction or control of emergency management programs.

### § 432. Emergency Management Director

(a) The department of emergency management shall be under the direction and control of the emergency management director, who shall be appointed by the mayor, with the approval of the board of aldermen, and who shall receive such salary or other compensation as may be voted by the board of aldermen. The term of office of the emergency management director shall be as set forth in the city charter.

(b) The emergency management director shall be responsible to the mayor in regard to all phases of the emergency management activity. Under the supervision of the mayor, he/she shall be responsible for the planning, coordination and operation of the emergency management activity in the city. Under the supervision of the mayor, he/she shall maintain liaison with the state and federal authorities and authorities of other nearby political subdivisions as to insure the most effective operation of the emergency management plan. His/her duties shall include, but not be limited to, the following:

(1) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the City for emergency management purposes.

(2) Development and coordination of plans for the immediate use of all the facilities, equipment, manpower and other resources of the city for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare.

(3) Negotiating and concluding agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for emergency management purposes and designating suitable buildings as public shelters.

(4) Through public informational programs, educating the civilian population as to actions necessary and required for the protection of their persons and property in case of enemy attack, or disaster, as defined herein, either impending or present.

(5) Conducting public practice exercises to insure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures and operations.

(6) Coordinating the activity of all other public and private agencies engaged in any emergency management activity.

(7) Assuming such authority and conducting such activity as the mayor may direct to promote and execute the emergency management plan.

### § 433. Personnel

The director shall employ such clerical or other assistance as may from time to time be authorized by the mayor and board of aldermen, and may, in addition, appoint such other officials or assistants as he/she shall from time to time deem necessary or advisable, to serve without compensation other than expenses incurred in the performance of their duties.

### § 434. Funds

The director shall have charge of the expenditure of all funds appropriated or otherwise made available for the purpose of emergency management.

### § 435. Planning and objectives

(a) The director may, from time to time, submit plans and other materials to the Division of Emergency Management of the Department of Public Safety of the State of Vermont, or any successor agency charged with similar duties and responsibilities.

(b) All plans formulated by the department of emergency management shall be in conformity with the regulations and standards established by: (1) the Federal Emergency Management Agency, or its successor in responsibility or functions, including the regional offices thereof; and (2) the State of Vermont and Division of Emergency Management of the Department of Public Safety; and shall conform to the National Plan and the State of Vermont Operations Plan, all of which are accepted by the City of Rutland as controlling in the operations and planning of the city's department of emergency management. It shall be one of the objectives of such department to expand and develop its operational plans, with the assistance of available state or federal funds, in accordance with the regulations and standards above referred to.

§ 436. Emergency powers and duties

(a) The mayor may exercise the emergency power and authority necessary to fulfill his/her general powers and duties. The judgment of the mayor shall be the sole criteria necessary to invoke emergency powers provided in the city charter and ordinances. The board of aldermen may convene to perform its legislative and administrative powers as the situation demands, and shall receive reports relative to emergency management activities.

(b) During any period when disaster threatens or when the city has been struck by disaster, the mayor may promulgate such regulations as he/she deems necessary to protect life and property and preserve critical resources. Such regulations may include, but shall not be limited to, the following:

(1) Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency management forces, or to facilitate the mass movement of persons from critical areas within or without the city.

(2) Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.

(3) Such other regulations necessary to preserve public peace, health and safety.

(4) Regulations promulgated in accordance with the authority above will be given widespread circulation by proclamations published and uttered by newspaper, radio and television. These regulations will have the force of ordinance when duly filed with the city clerk.

(c) The mayor may use local emergency management forces to give mutual aid to other communities when required in accordance with the statutes of the state, and he/she may request the state, or a political subdivision of the state, to send aid to the City of Rutland in case of disaster when conditions in the city are beyond the control of the local emergency management forces.

(d) The mayor may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people and bind the city for the fair value thereof.

(e) The mayor may require emergency services of any city officer or employees. If regular city forces are determined inadequate, the mayor may require the services of such other personnel as he/she can obtain and are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities as are provided by state law, the city charter and ordinances for regular city employees and other registered and identified emergency management workers and, upon demand, may receive appropriate compensation for their emergency employment.

(f) The mayor shall cause to be prepared the basic plan herein referred to and to exercise his/her ordinary powers as mayor, all of the special powers conferred upon him/her by the city charter and the ordinances of the City of Rutland, all powers conferred upon him/her by any statute, or any other lawful authority.

§ 437. Emergency management advisory council

(a) There is hereby established an emergency management advisory council consisting of all department heads of the city government. Each member of said council shall be responsible for the preparation of all necessary emergency planning for their respective departments, which shall be submitted

to the mayor and board of aldermen for approval. It shall become part of the comprehensive emergency management plan prepared by the emergency management director.

(b) The emergency management director shall be the coordinator of said emergency management advisory board.

#### Subchapter 8. Physical Examinations - Repealed No. 176

§ 450. Repealed No. 176

#### Subchapter 9. Emergency Curfew

§ 441. Definitions

(a) A civil emergency is defined to be a riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute such force by three or more persons acting together without authority of law.

(b) Curfew is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the limits of the City during the hours in which a curfew has been imposed, excepting persons officially designated to duty with reference to said civil emergency.

§ 442. Proclamation by mayor

When in the judgment of the mayor a civil emergency as defined herein is deemed to exist he/she shall forthwith proclaim in writing the existence of the same.

§ 443. Imposition of curfew

After proclamation of a civil emergency by the mayor, he/she may order a general curfew applicable to such geographical areas of the city or to the city as a whole as he/she deems advisable and applicable during such hours of the day or night as he/she deems necessary in the interest of the public safety and welfare.

§ 444. Additional regulations

After proclamation of a civil emergency, the mayor may also, in the interest of public safety and welfare, make any or all of the following orders:

(a) Order the discontinuance of selling, distributing, or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(b) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(c) Issue such other orders as are imminently necessary for the protection of life and property.

§ 445. Emergency powers

During the period of a declared state of emergency, the mayor shall have the power to invoke any or all of the following provisions:

(a) Alcoholic beverages. No person shall consume any alcoholic beverages in a public street or place which is publicly owned or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.

(b) Weapons. No person shall carry or possess any rock, bottle, club, brick or weapon which he/she uses or intends to use the same unlawfully against the person or property of another.

(c) Incendiary missiles. No person shall make, carry, possess or use any type of "Molotov cocktail", gasoline or petroleum base fire bomb or other incendiary missile.

(d) Restricted areas. No person shall enter any area designated by the mayor as a restricted area unless in the performance of official duties or with written permission from the mayor, the police chief, or such other duly designated representative, or such person shall prove residence therein.

§ 446. Notifications

Notifications of the declaration of a state of emergency and any accompanying orders shall be posted in writing in City Hall in locations available to the public. Additionally, notification shall go to the following:

- (a) Effort will be made to have declarations provided on all radio stations providing a general service to the listening audience of the City of Rutland;
- (b) All police officers on or off duty;
- (c) Rutland County sheriff's department, state police, and court officials from Vermont district court unit no. I, Rutland circuit;
- (d) Correctional center officials;
- (e) The city fire department;
- (f) The emergency management director;
- (g) Hospitals and emergency clinics.

§ 447. Enforcement procedure

(a) If a police officer reasonably believes that a person is in a public place in violation of a curfew, the officer shall notify the person that he/she is in violation of the ordinance and shall require the person to provide his/her name, address and telephone number and how to contact his/her parent or guardian if the person is a juvenile. In determining the age of a juvenile and in the absence of convincing evidence such as a birth certificate, a police officer shall, in the first instance of violation of the curfew, use his/her best judgment in determining age.

(b) The police officer shall issue the person a warning that the person is in violation of the ordinance and order the person to leave the area under curfew. The chief of police shall send the parent or guardian of a juvenile written notice of the violation.

§ 448. Penalty

Any person violating any provisions of this ordinance shall be punishable by a criminal fine of not more than five hundred dollars (\$500.00) or up to one year imprisonment.

## CHAPTER 4

### Code of Ethics

Section

- 451. Declaration of Policy
- 452. Definitions
- 453. Conflict of interest
- 454. Public property
- 455. Disclosure of interests in legislative action
- 456. Repealed
- 457. Advisory opinions
- 458. Repealed No. 176
- 459. Repealed No. 176
- 460. Repealed No. 176

§ 451. Declaration of policy

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all city officials and employees is adopted. The purpose of this code is to establish guidelines for ethical

standards in conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interest of the city and by directing disclosure by such officials and employees of private financial or other interest in matters affecting the city.

§ 452. Definitions

The following words shall have the following meanings:

(a) "Official act or action" means any legislative, administrative or discretionary act of any officer or employee of the city or any agency, board, committee or commission thereof.

(b) "Public officer or employee" means any person, officer, or employee holding a position by election, appointment or employment in the service of the municipality, whether paid or unpaid, including members of any board, committee, or commission thereof.

(c) First degree of relationship shall mean grandparents, children, stepchildren, grandchildren, great grandchildren, parents, brothers, sisters, nephews, nieces, grandnephews and nieces, great grandnephews and nieces, son-in-law, daughter-in-law, father-in-law and mother-in-law.

(d) Immediate family shall mean spouses, dependents, anyone residing in the person's household acting as husband and wife, and anyone within the first degree of relationship of the person, or the person's spouse; e.g., within first degree of relationship as defined in (c) above.

§ 453. Conflict of interest

No city officer or employee shall engage in any act which is in conflict with, or creates an appearance of conflict with, the performance of official duties. An officer or employee is deemed to have a conflict of interest if the employee:

(1) Receives or has any financial interest in any sale to the city or any service or property when such financial interest was received with prior knowledge that the city intended to purchase such property or obtain such service.

(2) Solicits, accepts or seeks anything of economic value as a gift, gratuity, or favor from any person, firm or corporation involved in a contract or transaction which is or may be the subject of official action of the city. Provided, that the prohibition against gifts or favors shall not apply to:

(a) Attendance of an employee at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of city business or where official attendance by the employee as a staff representative is appropriate.

(b) An award publicly presented in recognition of public service, or

(c) Any gift which would have been offered or given to the employee if he or she were not a city employee.

(d) An occasional nonpecuniary gift, insignificant in value.

(3) Participates in his or her capacity as a city employee in the making of a contract in which he or she or an immediate family member of said employee, has a private pecuniary interest, direct or indirect, or performs in regard to such a contract some function requiring the exercise of discretion on behalf of the city.

(4) Influences the city's selection of, or its conduct of business with, a corporation, person or firm having business with the city if the employee, or an immediate family member of said employee, has financial interest in or with the corporation, person or firm.

(5) Engages in, accepts private employment from, or renders services for private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

(6) Appears on behalf of a private person, other than his or herself or an immediate family member or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the city or a city officer in an official capacity is a party, or accepts a retainer or compensation that is contingent upon a specific action by the city.

(7) Discloses or uses, without legal authorization, confidential information concerning the property or affairs of the city to advance a private interest with respect to any contract or transaction which is or may be the subject of official action of the city.

(8) Has a financial or personal interest in any legislation coming before the board of aldermen and participates in discussion with or gives an official opinion to the board of aldermen unless the employee discloses on the record the nature and extent of such interest.

(9) Holds, directly or indirectly, for purposes of personal financial gain, investment or speculation, any interest in real property situated within the city, if such employee in the course of his or her official duties performs any function requiring the exercise of discretion on behalf of the city in regard to the regulation of land use or development; provided that this prohibition shall not apply to:

(a) Real property devoted to the personal use or residence of the employee or member of the employee's immediate family, or

(b) Any other interest in real property held by the employee on the date of enactment of this chapter.

(10) Participates in his or her capacity as a city employee or officer, directly or indirectly, to supervise, appoint, control, evaluate, influence or discipline the work or employment status, including transfers and promotions of an immediate family member or the affairs of the organizational unit in which the immediate family member is employed.

(11) Participates in his or her capacity as a city officer or employee in the appointment, vote for appointment, or discussion of any appointment of any immediate family member to any decision for clerkship, office, position, employment or duty.

(12) Participates in his or her capacity as a city officer or employee in the negotiation, vote, discussion of contracts or of any matter which directly or indirectly involves the immediate family member of such city official or employee.

§ 454. Public property

No public officer or employee shall request or permit the unauthorized use of city-owned vehicles, equipment, materials or property for personal convenience or profit.

§ 455. Disclosure of interests in legislative action

(a) Any member of the board of aldermen who has a financial interest or personal interest in any proposed legislation before the board shall disclose on the record of the board the nature and extent of such interest.

(b) Any other official or employee who has a financial or personal interest in any proposed legislative action of the board and who participates in discussion with or gives an official opinion or recommendation to the board shall disclose on the record of the board the nature and extent of such interest.

§ 456. Repealed No. 176

§ 457. Advisory opinions

(a) Where any public officer or employee has a doubt as to the applicability of any provision of this code to a particular situation, or as to the definition of terms used herein, he or she may apply to the city attorney for an advisory opinion. The officer or employee shall have the opportunity to present his/her interpretation of the facts at issue and of the applicability of provisions of the code before such advisory opinion is made.

(b) Such opinion until amended or revoked shall be binding on the city, the board of aldermen, and the city attorney in any subsequent actions concerning the public officer or employee who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any action initiated by any private citizen.

(c) Any advisory opinion prepared by the city attorney shall be made public. However, the name of the person requesting the opinion and the names of all persons or business entities mentioned in the opinion shall be deemed confidential information and shall not be disclosed by the city attorney unless the

public officer or employee waives such confidentiality or where the city attorney deems the public official to have failed to act in good faith in requesting the opinion or in conforming with the opinion or to have failed to act in conformance with the opinion.

§ 458. - 460. Repealed No. 176

## CHAPTER 5 City Seal

### Section

- 461. Description
- 462. City clerk as custodian

§ 461. Description

The seal of the City of Rutland shall be circular in form, with a rope border, and having in the margin, in capital letters and figures, the following inscription:



SEAL OF THE CITY OF RUTLAND

A TOWN SEPT. 7 1761 - A CITY NOV. 19 1892

Upon the disk within the inscription to be a scroll, upon which shall be a view of the Green Mountains, with the word VERMONT above the horizon, and a representation of the city hall, a railroad train and a quarry and a derrick in the foreground. To the right of the scroll may be a representation of an inverted horn with agricultural products issuing therefrom, and a sheaf of wheat, and to the left a scale, anvil, hammer, and gear-wheel. The whole to be arranged substantially according to the representation of the seal hereinbefore set out in this section.

§ 462. City clerk as custodian

The city clerk shall be ex officio keeper of the city seal, and is empowered to affix the same to such papers and instruments as by law are required to bear the seal of the city.

## CHAPTER 6 Administrative Committees

Section

- 501. Traffic committee created
- 502. Meetings
- 503. Duties
- 504. Development review committee created
- 505. Meetings
- 506. Duties

§ 501. Traffic committee created

There is hereby created a committee to be known as the traffic committee. The committee shall consist of the police chief as chairperson, fire chief, city engineer, building inspector, community development director and the chairperson of the public safety committee of the board of aldermen as an ad hoc non-voting member. Vacancies shall be filled for the remainder of the term of said member by the individual's successor in office or if no successor, by the assistant to said member.

§ 502. Meetings

The committee shall hold meetings as often as necessary to fulfill its duties, not less often than once each month of the year. The committee shall notify the mayor and all interested parties of the time, date and place of each meeting.

§ 503. Duties

The committee shall hear, investigate and review all complaints from citizens about traffic matters in the city. The committee shall not be limited to investigating and recommending conventional means for improving traffic matters, but may also investigate and recommend innovative solutions to traffic problems.

§ 504. Development review committee created

There is hereby created a committee to be known as the development review committee. The committee shall consist of the city engineer, community development director as chairperson, fire chief, police chief, building inspector, zoning administrator and the chairperson of the community development committee of the board of aldermen as an ad hoc non-voting member. Vacancies shall be filled for the remainder of the term of said member by the member's successor in office or if no successor, by the assistant to or vice-chairperson of said member.

§ 505. Meetings

The committee shall hold meetings as necessary to fulfill its duties. The committee shall notify the mayor and all interested parties of the time, date and place of each meeting.

§ 506. Duties

The committee shall hear and investigate all applications for a subdivision permit, substantial building permits, commercial developments even if no permit is required, to assess the requirements for but not limited to access, water, sewer, construction materials, site plan.

The committee shall recommend action on said applications or if necessary, recommend to the proper authority its finding or recommend solutions to cases which arise through its investigation and review.

## CHAPTER 7

### Residency Requirements – Repealed No. 240

§ 521-525 – Repealed No. 240

## CHAPTER 8

### § 551 Purpose and Establishment

It is given that capital resources including buildings, roads, water and sewer facilities, and parks represent a significant city investment and that these resources should be managed with long term goals and needs in mind while understanding that financial resources are limited. It is the opinion of this Rutland City Board of Aldermen (BOA) that a Capital Improvement Program (CIP) and policy structure be established pursuant to 24 VSA §4403 to provide for the fair and efficient use of limited community resources for the City's capital project needs. Therefore, the following Capital Improvement Budget and Program process is ordained and established by the City.

### §552 Definitions

- a) Capital Budget: A list and description of the capital projects to be undertaken during the coming fiscal year, the estimated cost of those projects, and the proposed method of financing.
- b) Capital Improvement Program (CIP) Committee: A committee composed of the Mayor, the Executive Direct of the Rutland Redevelopment Authority, and an Alderman appointed by the Board President. The Mayor shall serve as chair.
- c) Capital Program: A plan of capital projects proposed to be undertaken during each of the following five years, the estimated cost of those projects, and the proposed method of financing.
- d) Capital Project: any one or more of the following which should have a value in excess of \$50,000 and a life expectancy of at least 5 years:
  - (1) Any physical betterment or improvement, including furnishings, machinery, apparatus, or equipment for that physical betterment or improvement when first constructed or acquired.
  - (2) Any preliminary studies and surveys relating to any physical betterment or improvement.
  - (3) Land or rights in land.
  - (4) Any combination of subdivisions (1), (2), and (3).

### §553 Capital Improvement Program Development

Beginning August 1, 2013, Department Heads and other city officers shall submit capital project projects to the CIP Committee by August 1<sup>st</sup> of each year. The committee shall review the proposals and rank them in accordance with Rating Criteria and Multipliers Scoring Sheet which shall be established and

which may be amended by the Board of Aldermen. The committee shall use the numerical ranking results to order priorities in developing the capital program from highest scoring being greater priority to lesser scoring being the lesser, taking in to consideration the City's ability to pay. Capital projects may be ranked other than by applying the rubric for good cause in the judgment of the CIP committee.

§554 Capital Budget and Program Contents. The capital budget and program shall be arranged to indicate the order of priority of each capital project and to state for each project all the following:

- (1) A description of the proposed project and the estimated total cost of the project.
- (2) The proposed method of financing, indicating the amount proposed to be financed by direct budgetary appropriation or duly established reserve funds; the amount, if any, estimated to be received from the federal or state governments; the amount, if any, to be financed by impact fees; and the amount to be financed by the issuance of obligations, showing the proposed type or types of obligations, together with the period of probable usefulness for which they are proposed to be issued.
- (3) An estimate of the effect, if any, upon operating costs of the municipality.

§555 Capital Improvement Budget and Program Adoption.

By September 15<sup>th</sup>, the CIP Committee shall submit its proposed capital budget and program to the City Clerk who shall forward the proposal to the City Planning Commission and the Board of Aldermen. Upon receipt from the City Clerk, the proposal will be automatically referred to the general committee at the board's next regularly scheduled meeting. The general committee shall hold at least one committee meeting where the public may give input. After committee review, and before adoption by the Board of Aldermen, there shall be a final public hearing to be scheduled before a regular meeting of the Board of Aldermen. The City Planning Commission may submit a report on the proposal to the Board of Aldermen prior to the public hearing. The Board of Alderman may adopt or reject the proposed plan at the regular meeting immediately following the final public hearing in accordance with 24 V.S.A. §4443.

§556 Effect of Adoption of Rejection

If adopted by the Board of Aldermen, the total of the current fiscal year's capital budget which relates to the general fund will be placed on the March ballot notwithstanding the normal budget process. Those sums which relate to the Water and Sewer funds shall be used by the board in setting the water and sewer rates. The adopted capital program shall be used by the CIP committee and the administration in amending and constructing subsequent capital budgets and programs.

If rejected by the Board of Aldermen, the Capital Budget and/or Program shall be sent back to the CIP Committee with comments and suggestions for revision. If the Capital Budget is rejected by the voters, the CIP Committee shall make adjustments and resubmit the revised budget and plan following the process outlines in §555 above. If necessary, a special city meeting may be called for the approval of any amended capital budget.

§557 Annual Amendment

The Capital Improvement Program shall be reviewed, updated, and amended annually, following the process in §553-555.

## **CHAPTER 9** **Residency Requirements for City Boards and Commissions**

§570. Authority.

This ordinance is adopted pursuant to § 15.12 of the Rutland City Charter.

§571. Residency Requirements for City Boards and Commissions.

Appointees to the following City boards or commissions shall reside within the corporate limits of the City of Rutland:

1. Board of Health
2. Planning Commission
3. Cemetery Commission
4. Development Review Board/Zoning Board of Adjustment
5. Housing Board of Review

## **TITLE 5 Elections**

Chapter

1. General provisions
3. Campaign Finance Reports
5. Absent Voter Applications and Ballots - Repealed No. 176

### CHAPTER 1

#### General Provisions

Section

601. Division into wards
602. Alteration in boundaries of wards
603. Conduct of elections

§

601. Division into wards

The City of Rutland shall be divided into five (5) wards. The number and boundaries of each ward shall be as follows:

#### WARD ONE

All of legislative district 6-1, lying within the city, more particularly described as east of North Main Street, east of South Main Street, north of East Center Street, north of Easterly Avenue, north of Piedmont Parkway, east of Stratton Road and north of Killington Avenue.

#### WARD TWO

All of legislative district 6-2 lying within the city, more particularly described as east of South Main Street, south of East Center Street, south of Easterly Avenue, south of Piedmont Parkway and Killington Avenue and south of that section of Killington Avenue which is east of Stratton Road.

#### WARD THREE-A

All that portion of legislative district 6-3 lying within the city, south of where West Street and Otter Creek intersect legislative district 6-3 and more particularly described as west of South Main Street, south of West Street, east of East Creek and south of that section of Otter Creek which is between its confluence with East Creek and the city line which is west of Ripley Road.

#### WARD THREE-B

All that portion of legislative district 6-3 lying within the city, north of where West Street and Otter Creek intersect legislative district 6-3 and more particularly described as north of that section of West Street which is between South Main Street and East Creek, west of that section of East Creek which is between West Street and Otter Creek, and north of Otter Creek.

#### WARD FOUR

All of legislative district 6-4 lying within the city, more particularly described as east of East Creek, north of that section of Tenny Brook which is between its confluence with East Creek and Baxter Street, east of that section of Baxter Street between Tenny Brook and Maple Street, north of Maple Street, east of that section of Grove Street between Maple Street and Williams Street, north of Williams Street, west of that section of Elm Street between Williams Street and Burnham Avenue, north of Burnham Avenue, west of that section of Lincoln Avenue between Burnham and Kendall Avenues, north of that section of Kendall Avenue between Lincoln Avenue and North Main Street and west of North Main Street.

#### § 602. Alteration in boundaries of wards

In the event that the State of Vermont should alter the boundaries of all or any of the legislative subdistricts hereinabove mentioned, such actions shall automatically affect a corresponding alteration in the boundaries of wards hereinabove established unless the board of aldermen by resolution shall determine otherwise.

#### § 603. Conduct of elections

All annual and special City elections, and all special meetings, shall be held in the several wards at times designated by the Board of Aldermen and shall be conducted in conformance with the city charter and Vermont State statutes.

### CHAPTER 3

#### Campaign Finance Reports

##### Section

- 651. Reports by candidates
- 652. Penalties

#### § 651. Reports by candidates

Every candidate for election to a city office under the provisions of the charter and ordinances of the City of Rutland shall, within 10 days after the date of the election at which he/she is a candidate, file a sworn itemized statement with the clerk, on forms provided by the clerk and approved by the board of aldermen, setting forth each expenditure, listed by amount, date, to whom paid and for what purpose; and all sources of revenue including the names of contributors of \$25 or more relating to his/her campaign for such office. Such statement once filed, shall be recorded by the city clerk in the election book and be available for inspection and examination as part of the public records.

#### § 652. Penalties

(a) Any person elected to office who fails to file the statement provided for in section 651 of this chapter with the city clerk within the 10-day period immediately following the date of the election shall

be prohibited from acting in the official capacity for which he/she was elected until such time as he/she files said report.

(b) Any person elected to office who fails to file the statement provided for in section 651 of this chapter with the city clerk, or who fails to file within 30 days from the date of the election, unless excused by the board of civil authority, shall be disqualified from holding the office to which he/she is elected and the office to which he/she was elected shall be filled in accordance with the provisions of the charter and ordinances of the city.

(c) Any unsuccessful candidate who fails to file the statement provided for in section 651 of this chapter within 30 days from the date of the election shall be prohibited from holding the office for which he/she ran for a period of 2 years, unless excused by the board of civil authority.

(d) In addition to the other penalties provided herein a candidate for election who fails to comply with the provisions of this chapter shall pay a penalty of not less than \$50 nor more than \$500.

## **CHAPTER 5**

Absent Voter Applications and Ballots - Repealed No. 176

§ 701. - 704. Repealed

## **TITLE 7 AIRCRAFT AND AIRPORTS**

Chapter

1. Aircraft
3. Rutland Municipal Airport

### **CHAPTER 1**

Aircraft

Section

801. Taking off or landing prohibited, exceptions
802. Definitions
803. Violations and penalties

§ 801. Taking off or landing prohibited, exceptions

The taking off or landing of any passenger or freight-carrying airplanes, helicopters and any other kind of aircraft is prohibited in the City of Rutland except as follows:

(a) In medical or civil emergencies

(b) By federal, state or local government officials or their authorized agents in the exercise of governmental responsibilities.

(c) For any other purposes when authorized by a permit issued by each of the following officials approval:

- (1) Commissioner of public works

- (2) Building inspector
- (3) Chief of police
- (4) Fire Chief

§ 802. Definitions

As used in this article, the following terms shall have the meanings indicated:

- (a) Passenger - includes any pilot or copilot.

§ 803. Violations and penalties

Any person who violates any of the provisions of this ordinance shall pay a civil penalty of not less than \$100 nor more than \$500 for the first offense. For a second offense there shall be a civil penalty of not less than \$250 nor more than \$500 and for a third and subsequent offense there shall be a civil penalty of not less than \$500.

### CHAPTER 3

#### Rutland Municipal Airport

Section

- 851. Rules and regulations; maintenance of airport
- 852. Fees and charges for use
- 853. Concessions; contracts for repair and improvement of airport; leases
- 854. Estimates of expenses and annual report to mayor
- 855. Fiscal provisions
- 856. Reports to board of aldermen
- 857. Bonds of commissioners

§ 851. Rules and regulations, maintenance of airport

The airport commission shall have the exclusive care and maintenance of the grounds, buildings and equipment of the Rutland Municipal Airport, located in the town of Clarendon, together with the right to make rules and regulations for the use of said airport, and to hire, discharge, and fix the compensation of all employees at said airport.

§ 852. Fees and charges for use

The airport commission shall have the exclusive power to set all fees and charges for the use of said airport, and to collect the same to be turned over to the city treasurer.

§ 853. Concessions; contracts for repair and improvement of airport; leases

(a) The airport commission shall have the power to lease, for a term not exceeding the term of one year, all concessions in connection with said airport and such concessions shall be awarded on bids, properly advertised, by such commission. All bids shall be kept on file by such commission in the office of the city clerk and shall be open to the public. The airport commission shall have the power to make contracts for the repair and improvement of the said airport, or any of its facilities. All contracts, leases and other legal papers shall be drawn by the city attorney.

(b) All leases, contracts or other agreements for a period longer than one year, shall be approved by the board of aldermen and signed by the mayor in the same manner as other agreements of the city.

§ 854. Estimates of expenses and annual report to mayor

It shall be the duty of the airport commissioners to prepare and submit to the mayor annually, on or before the fifteenth day of November, estimates of the whole expense of maintaining the airport and its facilities for the year ensuing from the first day of the following January. Such estimates shall specify in

detail the objects of the expenditures, the sum desired for each, and any special reason the commission may have relating thereto.

§ 855. Fiscal provisions

All moneys received in any way on account of the airport shall be paid into the city treasury. The city treasurer shall keep accounts, showing fully all receipts and payments had and made in any manner on account of the airport, separately from all other receipts and payments. The revenue derived from the airport shall be appropriated as follows: First, to pay the necessary expense of its maintenance; Second, to pay interest on the indebtedness of the city incurred for its construction; Third, to the sinking fund as provided for the payment of said indebtedness; Fourth, necessary extensions and improvements of the airport; and Fifth, to the general requirements of the city.

§ 856. Reports to board of aldermen

The commission shall make an annual report to the board of aldermen in detail on the use, cost, and receipts of the airport, together with their recommendation for the improvement of the same, and they shall make such other reports to the board of aldermen from time to time as may be requested by the board of aldermen

§ 857. Bond of commissioners

Each of the airport commissioners shall furnish bond in the amount of \$1000 for the faithful discharge of their respective duties in the same manner and form as required from other city officials.

## **TITLE 9 BUILDINGS**

### Chapter

1. Building Inspector - Repealed No. 177
3. Construction, repair and use of buildings
4. Redevelopment Compliance Ordinance
5. Moving buildings on streets and highways
7. Dangerous Buildings - Repealed No. 175
9. Plumbing
11. Housing Standards (Amended 9/15/2008 & 7/5/2011 & 7/1/2013)
13. (Reserved)
14. Certificate of occupancy--enforcement
15. Certificate of compliance upon sale - Repealed No. 177
16. Vacant Buildings (Added August 5, 2013)

### **TITLE 9; BUILDINGS**

#### **CHAPTER 1**

#### **Building Inspector - Repealed No. 177**

§ 1001. - 1002. Repealed

### **TITLE 9; BUILDINGS**

#### **CHAPTER 3**

#### **Construction, Repair and Use of Buildings**

### Section

1021. Building and swimming pool permits, when required; plans and specifications
1022. Notice; expiration of permits
1023. Fees
1024. Codes and regulations applicable.
1025. Complaints of violations
1026. Construction immediately adjoining street or public ground
1027. Construction, renovation, improvements for barrier-free accessibility
1028. --Application to residential buildings
1029. --Grievance Procedure
1030. Noncompliance with order of inspector; penalty

§ 1021. Building and swimming pool permits, when required; plans and specifications

(a) Any person intending to erect or reconstruct dwellings, commercial or industrial buildings of any description within any portions of the city; and any person intending to make any substantial change to a commercial or industrial building; and any person intending to change a building used as a dwelling into a commercial, industrial or other usage building shall apply in writing for a permit to do so. A form for such application shall be specified and approved by the building inspector. Upon completion of the form by the applicant and approval being granted by the fire marshal, the commissioner of public works, the administrative officer and the chief of police, where such approval is necessary, the building inspector shall approve or deny such application. Each application shall include a cost estimate of such building exclusive of land, and such other information as the building inspector may require.

(b) Any person intending to construct swimming pools within the City of Rutland, shall apply in writing for a permit to do so, on forms to be specified and provided by the building inspector. Said application shall include provisions for adequate fencing at least 4 feet in height on and around perimeter of said swimming pool. Upon completion by the applicant and approval by the fire marshal, commissioner of public works, administrative officer and chief of police, where such approval is necessary, the building inspector shall have the authority to approve all properly executed applications.

(c) No person shall do any act for carrying such intentions into execution, until such permit of the building inspector has been obtained.

(d) The application shall be accompanied by suitable plans and specifications as determined by the building inspector.

(e) Any person owning an in-ground swimming pool or above-ground swimming pool with open access as of May 19, 1980, shall make application for a permit approving existing fencing if it meets the requirements of this section or to construct adequate fencing for the swimming pool in accordance with this section, to be in place May 19, 1981.

§ 1022. Expiration of permits

A permit under which no work is commenced within 6 months after issuance shall expire by limitation and a new permit shall be secured before work is started.

§ 1023. Fees

The board of aldermen shall, by regulation, set and adjust fees for permits under this chapter.

§ 1024. Codes and regulations applicable

(a) All buildings erected, reconstructed or materially changed shall be so erected, reconstructed or materially changed in accordance with the provisions of the fire protection and building code in effect at the time of such erection, reconstruction or material change, which code has been adopted by the State of Vermont pursuant to 21 V.S.A. Section 252 and 262. Such code shall be enforced pursuant to all applicable state statutes and city ordinances and shall be the code for the City of Rutland.

(b) Building permits for buildings located within the redevelopment area as established by the Rutland redevelopment authority additionally must obtain a ruling issued by the architectural review committee as established by the Rutland downtown redevelopment plan and as provided in Chapter 4 of this ordinance. Failure to obtain the required permit from the architectural review committee will prohibit issuance of the building permit.

§ 1025. Complaints of violations

Any person may, and the building inspector shall, make complaint to the grand juror whenever any building is being, or is about to be constructed, erected, reconstructed or materially changed in violation of the provisions of this chapter.

§ 1026. Construction immediately adjoining street or public ground

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

§ 1027. Construction, renovation, improvements for barrier-free accessibility

(a) When the building inspector shall determine whether contemplated construction, renovation, or improvements of a public building necessitate access or use by handicapped individuals. If the building inspector makes such affirmative determination, he/she shall consult with the 504 and ADA commission on accessibility improvements in Rutland ("CAIR") established herein whereat the CAIR shall make affirmative findings pertaining to proposed construction, renovation, or improvements for the purpose of promoting a barrier-free environment and reporting back to the building inspector said findings. The building inspector shall include said findings with the building permit.

(b) CAIR referred to herein shall be the commission for accessibility improvements in Rutland and shall be appointed by the mayor and approved by the Board of Aldermen and shall be composed of a minimum of two members representing the Rutland area community and up to seven members at large whose term shall be two years. Meetings of said commission shall be convened as above.

(c) All construction, renovation or improvement must meet current Americans with Disabilities Act accessibility guidelines as codified in 28 CFR Part 36 (hereinafter ADA) as amended from time to time.

(d) Architectural barriers. Plans received for the construction of a public building must comply with the architectural barrier statute found at Title 21 V.S.A. Chapter 4 and with the rules and regulations as adopted pursuant to Title 3 V.S.A. Chapter 25. Passageways, corridors and other pedestrian walkways hereafter constructed or reconstructed to serve as a principal means of public access between buildings shall be also made barrier free in conformance with these standards.

§ 1028. Application to residential buildings

(a) New construction

Ten percent (10%) of all new residential units in residential subdivisions or residential rental, condominium or cooperative developments shall comply with the required accessibility standards in this ordinance. If a development contains four (4) to fourteen (14) units, one (1) unit must be accessible; if it contains fifteen (15) to twenty-four (24) units, two (2) units must be accessible. If the development contains three (3) or fewer units, it is exempt from this requirement.

In addition, all new residential construction contained rental apartments, condominiums or cooperatives shall have the principal outside entrance to common areas as well as common passageways and other common areas be accessible as required by this ordinance. If such developments contain less than three (3) stories, they shall be exempt from any requirements related to the installation of elevators.

(b) Altered residential construction

(1) Except as set forth in subsection (2) below, if existing residential rental, condominium or cooperative developments containing four (4) or more units are altered, ten percent (10%) of the units must comply with the accessibility standards in this ordinance. If the building or development contains four (4) to fourteen (14) units, one (1) unit must comply; if the building or development contains fifteen (15) to twenty-four (24) units, two (2) units must comply. In addition, one outside entrance to common areas and common areas and passageways in the building must be accessible as required by the ordinance; however, if the building or buildings is/are less than three (3) stories, the common areas and passageways above the first floor do not have to meet the standards of the ordinance.

(2) The following are exempt from the provisions of this section:

(i) Alterations of a building or unit which do not exceed in cost of 40 percent of the fair market value of the building or unit. For purposes of this section, "fair market value" means the appraisal value of the building or unit as determined for the purposes of property taxation. If the appraisal value of the building or the unit has not been determined by the assessors, "fair market value" means the estimated fair market value as that term is described in 32 V.S.A. Section 3481(1).

(ii) Alterations to an owner-occupied condominium, cooperative or single family dwelling unit, or to the owner-occupied portion of a public building.

(3) Passageways, corridors and other pedestrian walkways hereafter constructed are reconstructed on site to serve as means of public access to, into or between public buildings and facilities, whether exterior or interior shall also be made barrier-free in conformance with these standards.

§ 1029. Grievance Procedure

a. Any person complaining about access or discrimination must submit to the building inspector in writing a complaint for resolution. A record of the complaints and action taken shall be maintained by the building inspector. The building inspector shall render his/her decision within ten working days.

b. Any interested person not satisfied with the building inspector's decision shall bring appeal to the CAIR within seven working days. A notice of appeal must be made in writing, filed with the building inspector who shall forward said appeal along with any official records and decision to CAIR within three working days of receipt of the notice of appeal.

c. CAIR shall establish procedural rules and regulations for hearing complaints, requests, or suggestions from disabled persons regarding access to and participating in public facilities, services, activities, and functions in the City of Rutland. Further, CAIR shall hear such appeals in public, after adequate public notice. CAIR shall make a written decision within thirty days from the close of hearing and taking of evidence.

d. Any person aggrieved by a decision of CAIR shall have a right to appeal pursuant to Vermont State Law pursuant to VRCP 74.

§ 1030. Noncompliance with order of inspector; penalty

(a) If the owner or occupant of any building in the city shall refuse to allow the building inspector to examine his premises with reference to the condition or safety of the buildings as provided within the scope of this title or any other ordinance, such person or persons shall pay a civil penalty of not less than \$50 nor more than \$500 for each offense. Each day such offense continues shall be considered a separate offense for payment of penalty.

(b) If any person shall neglect or refuse to obey any written order or rule of the building inspector with respect to any matter or thing within the scope of this title or any other ordinance, such person shall pay a civil penalty of not less than \$50 nor more than \$500 for each offense. Each day upon which the offense continues shall be considered a separate offense for payment of penalty.

(c) Any person, firm or corporation found guilty of violation of this chapter shall pay a civil penalty not less than \$50 nor more than \$500 for each offense. Each day upon which the offense continues shall be considered a separate offense for payment of penalty.

## **TITLE 9; BUILDINGS**

### **CHAPTER 4**

#### **Redevelopment Compliance Ordinance**

Section

- 1050. Purpose
- 1051. Definitions
- 1052. Requirements
- 1053. Enforcement/penalties
- 1054. Variances

§ 1050. Purpose

The purpose of this ordinance is to incorporate provisions of the Rutland downtown redevelopment plan into the City of Rutland's building permit process; ensure compliance with terms of the plan through consolidation of the permit review process; and make the permit process more conducive to effective economic development.

§ 1051. Definitions

Redevelopment plan - the Rutland downtown redevelopment plan as approved by the voters on November 3, 1992, and inclusive of any subsequent amendments approved by the board of aldermen and Rutland redevelopment authority.

Redevelopment area - the area within the central district subject to the redevelopment plan.

Architectural and design guidelines - the architectural and design guidelines adopted in conjunction with the Rutland downtown redevelopment plan as approved by the voters on November 3, 1995, and inclusive of any subsequent amendments approved by the board of aldermen and Rutland redevelopment authority.

Architectural review committee - the committee charged with reviewing projects within the redevelopment area to ensure compliance with the architectural and design guidelines.

§ 1052. Requirements

a. All designs for facades, signs or landscaping must be reviewed and approved by the architectural review committee before a building permit may be issued by the building inspector.

b. All construction projects affecting building facades, signage or landscaping within the redevelopment area must comply with the requirements of the redevelopment plan before a building permit may be issued by the building inspector.

§ 1053. Enforcement/penalties

Penalties for non-compliance shall as in 9 ROR §1030 comply with the city's requirement to obtain a building permit.

§ 1054. Variances

Variances may be granted by the architectural review committee, or by delegation of the committee, by the building inspector, only in matters pertaining to provisions of the redevelopment plan and guidelines. The architectural review committee shall have no authority to grant variances for any other city ordinances or requirements.

## **TITLE 9; BUILDINGS**

### **CHAPTER 5**

#### **Moving Buildings on Streets and Highways**

Section

- 1121. Petition for permit--advertising
- 1122. --when advertising not required
- 1123. --when tree, post, wire or other obstruction is involved
- 1124. Permits; expiration thereof
- 1125. --Notice upon granting or refusal
- 1126. Expenses of city and bonds therefor
- 1127. --When cutting of wires or cables involved; expenses
- 1128. Warning notices and lights; penalties
- 1129. Property destruction; violation of permit, penalties

§ 1121. Petition for permit--Advertising

Whenever any person shall design to remove any building along, across or through any of the streets or public highways within the City of Rutland, he shall present his petition in writing to the board of aldermen for permission to make such removal, which petition shall describe the building, its dimensions, location, the place to which it is designed to be removed, and the streets along, across or through which it is to be moved. Every such petition shall be filed, and the costs of advertising the same shall be deposited with city clerk; and the last named officer shall cause notice of the pendency of said petition, and of the time when testimony concerning it will be heard and considered by the board of aldermen; to be publicly advertised for at least one week before action thereon by said board and the city clerk shall send written notices to the various wire using companies that may be concerned over the removal of buildings, as to the time and place of each hearing.

§ 1122. --When advertising not required

Insofar as they relate to the advertising of the petition, the provisions of this chapter shall not apply to buildings whose dimensions together with the conveyance upon which they are moved do not exceed 15 feet in length, 12 feet in width, and 15 feet in height.

§ 1123. --When tree, post, wire or other obstruction is involved

In case it shall be necessary in the moving of any building to cut down or trim up any tree, or move any post, wire, or other obstruction on the line of the street or highway along, across or through which said building is to be moved, that fact shall be set forth in the petition and notice aforesaid, and no tree shall be cut down, nor its branches cut off, and no post, wire or other obstruction shall be so moved, unless special permit shall have been given therefor as aforesaid.

§ 1124. Permits; expiration thereof

(a) No building shall be removed along, across or through any of the public streets or highways within said city without the written permit of the board of aldermen first had and obtained therefor, upon petition made as aforesaid, and such permit shall not be granted without first giving notice of the pendency of said petition as above provided, and the permit shall describe the streets through, along or across which, and the time within which, such buildings shall be moved.

(b) All permits granted pursuant to the terms of this chapter shall expire automatically six months from the date of issue.

§ 1125. --Notice upon granting or refusal

The city clerk shall, upon the granting or refusal by the board of aldermen of a permit applied for under this chapter, immediately notify the chief of police and the inspector of buildings thereof in writing.

§ 1126. Expenses of city and bonds therefor

The owner of every building removed as aforesaid shall pay to the city all damages, costs and expenses occasioned to the city by such removal, to be ascertained by the board of aldermen, and before removing such building the owner shall give bonds to the city treasurer in such sum as the board of aldermen shall prescribe, satisfactory to the board of aldermen, for the payment of all such damages, costs and expenses, so to be ascertained; and further conditioned to pay all damages, costs and expenses that may be caused to the property of, or that may be incurred by any person, firm or corporation in consequence of such removal.

§ 1127. --When cutting of wires or cables involved; expenses

Wherever the proposed moving of a building shall involve the necessity of cutting or removal of any wires, cables, or lines or other apparatus of a telegraph, telephone, electric or other wire using company, the board of aldermen shall give due notice to the owner of said wires, cables or lines, of the petition and hearing as required by this chapter. If such permit be granted, such necessary cutting or necessary removal shall be done by or under the direction of the owner of said cables, wires or lines within a 7 day period. The first \$25 of the expense of such cutting, removal or replacement of wires shall be borne by the wire using company, and all expense above that amount shall be borne by the person removing the building.

§ 1128. Warning notices and lights; penalties

Every person engaged in moving any building through any of the public highways of the city under authority granted under the provisions of this chapter, shall cause to be posted and maintained at proper distances in either direction from said building, suitable notices by day and suitable lights by night, to give warning that the street is impassable by reason of the moving of such building. Every person neglecting or refusing to so place and maintain such notices and lights, and every person wrongfully removing or interfering with such notices and lights, shall pay a civil penalty of not less than \$50 nor more than \$500 for each offense. Each day that the offense continues shall be considered a separate offense for imposition of penalty.

§ 1129. Property destruction; violation of permit; penalties

Every person who shall remove, or be employed in removing, any building along, across or through any of the streets or highways aforesaid, and every person who shall cut down any tree, or cut off any branch or branches of any tree, not his own, or who shall cut or remove any post or wire, without such permit from the board of aldermen, or in a manner not in compliance with the terms and conditions of such permit, shall pay a civil penalty of not less than \$50 or more than \$500. Each day that an offense shall occur will be considered for separate penalty hereunder.

## **TITLE 9; BUILDINGS**

### **CHAPTER 7**

#### **Dangerous Buildings - Repealed No. 175**

§ 1181. - 1194. Repealed No. 175

## **TITLE 9; BUILDINGS**

### **CHAPTER 9**

#### **Plumbing**

Section

1251. Enforcement of state regulations by Rutland board of health

§ 1251. Enforcement of state regulations by Rutland board of health

(a) The health officer shall make or cause to be made such inspections of private dwellings from time to time as necessary for the purpose of obtaining compliance with the plumbing regulations for private dwellings as promulgated by the Vermont Department of Health, and may, for such purpose, request the assistance of the building inspector. Each violation shall be reported promptly to the Rutland board of health which shall, without unreasonable delay, give written notice to the violator, informing him/her of the violation and the corrective action required, and calling attention to the penal provisions of 26 V.S.A. §2175 in the event of his/her failure to take the stated corrective action within a reasonable time; and such notice shall be signed by the health officer.

(b) The board of health may make such rules and regulations as they may consider necessary to implement the provisions of subsection (a) of this section; and shall refer to the city grand juror for prosecution all violators who fail, within a reasonable time after receipt of notice as provided in subsection (a), to take the corrective action stated in such notice.

## **TITLE 9; BUILDINGS**

### **CHAPTER 11 Housing Standards**

#### Section

- 1300. Notice and orders; notice to owner or to person or persons responsible (Amended 7/05/2011)
- 1301. Definitions
- 1302. Applied meaning of words and terms (Amended 7/1/2013)
- 1303. Placarding of structure
- 1304. Vacating structures
- 1305. Temporary safeguards
- 1306. Emergency work
- 1307. --Costs of emergency work
- 1308. Violations
- 1309. General requirements
- 1310. Exterior property areas (Amended 9/15/2008 by BOA)
- 1311. Exterior Structure
- 1312. Interior Structure
- 1313. Light, ventilation and occupancy limitations
- 1314. Occupancy limitations
- 1315. Plumbing facilities and fixture requirements
- 1316. Storm drainage
- 1317. Mechanical and electrical requirements
- 1318. Electrical facilities
- 1319. Fire safety requirements
- 1320. Accumulations and storage
- 1321. Fire resistance ratings
- 1322. Fire protection systems
- 1323. Responsibilities of persons

§ 1300. Notices and orders; notice to owner or to person or persons responsible

Whenever the city determines that there has been a violation of this ordinance or has reasonable grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefor in the manner prescribed below. If the city has condemned the property or part thereof, the city shall give notice to the owner and to the occupants of the intent to placard and to vacate the property or to order equipment out of service.

(a) Form: Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the reason or reasons why the notice is being issued;
- (4) Include a correction order allowing a reasonable time for the repairs and

improvements required to bring the dwelling unit or structure into compliance with the provisions of this ordinance, and;

(5) Inform the owner and occupants of their right to be heard on the subject of such condemnation, provided that, with 10 days of the notice, they contact the Building Inspector to make such request to be heard.

(b) Transfer of ownership: It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or such other owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the building inspector and shall furnish to the building inspector a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

§ 1301. Definitions.

(a) Unless otherwise expressly stated, the following terms shall have the meanings indicated in this ordinance. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

(b) Where terms are not defined in this section and are defined in the building, plumbing or mechanical codes they shall have the same meanings ascribed to them in those codes.

(c) Where terms are not defined through the methods authorized with this section, they shall have their ordinarily accepted meanings such as the context implies.

(d) Whenever the words "dwelling unit", "dwelling", "premises", "building", "rooming house", "rooming unit", "story", or "structure" are used in this ordinance, they shall be construed as though they were followed by the words, "or any part thereof".

§ 1302. Applied meaning of words and terms:

(a) Basement: that portion of a building which is partly or completely below grade.

(b) Bathroom: a room containing plumbing fixtures including a bathtub or shower.

(c) Dwelling:

(1) Rooming house: a building arranged or used for lodging, with or without meals, for compensation and not occupied as a one-family dwelling or a two-family dwelling.

(2) Multiple family dwelling: a building containing more than two dwelling units and not classified as a one- or two-family dwelling.

(3) Rooming unit: any room or group of rooms forming a single habitable unit used or intended to be used for sleeping and/or living, but not for cooking purposes.

(4) Dormitory: a space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group.

(5) Hotel: any building containing six or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

(6) One-family dwelling: a building containing one dwelling unit with not more than five lodgers or boarders.

(7) Two-family dwelling: a building containing two dwelling units with not more than five lodgers or boarders per family.

(d) Dwelling unit: a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(e) Exterior property: the open space on the premises and on adjoining property under the control of owners or operators of such premises.

(f) Extermination: the control and elimination of insects, rats or other pests by eliminating their harborage places; but removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by an other approved pest elimination methods.

(g) Family: an individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or a group of not more than five unrelated persons, living together as a single housekeeping unit in a dwelling unit.

(h) Garbage: the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(i) Habitable space: space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces, and similar areas not considered habitable spaces.

(j) Infestation: the presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

(k) Let for occupancy or let: to permit possession or occupancy of a dwelling, dwelling unit, rooming unit, building or structure by a person who shall be legal owner or not be the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

(l) Occupant: Any person living or sleeping in a building; or having possession of a space within a building. An occupant shall not include a child under the age of twenty-four (24) months for the purpose of section 1314.

(m) Openable area: A window or door which is available for unobstructed ventilation and opens directly to the outdoors.

(n) Operator: Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

(o) Owner: Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the state of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

(p) Person: An individual, corporation, partnership or any other group acting as a unit.

(q) Plumbing: The practice, materials, and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances, and appurtenances within the scope of the plumbing code.

(r) Plumbing fixture: A receptacle or devise which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water; or discharges used water, liquid-borne non-hazardous waste materials, or sewage either directly or indirectly to the drainage system of the premises; or which requires both a water supply connection and a discharge to the drainage system of the premises.

(s) Premises: A lot, plot or parcel of land including the buildings or structures thereon.

(t) Public nuisance: Includes the following:

(1) The physical condition, or use of any premises regarded as a public nuisance at common law; or

(2) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures; or

(3) Any premises which has unsanitary sewerage or plumbing facilities; or

(4) Any premises designated as unsafe for human habitation or use; or

(5) Any premises which is manifestly capable of being a fire hazard, or is manifestly unsafe or insecure as to endanger life, limb or property; or

(6) Any premises from which the plumbing, heating and/or facilities required by this ordinance have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided; or

(7) Any premises which is unsanitary, or which is littered with rubbish or garbage, or which has an uncontrolled growth of weeds, or;

(8) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent so as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises.

(u) Rubbish: Combustible and noncombustible water materials, except garbage, and the term, shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rages, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

(v) Structure: That which is built or constructed without limitation, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

(w) Toilet room: A room containing a water closet or urinal but not a bathtub or shower.

(x) Ventilation: The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

(y) Yard: An open space on the same lot with a building.

§ 1303. Placarding of structure.

After the condemnation notice required under the provisions of this ordinance has resulted in an order by virtue of failure to comply within the time given, the building inspector shall post on the premises or structure or parts thereof, or on defective equipment, a placard bearing the words: "Condemned as unfit for human occupancy or use", and a statement of the penalties provided for any occupancy or use or for removing the placard. The owner or the person or persons responsible for the correction of violations shall have removed themselves from the property on failure to comply with the correction order in the time specified, but other occupants shall be given a reasonable time to vacate.

(a) Prohibited use: Any person who shall occupy a placarded premises or structure or part thereof, or shall use placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises shall be liable for the penalties provided by this ordinance.

(b) Removal of placard: The building inspector shall remove the condemnation placard when the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the building inspector shall be subject to the penalties provided by this ordinance.

§ 1304. Vacating structures.

When, in the opinion of the building inspector there is actual and immediate danger of failure or collapse of a structure which would endanger life, or when any structure has fallen and life is endangered by the occupancy of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or use of defective or dangerous equipment, the building inspector is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. He shall cause to be posted at the main entrance to such structure a notice reading as follows: "This structure is unsafe and its use or occupancy has been prohibited by the building inspector." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the structure.

§ 1305. Temporary safeguards.

Notwithstanding other provisions of this ordinance whenever, in the opinion of the building inspector, there is actual and immediate danger of collapse or failure of a structure or other hazardous condition which would endanger life, the building inspector shall order the necessary work to be done including the boarding-up of accessible openings, to render such structure temporarily safe and shall cause such other action to be taken as the building inspector deems necessary to meet such emergency.

§ 1306. Emergency work.

For the purposes of this ordinance, the building inspector shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

§ 1307. Costs of emergency work.

Costs incurred in the performance of emergency work shall be billed by the Treasurer to the owner of said property. If unpaid after 30 days, the City Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

§ 1308. Violations.

(a) Unlawful acts: It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, use or occupy or permit another person to use or occupy any structure or equipment regulated by this ordinance, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this ordinance, or to fail to obey a lawful order of the building inspector or to remove or deface a placard or notice posted under the provisions of this ordinance.

(b) Penalty: Any person, firm or corporation, who shall violate any provision of this ordinance shall pay a civil penalty of not less than \$50 nor more than \$500. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

§ 1309. General requirements.

The provisions of this ordinance shall govern the minimum conditions and standards for maintenance of structures and exterior property.

(a) Responsibility: The owner of the premises shall maintain the structures and exterior property in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy or use premises which do not comply with the requirements of this ordinance.

(b) Vacant structures and land: All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

§ 1310. Exterior property areas

(a) Sanitation: All exterior property and premises shall be maintained clean, safe, sanitary and free from any accumulation of rubbish or garbage.

(b) Grading and drainage: All premises shall be graded and maintained to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: Water retention areas and/or reservoirs.

(c) Sidewalk and driveways: All sidewalks, walkways, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free of hazardous conditions.

(d) Weeds: All premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided however, this term shall not include cultivated flowers and gardens.

(e) Rat harborage: All structures and exterior property shall be kept free from rat infestation. Where rats are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(f) Exhaust vents: Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(g) Accessory structure: All accessory structures, including garages, fences and walls, shall be maintained structurally sound and in good repair.

(h) Motor vehicles (amended and approved by the BOA on 9/15/2008; effective 10/9/2008): Except as provided in other regulations, not more than one currently uninspected motor vehicle shall be parked, kept or stored on any property and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Exception: A vehicle of any type is permitted to undergo a major overhaul, including body work, provided such work is performed inside a structure or similarly enclosed area designed and approved for such purpose.

§ 1311. Exterior Structure.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(a) Street numbers: Each building to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public right-of-way. All numbers shall be at least three inches high.

(b) Structural members: All structural members shall be maintained free of deterioration, and capable of safely bearing the imposed dead and live loads.

(c) Foundation walls: All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rats.

(d) Exterior walls: All exterior walls shall be free of holes, breaks, loose or rotting materials; and maintained weatherproof and properly surface-coated where required to prevent deterioration.

(e) Roofs and drainage: The roof and flashing shall be sound, tight, and not have defects which might admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the building. Roof water shall not be discharged in a manner that creates a public nuisance.

(f) Decorative features: All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(g) Overhang extensions: All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(h) Chimneys and towers: All chimneys, towers, smoke stacks, and similar appurtenances shall be maintained structurally safe, sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(i) Handrails and guardrails: Every flight of stairs which is more than four risers high shall have a handrail on at least one side of the stair, and every open portion of a stair, landing or balcony which is more than 30 inches above the floor or grade below shall have guardrails. Handrails shall not be less than 30 inches nor more than 42 inches high, measured vertically above the nosing of the treads. Guardrails shall be 42 inches high above the floor of the landing or balcony. Every handrail and guardrail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition.

(j) Window and door frames: Every window, door and frame shall be kept in sound condition, good repair and weather-tight. All glazing materials shall be maintained free of cracks and holes.

(1) Openable windows: Every window other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

(2) Insect screens: During the period from May 1 to October 1, every door, window and other outside opening used or required for ventilation purposes serving any building containing habitable rooms, shall be supplied with approved tightly fitting screens.

(k) Doors: All exterior doors and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guest rooms shall tightly secure the door.

(l) Basement hatchways: Every basement hatchway shall be maintained to prevent the entrance of rats, rain and surface drainage water.

(m) Guards for basement windows: Every basement window which is openable shall be supplied with rat-proof shields, storm windows or other approved protection against the entry of rats.

§ 1312. Interior Structure

The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in sanitary condition.

(a) Structural members: The supporting structural members of every building shall be maintained structurally sound, and capable of carrying the imposed loads.

(b) Interior surfaces: All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling paint, cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.

(c) Accumulation of rubbish or garbage: The interior of every structure shall be free from any accumulation of rubbish, or garbage.

(d) Insect and rat harborage: All structures shall be kept free from insect and rat infestation. All structures in which insects or rats are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(e) Stairs and railings: All interior stairs and railings shall be maintained in sound condition and good repair.

(f) Handrails and guardrails: Every flight of stairs which is more than four risers high shall have a handrail on at least one side of the stair, and every open portion of a stair, landing or balcony which is more than 30 inches above the floor grade below shall have guardrails. Handrails shall not be less than 30 inches nor more than 42 inches high, measured vertically above the nosing of the tread or above the floor of the landing or balcony. Guardrails shall be 42 inches high above the floor of the landing or balcony. Every handrail and guardrail shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition.

#### § 1313. Light, ventilation and occupancy limitations

The provisions of this ordinance shall govern the minimum conditions and standards for the light, ventilation and space for the occupancy of a structure. The owner of the structure shall provide and maintain light, ventilation, and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy or use any premises that do not comply with the requirements of this ordinance. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation shall be permitted when complying with the building code.

##### (a) Light

(1) Habitable spaces: Every habitable space shall have a least one window of approved size facing directly to the outdoors or to a court. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than three feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

(2) Common halls and stairways: Every common hall and stairway, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60 watt standard incandescent light bulb or equivalent for each 200 square feet of floor area, provided that the spacing between lights shall not be greater than 30 feet. Every exterior stairway shall be illuminated with a minimum of one foot candle at floors, landings and treads.

(3) Other spaces: All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe use of the space and the appliances, equipment and fixtures.

##### (b) Ventilation

(1) Habitable spaces: Every habitable space shall have a least one openable window.

(2) Bathrooms and toilet rooms: Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by this ordinance, except that a window shall not be required in spaces equipped with a mechanical ventilation system that complies with the following: Air exhausted by a mechanical ventilation system from a bathroom within a dwelling unit shall be exhausted to the exterior and shall not be recirculated to any space, including the space from which such air is withdrawn.

(3) Cooking facilities: Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit. Exception: Where specifically approved in writing by the building inspector.

(4) Clothes dryer exhaust. Clothes dryer venting systems shall be independent of all other systems and shall be vented in accordance with the manufacturer's recommendations.

§ 1314. Occupancy Limitations

(a) Access from sleeping rooms: Sleeping rooms shall not be used as the only means of access to other sleeping rooms or habitable spaces. Exception: Dwelling units that contain fewer than two bedrooms.

(b) Area for sleeping purposes: Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor for each occupant thereof.

(c) Water closet accessibility: Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom.

(d) Overcrowding: Dwelling units shall not be occupied by more occupants than permitted by the minimum occupancy area requirements of Table A for minimum occupancy.

TABLE A  
MINIMUM OCCUPANCY AREA REQUIREMENTS

Space

Minimum occupancy area in square feet

	1-2 Occupants	3-5 Occupants	6 or more
Living room	No requirements	120	150
Dining room	No requirements	80	100
Kitchen	50	60	

(e) Combined spaces: Combined living room and dining rooms spaces shall comply with the requirements of Table A for minimum occupancy if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

(f) Prohibited use: Kitchens, nonhabitable spaces and interior public areas shall not be used for sleeping purposes.

(g) Minimum ceiling heights: Habitable spaces, other than kitchens, shall have a clear ceiling height of not less than seven feet four inches. Hallways, corridors, laundry areas, bathrooms, toilet rooms, and kitchens shall have a clear ceiling height of not less than seven feet. Exceptions:

(1) Beams or girders spaced not less than four feet on center and projecting not more than six inches below the required ceiling height, provided the minimum clear height is not less than six feet eight inches.

(2) Dropped or furred ceilings over no more than one-half of the minimum floor area required by this ordinance provided no part of such dropped or furred ceiling is less than seven feet in height.

(3) Rooms used exclusively for sleeping, study, or similar uses and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least seven feet over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five feet or more shall be included.

(4) Basement rooms in one and two-family dwellings used exclusively for laundry, study, or recreation purposes having a ceiling height of not less than six feet eight inches with not less than six feet four inches of clear height under beams, girders, ducts, and similar obstructions

(h) Minimum room widths: A habitable room, other than a kitchen, shall not be less than seven feet in any plan dimension. Kitchens shall have a clear passageway of not less than three feet between counterfronts and appliances or counterfronts and walls.

§ 1315. Plumbing facilities and fixture requirements.

The provisions of this ordinance shall govern the minimum plumbing facilities and plumbing fixtures to be provided. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy or use any structure or portion thereof or premises with does not comply with the requirements of this ordinance.

(a) Required facilities.

(1) Dwelling units: Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in proximity to the door leading into the room in which such water closet is located.

(2) Rooming houses: At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

(b) Toilet Rooms.

(1) Privacy: Toilet rooms and bathrooms shall provide privacy and shall not be used as the only passageway to a hall or other space, or to the exterior.

(2) Every sink, lavatory, bathtub or shower, water closet or other plumbing fixture shall be properly connected to a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water.

(3) Supply: The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free of defects and leaks.

(4) Water heating facilities: Water heating facilities shall be properly installed, maintained, and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110 degrees F. A gas-burning water heater shall not be located in any bathroom, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

(c) Sanitary Drainage System.

(1) All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(2) Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

§ 1316. Storm drainage.

Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance. Such drainage shall not be connected directly into the City sanitary sewer system.

§ 1317. Mechanical and electrical requirements.

The provisions of this ordinance shall govern the minimum mechanical and electrical facilities and equipment to be provided. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. a person shall not occupy as owner-occupant or permit another person to occupy or use any premises which does not comply with the requirements of this ordinance.

(a) Heating facilities.

(1) Residential buildings: Every dwelling shall be provided with heating facilities capable of maintaining a room temperature of 65 degrees F. when the outside temperature is 15 degrees below zero, at a level of three feet above the floor and a distance of three feet from the exterior walls in all habitable rooms, bathrooms and toilet rooms. Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitory or guest rooms on terms, either express or implies, to furnish heat to the occupants thereof shall supply sufficient heat to maintain a room temperature of not less than 65 degrees F. in all habitable rooms, bathrooms and toilet rooms whenever the outside temperature is less than 55 degrees F. regardless of the time of year.

(2) Cooking and heating equipment: All cooking and heating equipment, components, and accessories in every heating, cooking, and water heating device shall be properly installed and maintained free from leaks and obstructions.

(3) Mechanical equipment: All mechanical equipment shall be properly installed and maintained in safe working condition, and capable of performing the intended function.

(4) Flue: All fuel-burning equipment and appliances shall be connected to an approved chimney or vent. Exception: Fuel-burning equipment and appliances that are labeled for unvented operation.

(5) Clearances: All required clearances to combustible materials shall be maintained.

(6) Safety controls: All safety controls for fuel-burning equipment shall be maintained in effective operation.

(7) Combustion air: A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided for the fuel-burning equipment.

(8) Energy conservation devices: Devices purporting to reduce fuel consumption by attachment to a fuel appliance, to the fuel supply line thereto, or the vent outlet or vent piping therefrom shall not be used unless labeled for such use and the installation is specifically approved.

(9) Fireplaces: Fireplaces and solid fuel-burning appliances shall be properly installed and maintained in a safe working condition.

§ 1318. Electrical Facilities

(a) Facilities required: Every building used for human occupancy shall be provided with an electrical system in compliance with state electrical codes.

(b) Receptacles: Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded type receptacle. Every bathroom shall contain at least one receptacle.

(c) Lighting fixtures: Every public hall, interior stairway, water closet compartment, bathroom, laundry room and furnace room shall contain at least one electric lighting fixture.

(d) Service: The size and usage of appliances and equipment shall be used as a basis for determining the need for additional facilities in accordance with National Electrical Code. Every dwelling unit shall be served by a main service which is not less than 60 ampere, three wire.

(e) Installation: All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

(f) Electrical system hazards: Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the building inspector shall require the defects to be corrected to eliminate the hazard.

§ 1319. Fire Safety Requirements

The provisions of this ordinance shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements and the B.O.C.A. fire prevention code. Persons shall not occupy as owner-occupant or permit another person to use any premises that do not comply with the requirements of this ordinance.

(a) Means of egress: A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to a public way.

(b) Locked doors: All doors in the required means of egress shall be readily openable from the inner side without the use of keys. Exits from dwelling units, rooming units, guest rooms, and dormitory units shall not lead through other such units, or through toilet rooms or bathrooms.

(c) Emergency escape: Every sleeping room located in a basement shall have at least one openable window or exterior door approved for emergency egress or rescue; or shall have access to not less than two approved independent exits. Exception: Buildings equipped throughout with a complete automatic fire suppression system.

§ 1320. Accumulations and storage.

(a) Accumulations: Rubbish, garbage or other materials shall not be stored or allowed to accumulate in stairways, passageways, doors, windows, fire escapes, or other means of egress.

(b) Hazardous material: Combustibles, flammable, explosive or other hazardous material, such as paints, volatile oils and cleaning fluids, or combustible rubbish, such as waste paper, boxes and rags, shall not be accumulated or stored unless such storage complies with the applicable requirements of the building code and the fire prevention code.

§ 1321. Fire resistance ratings.

The fire resistance rating of floors, walls, ceilings, and other elements and components shall be maintained. All required fire resistance rated doors or smoke barriers shall be maintained in good working order, including all hardware necessary for the property operation thereof. The use of door stops, wedges and other unapproved hold-open devices is prohibited.

§ 1322. Fire protection systems.

All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in proper operating condition at all times.

(a) Fire suppression system: Fire suppression systems shall be maintained in good condition and free from mechanical injury. Sprinkler heads shall be maintained clean, free of corrosion, paint, and damage.

(b) Fire extinguisher: All portable fire extinguishers shall be visible, accessible, and shall be maintained in an efficient and safe operating condition.

(c) Smoke detectors: All residential occupancies shall be provided with a minimum of one approved single-station smoke detector in the sleeping area, guest room or suite of a hotel, motel, lodging house or boarding house. Single family dwelling unit with minimum of one smoke detector per floor interconnected or the detectors shall be located in accordance with the Building Inspector. When actuated, the smoke detector shall provide an alarm suitable to warn the occupants within the individual room or unit.

(d) Tampering: Anyone tampering or interfering with the effectiveness of a smoke detector shall be in violation of this ordinance.

§ 1323. Responsibilities of persons.

The provisions of this ordinance shall govern the responsibilities of persons for the maintenance of structures equipment and exterior property.

(a) Sanitary condition.

(1) Cleanliness: Every occupant of a structure shall keep that part of the structure and exterior property which such occupant occupies, control, or uses in a clean and sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two or more dwelling units, or two or more nonresidential occupancies shall maintain, in a clean and sanitary condition, the shared or public area of the structure and exterior property.

(2) Disposal of rubbish and garbage: Every occupant of a structure shall dispose of all rubbish and garbage in a clean and sanitary manner by placing such rubbish in approved containers.

(3) Garbage facilities: The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit, or an approved leakproof covered outside garbage container.

(4) Containers: The operator of every establishment producing garbage shall provide, and at all times cause to be used, leakproof approved containers provided with close fitting covers for the storage of such materials until removed from the premises for disposal.

(5) Rubbish storage facilities: The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

(b) Extermination.

(1) Owner: The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(2) Occupant: The occupant of any structure shall be responsible for the continued ratproof condition of the structure, and if the occupant fails to maintain the ratproof conditions, the cost of extermination shall be the responsibility of the occupant.

(3) Single occupancy: The occupant of a structure containing a single dwelling unit or of a single nonresidential structure shall be responsible for the extermination of any insects rats or other pests on the premises.

(4) Multiple occupancy: The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house, a nonresidential structure shall be responsible for the extermination of any insects, rates or other pests in the public or shared areas of the structure and exterior property. When infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupants shall be responsible for extermination.

## **CHAPTER 13** **[Reserved for future use]**

### **Title 9; Buildings**

## **CHAPTER 14,** **Certificate of Occupancy -- Enforcement**

### Section

- 1330. Definitions
- 1331. Application for certificate of occupancy; issuance
- 1332. Compliance with city law
- 1333. Building inspector; duties
- 1334. Certificate required before inhabiting dwelling
- 1335. Penalties

§ 1330. Definitions

For the purpose of this chapter, the terms, phrases, words and their derivations shall have the meaning set forth in Title 9 of the Revised Ordinances of Rutland.

A business day shall be any day except Saturday, Sunday or legal holidays, between the hours of 8 a.m. and 5 p.m.

§ 1331. Application for certificate of occupancy; issuance

Written application for a certificate of occupancy shall be required before any family and/or persons transfer ownership or move into a dwelling or dwelling unit located wholly or partially in the City of Rutland. Said application shall be made to the building inspector of the City of Rutland. Such certificate shall be issued to the owner, employee or agent of an owner, or a lessor, provided all the requirements as hereinafter set forth have been met.

§ 1332. Compliance with city law

Before the building inspector or his delegated representative shall grant said certificate, it shall be determined that the dwelling or dwelling unit is in compliance with all local laws, rules and regulations pertaining to housing standards, zoning ordinances and building codes.

§ 1333. Building inspector; duties

(a) The building inspector shall be the enforcement officer under the provisions of this chapter, and shall have the right at reasonable times, to enter any dwelling or dwelling unit in the city for the purpose of determining whether the dwelling or dwelling unit is entitled to a certificate.

(b) If within three business days after receipt of said application, the building inspector finds that the dwelling or dwelling unit does not meet the requirements as herein before set forth, and within such times files in the office of the Rutland city clerk a written notice to such effect and delivers or mails a copy thereof to the applicant and to the owner of the premises, the building inspector shall not issue such certificate until the improvements or repairs are made. The notice shall set forth specifically the reason or reasons why the certificate is denied.

(c) Any person aggrieved by a decision of the building inspector shall have a right to appeal pursuant to Vermont State Law.

§ 1334. Certificate required before inhabiting dwelling

No owner, or an employee or agent of an owner, or a lessor, shall live or permit any person to live in a dwelling or a dwelling unit until a certificate of occupancy has been issued, if an application therefor has been denied within the time and in the manner herein provided.

In the event the premises are not inspected and the application denied within the time, and in the manner herein provided, the building inspector shall thereafter promptly make the inspection herein provided, and give the aforesaid notice to the owner of said premises, who shall make such repairs or improvements as soon as reasonably possible, and notify the building inspector upon the completion thereof.

§ 1335. Penalties

(a) Any owner of a dwelling or dwelling unit, lessor or other person, who violates any of the provisions of this chapter shall pay a civil penalty of not less than \$100 nor more than \$500 for each offense.itle 9; Buildings

## CHAPTER 15

### Certificate of Compliance Upon Sale - Repealed No. 177

§ 1341. - 1349. Repealed No. 177

## NEW CHAPTER 16—Vacant Buildings (Takes Effect September 3, 2013)

§ 1350. Authority

The Board of Aldermen has enacted this ordinance under the authority granted to the City in Title 24 Vermont Statutes Annotated (V.S.A.) Chapter 61, 2291 (13)(14)(15) and the Revised Charter of the City of Rutland Vermont.

§1351. Statement of Findings

1. Buildings that are in such a state of disrepair as to be public nuisances are a blight on their neighborhoods, cause deterioration and instability in their neighborhoods, have an adverse impact upon adjacent and nearby properties, and are a threat to public health, welfare, and safety.

2. Once a building becomes a public nuisance, the opportunity for rehabilitation is often passed; at that point, the cost of remediation can outweigh the value of the building.

3. Vacant buildings are particularly susceptible to falling into a state of disrepair and to becoming public nuisances.

4. It is in the best interests of the City and its taxpayers to encourage owners to maintain their vacant buildings and to rehabilitate their deteriorating, vacant buildings before those buildings become public nuisances, and to assess financial deterrents to the owners in the event that they fail to do so.

5. It is in the best interest of the City and its taxpayers that a comprehensive catalog of vacant residential, commercial, and industrial buildings in the City be established and maintained, identifying the name and contact information of each vacant building's current owner(s) (and, if necessary, a local agent), so that in the event that a vacant building falls into disrepair, city officials may readily contact a person responsible for the building, and encourage preemptive and curative steps be taken to prevent the building's further deterioration.

§1352. Purpose

The purpose of this ordinance is to create and maintain a catalog of vacant buildings within the City by requiring registration of these buildings by the vacant building owner, to document and define the responsibilities of vacant building owners, to abate the public nuisance caused by vacant buildings in a state of disrepair, and to bring vacant buildings back into productive use consistent with the authority vested in the City.

§1353. Scope of ordinance

The ordinance shall apply to any vacant building within the City of Rutland.

§1354. Designation of Effect

This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

§1355. Severability

If any portion of this Ordinance is found to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance is amended, this ordinance shall be deemed to refer to such amended statute.

§1356. Definitions

a) **Blighted Structure:** A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

b) **Building Inspector:** means the Building and Zoning Department staff position assigned to administer City housing standards and ordinances or their designee.

c) **City Codes:** means all of the codes, certifications, standards, requirements, and ordinances promulgated by the City of Rutland, as applicable to a given vacant building, including without limitation: Rutland City Housing Standards, building codes, health codes, fire codes, water codes, sewer codes, and/or zoning permits.

d) Public Nuisance: For the purposes of this ordinance, “public nuisance” means any one of the following:

- i. Any building qualifying as a public nuisance, or an attractive nuisance, at common law;
- ii. Any building that has unsanitary sewerage or plumbing facilities, or from which the plumbing, electrical, or heating systems have been removed or rendered permanently damaged;
- iii. Any building that is in such a state of dilapidation, deterioration, decay, or damage as to adversely affect the character of the surrounding area; or which negatively affects the value of adjacent and nearby properties; or which constitutes a fire hazard; or is in danger of collapse or catastrophic failure; or is otherwise unsafe to persons or property; and,
- iv. Any Blighted Structure.

e) Vacant Building: means, generally:

- i. For single family residential buildings, any building that is not legally used as a residence by a person for a period of at least 90 consecutive days.
- ii. For two family and multifamily residential buildings, any building in which none of the units are legally used as a residence by a person for a period of at least 90 consecutive days.
- iii. For commercial and industrial buildings, any building in which no employees are arriving on a regular basis and no work is being performed for a period of at least 90 consecutive days and where the building is not being utilized for its intended purpose.
- iv. Any building that would qualify under one of the above three definitions but for sporadic occupancy or use, in bad faith, for the principal purpose of avoiding classification of vacancy under this ordinance.

Notwithstanding the foregoing, the Building Inspector shall use his/her best judgment to determine, on a case by case basis, whether a building is or should be deemed vacant for the purposes of this ordinance.

f) Housing Board of Review: means the City body formed pursuant to 24 V.S.A. Chapter 123.

g) Vacant Building Owner: means the property owner of the vacant building and the first mortgagee of record, who jointly or severally, may be held responsible for the vacant building under this ordinance.

h) Vacant Building Owner Responsibilities: refers to the responsibilities of a vacant building owner. In order to meet his or her vacant building owner responsibilities, a vacant building owner shall:

- i. Register a vacant building in accordance with this ordinance.
- ii. Take steps reasonably necessary to prevent the vacant building from becoming a public nuisance, including without limitation:
  - A. Keeping the vacant building secured;
  - B. Ensuring that the vacant building complies with City Codes;
  - C. Preventing the building’s exterior condition from deteriorating and maintaining the general aesthetic appearance of the building when viewed from the street and/or from adjacent properties;
  - D. Providing regular maintenance and repair, including regular mowing and upkeep of vegetation, and preventing accumulation of excessive trash or debris;
  - E. Taking all reasonable steps during winter months to ensure that the vacant building is not damaged by freezing weather, including by ruptured water pipes, ice dams, etc.

§1357. Registration

a) Any vacant building owner shall register a vacant building with the building inspector within 90 days of the effective date of this ordinance, or of the building becoming vacant, whichever later occurs.

b) Registration shall be submitted on a properly completed registration form adopted by the Building Inspector. Among other information, the registration form shall:

i. Identify the name, mailing address, and phone number of the vacant building owner;

ii. If the vacant building owner does not reside within the State of Vermont, the registration shall appoint and identify the name, address, and phone number of a local agent who is responsible for the vacant building and who can gain ready access to the building in the event of an emergency or inspection;

iii. Include a certification by the vacant building owner that he or she is currently in compliance with all vacant building owner responsibilities with respect to the subject building; and,

iv. Grant a temporary right of entry to the Building Inspector onto the premises for the purpose of conducting inspections of the vacant building in accordance with this ordinance.

c) It shall be the vacant building owner's responsibility to inform the Building Inspector of any changes in the identity, mailing address, or phone number of the vacant building owner.

d). In the event that the occupancy or use of a vacant building changes such that the building is no longer vacant under this ordinance, the vacant building owner shall certify to said change on a form adopted by the Building Inspector, upon the receipt of which the Building Inspector shall cause the subject building to be removed from the vacant building registry, at which time the provisions of this ordinance no longer will apply to said building.

#### §1358. Inspection

a) As soon as practicable after initial registration, or upon determination that a building is vacant, the Building Inspector shall make an inspection of the exterior of the vacant building to determine if the building then constitutes, or is in danger of becoming, a public nuisance.

b) From time to time, the Building Inspector shall make additional exterior inspections of all vacant properties to ensure that;

i. Such building does not then constitute, nor is in danger of becoming, a public nuisance; and,

ii. The vacant building owner is in compliance with the vacant building owner responsibilities.

c) The Building Inspector shall notify the vacant building owner that such inspection shall occur on a date and time certain not sooner than seven (7) days nor later than fourteen (14) days from the date of the notice.

d) A notice sent via certified mail to the vacant building owner at the address listed on the vacant building registry or the most recent City tax bill shall be deemed received by the vacant building owner.

e) It is encouraged that the vacant building owner be available at the time of inspection.

f) After every inspection of a vacant building, the Building Inspector shall complete an inspection report. The inspection report shall, among other things:

i. Describe the general condition of the inspected portions of the building;

ii. Articulate the Building Inspector's conclusions as to whether the vacant building then constitutes, or is in danger of becoming, a public nuisance, as well as to whether the vacant building owner is in compliance with the vacant building owner responsibilities;

iii. Set forth any conditions or required abatement measures that must be taken to prevent the building from becoming a public nuisance; and,

iv. Attach photographs of the building taken during the inspection depicting principal areas of concern.

g) A copy of every inspection report shall be forwarded to the vacant building owner at the address set forth on the registry or the most recent City tax bill.

#### §1359. Remediation

a) If the Building Inspector determines that the vacant building constitutes, or is in danger of becoming a public nuisance, that conclusion shall be articulated in the inspection report sent to the vacant building owner.

b) In the event that the vacant building receives an inspection report requiring remediation, the vacant building owner shall, within thirty (30) days, either:

i. Complete the required remediation, or

ii. Submit a remediation plan. Any remediation plan shall, at a minimum:

A. Propose a plan for complying with the conditions and requirements set forth in the inspection report; and,

B. Propose a schedule by which each condition or deficiency set forth in the inspection report shall be addressed or redressed.

c) If a remediation plan is submitted under b) ii of this section:

i. The Building Inspector shall advise the vacant building owner if the proposed remediation plan is approved or rejected as soon as practicable.

ii. If the Building Inspector rejects the proposed remediation plan as inadequate to fully address the deficiencies noted in the inspection report, the Building Inspector will work with vacant building owner to revise the remediation plan. If the vacant building owner fails or refuses to implement changes required by the Building Inspector, the Building Inspector shall commence enforcement action in accordance with §1361 of this ordinance.

iii. The Building Inspector shall make regular visits to the building to ensure that the remediation is progressing in accordance with the remediation plan, and if such progress is not being made, the Building Inspector may commence enforcement action in accordance with §1361 of this ordinance.

d) Upon the Building Inspector's satisfaction that each condition or deficiency has been remedied a certificate of remediation will be issued and placed in the file.

#### §1360. Administration

a) The Building Inspector, in addition to all powers granted in the Revised Charter and Ordinances of the City of Rutland Vermont, is hereby authorized and directed to administer and enforce the provisions of this Ordinance and, except where expressly provided, shall not waive any requirements of this Ordinance.

b) The Building Inspector shall carry proper identification when inspecting buildings in the performance of his/her duties.

c) The Building Inspector shall have all powers reasonably necessary to carry out the provisions of this ordinance, including, but not limited to:

i. Registering vacant buildings;

ii. Inspecting registered buildings for compliance with this Ordinance; and,

iii. Issuing municipal tickets for violations of this Ordinance pursuant to §1361 and 24 V.S.A. Chapter 59.

d) The Building Inspector shall keep official records of:

i. The vacant building registry for the City;

ii. Inspection reports and related correspondences, photographs, and notices; and,

iii. Any records, complaints, correspondences or other documents, and orders associated with the enforcement of this Ordinance.

e) The Building Inspector is responsible for recording all registrations, notices of violation, and certificates of remediation in the municipal land records of the City Clerk.

#### §1361. Enforcement

a) In the event of a violation of this Ordinance, the Building Inspector may commence enforcement proceedings by serving a notice of violation upon the vacant building owner. Such notice shall direct compliance with this ordinance and/or the discontinuance, remediation, and/or abatement of the violation. The notice of violation shall attach a copy of any inspection reports from which the violations arise.

b) If the vacant building owner fails to comply or to remedy the violation, as appropriate, within thirty (30) days of the issuance of the notice of violation, the Building Inspector shall enforce the terms of this Ordinance by any appropriate action allowed under state law including, but not limited to:

i. Issuance of a Municipal Complaint and enforcement before the Judicial Bureau in accordance with the provisions of 24 V.S.A. Chapter 59, provided that:

A. A civil penalty of not more than one hundred dollars (\$100), with a waiver fee of fifty dollars (\$50), may be imposed for a violation of this ordinance.

B. A civil penalty of not more than five hundred dollars (\$500), with a waiver fee of two hundred fifty dollars (\$250), may be imposed for a violation of this ordinance by a vacant building owner who:

1. Fails to complete required remediation or submit a remediation plan within sixty (60) days after the inspection report is issued pursuant to §1361 hereof;

2. Acts in bad faith with an apparent intent to undermine the purposes of this ordinance; or
  3. Within the past two (2) years has been the subject of a prior enforcement action under this ordinance.
- C. Each day a violation continues under subsections (a) or (b) shall constitute a separate violation.
- ii. Commencement of an action in Superior Court seeking any remedies at law or equity, including injunctive relief, or other penalties as prescribed by law.
  - iii. In any action brought to enforce the provisions of this ordinance, the City shall be entitled to reimbursement of costs and reasonable attorneys' fees.

§1362. Appeals of Building Inspector Actions

Any vacant building owner aggrieved by an act or decision of the Building Inspector may appeal as applicable under law.

§1363. Vacant Building Remediation Fund

- a) A Vacant Building Remediation Fund is hereby created to further the objectives of this ordinance.
- b) All fines or penalties collected in connection with administering or enforcing the provisions of this ordinance shall be deposited into this fund.

## TITLE 10 SIGNS

### CHAPTER 1

#### Sign Ordinance (Amended 1/9/2014)

Section

1401. Purpose
1402. Definitions
1403. Permit required
1404. Requirements/standards
1405. Size, number and standards for on-premise free-standing signs
1406. Size, number and standards of signs attached to buildings
1407. Shopping plaza signs
1408. Temporary or interim signs
1409. Rutland downtown redevelopment area (Amended 7/05/2011)
1410. Fee
1411. Exemptions

- 1412. Prohibited signs
- 1413. Special variance procedure; variance procedure
- 1414. Notice of change of sign owner or user
- 1415. Inspection
- 1416. Abandonment
- 1417. Enforcement; penalties
- 1418. Severability clause

§ 1401. Purpose.

The purpose of this ordinance is to control existing and proposed outdoor signs of all types; promoting public safety and welfare by reducing distractions and obstructions to motorists which may contribute to traffic accidents and by reducing hazards that may be caused by signs overhanging public rights-of-way; enhancing and protecting the aesthetic environment and values of the City of Rutland and its residents; meeting the public's concern for the free flow of information, creating a more attractive economic business environment and protecting property values to the greatest extent possible, and to augment the provisions of 10 V.S.A. Chapter 21.

§ 1402. Definitions.

Unless otherwise stated expressly, the following words and expressions where used in this ordinance, shall have their usual and ordinary meaning.

(a) Awning - An awning is a roof-type structure made of canvas or similar material over a window or door that may contain the proprietor's logo, the name of the business, or the type of business.

(b) Free-standing sign - A sign erected on a free-standing frame, mast or pole permanently affixed to the property and not attached to any building.

(c) Rutland downtown redevelopment area - An area legally designated for redevelopment by the Rutland Redevelopment Authority. Nonconforming sign: A sign existing as of January 1, 2014 which could not be built under the terms of this Ordinance [other sections re-lettered accordingly].

(d) Sign - Any name, identification, description, illustration, symbol, pictorial matter, sculpture, device, material, flag, balloon, blimp, illustration or illumination that may contain colors, letters, numbers or symbols, which are affixed to or painted, represented or otherwise installed on any part of the exterior of a building or structure or otherwise placed outside on the property in which the business is located in view of the general public, such illustration directing attention to or otherwise advertising or announcing or acting as an attention-directing device with relation to a person, institution, organization, activity, place, object, product or business.

(e) Sign area - The surface area measurement of a sign installation shall include the background area of the sign when computed by standard mathematical formulas for known or common shapes. Irregular shapes, independent letters, numbers, symbols, devices or illustrations shall be determined by measuring the smallest polygon which encloses all of said shapes, letters, numbers, symbols, devices or illustrations as they are intended to be displayed.

(f) Temporary or interim sign. A sign which is not permanently affixed. All devices such as banners, pennants, flags (not intended to include flags of any nations), search lights, twirling or sandwich type signs, sidewalk or curb signs and balloons or other air or gas-filled figures.

§ 1403. Permit required.

No outdoor sign, as defined herein, shall be erected, constructed, enlarged, moved, connected, altered or installed upon any structure or upon any land, nor shall any existing outdoor sign be changed, moved, enlarged or altered until a sign permit has been obtained from the Building Inspector. Issuance of a sign permit shall be conditioned upon conformance with all applicable provisions of this chapter and the payment to the Building Inspector of a permit fee as authorized by Section 3-1(47) of the Charter in an amount set by the Board of Aldermen.

§ 1404. Requirements/standards.

(a) A permit application shall be filed with the Building Inspector accompanied by the permit fee, which shall include a sketch of the proposed sign with dimensions, height, location, description of support and landscaping plans on a form provided by or in a manner approved by the Building Inspector.

(b) Before any permit is granted for the erection of a sign, a written consent from the owner of the premises upon which the sign is to be erected shall be filed with the Building Inspector.

(c) Except as otherwise provided in these ordinances, no sign shall visually impair vehicular traffic exiting, entering or passing the area in which the sign is located.

(d) Affiliation signs or similar national rating signs, including credit card signs, (but specifically not signs advertising particular products) are acceptable so long as they are physically appended to an otherwise acceptable sign or signpost or the building.

(e) Notwithstanding the foregoing, overhanging structural projections required for gas stations may be constructed in addition to signs allowed pursuant to this ordinance.

(f) An awning shall be in proportion to the door or window area that it covers and shall be attached to the building.

(g) Any structure, sign, or awning overhanging the City of Rutland right-of-way shall require liability insurance with the City of Rutland as an additional named insured or as prime insured protecting the City of Rutland's interest in an amount as determined by the Building Inspector.

§ 1405. Size, number and standards for on-premise free-standing signs.

A free-standing sign shall meet the following standards for size, number of signs and construction requirements;

(a) No one individual sign shall exceed one and one-half square foot per linear foot of frontage upon the public right-of-way up to a maximum of two hundred fifty (250) square feet cumulatively in size.

(b) A business may not have more than two (2) signs per business. If there is more than one sign allowed per business, those signs cumulatively in area shall not exceed the maximum square footage allowed per linear foot of road frontage as provided in Section 1405 (a).

(c) Sign support posts may be of metal, concrete, or wood, or other like material and shall be self-supporting structures placed upon a foundation designed to carry weight and wind load of the sign for the soil in which it is placed.

§ 1406. Size, number and standards of signs attached to buildings.

For a sign that is attached to a building, the total signage shall not exceed one square foot per linear foot of building frontage as facing a single public right-of-way.

§ 1407. Shopping plaza signs.

(a) Multiple businesses located on a single property shall group their signs as a common sign on a common set of supports so as to have the appearance of a shopping plaza sign. The requirements and the square footage allowed shall be computed pursuant to section 1405 (a) and (b) and in addition:

1) Seventy five (75) square feet for two businesses.

2) One hundred five (105) square feet for three businesses.

3) One hundred twenty (120) square feet for four or more businesses.

(b) In addition, each business shall be permitted an eight square foot sign for identification at its entrance or on its storefront.

(c) A shopping plaza shall have no more than two (2) temporary signs pursuant to §1408 of this title.

§ 1408. Temporary or interim signs.

(a) No temporary signs or interim signs may be allowed except as provided herein:

1) Temporary signs may not exceed thirty-two (32) square feet, with no one side exceeding eight (8) linear feet.

2) A temporary sign may be double-sided.

- 3) Upon approval of the Building Inspector special inflatable, promotional signs may be utilized in a size in excess of that provided herein, but in no event for a period more than fourteen (14) days
  - 4) No more than two temporary signs may be displayed by any one business at any one time.
  - 5) Construction of temporary signs may be of wood, plastic, canvas, or metal or other like material.
  - 6) No permit is required for a temporary sign that complies with this section.
  - 7) If more temporary signs are requested than allowed pursuant to 6) above, a variance is required to be applied for pursuant to §1413(d) of this title.
- (b) Banners.
- 1) Each business shall be allowed no more than two (2) 4' x 10' banners for special events such as a sale, special product offer or special rate.
  - 2) Any business requesting a banner larger than 4' x 10' must apply for a variance through the building inspector pursuant to §1413(d) of this title.\*

§ 1409. Rutland downtown redevelopment area.

The requirements for signage for businesses within the Rutland Downtown Redevelopment area are different than those within the remainder of the City of Rutland. In addition to any appropriate provisions of this ordinance that would be applied to signs within the Rutland Downtown Redevelopment area, the following shall apply to signs within the Rutland Downtown Redevelopment area:

- (a) Signs shall comply with the architectural guidelines set forth in the Rutland Downtown Redevelopment Plan.
- (b) The Building Inspector shall have the authority to review proposed designs of signs to determine if they comply with the architectural guidelines.
- (c) Temporary signs will be allowed within the Rutland Downtown Redevelopment area subject to the following terms and conditions:
  - 1) temporary signs may be placed in front of a commercial establishment as long as said sign does not unreasonably obstruct pedestrian traffic or the views of vehicular traffic.
  - 2) if said sign is placed upon the City right-of-way, said sign must comply with the requirements for insurance as set forth in this ordinance.
  - 3) temporary signs placed in front of commercial establishments are to be no more than four feet (4') in height and thirty inches (30") in width. These signs may be single or double sided.
  - 4) temporary signs may only be displayed during hours when the sign owner is open for regular business. At all times when the business is closed, the sign must be removed from its location within the public right-of-way.
  - 5) before any temporary sign is allowed, the business must have on file with the Building Inspector a completed registration form and the business must pay a fee established by the Board of Aldermen. A new registration form shall be required yearly.
  - 6) Removed. 8-3-2011
- (d) decorative banners may only be placed on street light poles or utility poles in conjunction with adopted streetscape plans of the Downtown Redevelopment Area.
- (e) The Rutland Redevelopment Authority or its designee shall coordinate the location, raising and scheduling of temporary banners extending over the public right of way in the Rutland Downtown Redevelopment area. All requests for the placement of such banners shall be reviewed and processed the Rutland redevelopment Authority or its designee. The placement of banners shall be subject to the following criteria:
  - (1) They shall be no larger than four feet high and a length appropriate to fit the width of the street.
  - (2) They shall be made either or mesh material or have sufficient wind cuts;

- (3) They shall be attached to anchor devices adequate to properly contain them;
- (4) They shall be subject to insurance requirements as required in their ordinance;
- (5) They will only be allowed at existing anchoring points on Center Street, Merchants Row and Washington Street;
- (6) They shall remain in place for no longer than two weeks;
- (7) They shall only be erected after applicant has remitted a fee as set by the Board of Aldermen;
- (8) They may not be placed to advertise a for-profit business;
- (9) They may not contain pornographic or obscene material;
- (10) They may not be placed for the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question in any election.

If a request for placement of a temporary banner is denied by the Rutland Redevelopment Authority or its designee, the applicant may appeal such decision to the Rutland City Building Inspector. Such appeal shall be brought within ten days of the denial being issued.

§ 1410. Fee.

Every applicant for a sign permit, before being granted such permit, shall pay to the Building Inspector a fee as listed in the fee schedule adopted by the Rutland City Board of Aldermen.

§ 1411. Exemptions.

The provisions of this Title shall not apply to the following classes of signs:

(a) Signs of or required by duly constituted governmental bodies and their agencies, where such signs are established in the interest of the safety, convenience of welfare of the general public; this shall include traffic signs, legal notices and warnings at railroad crossings. The number and location of such signs shall be as directed by the governmental agency having jurisdiction. However, signs which are utilized to advertise the office or business location of duly constituted governmental bodies shall be subject to the size and structural standards as provided herein and will require a permit.

(b) Flags of the national, state, county or town government; and banners and emblems of name and meeting-place signs of civic, philanthropic, educational or religious organizations or institutions.

(c) Temporary signs pertaining to and displayed during campaigns, drives or events of civic, philanthropic, educational or religious organizations or institutions not exceeding ten (10) square feet.

(d) Memorial plaques, cornerstones, historical tablets and the like.

(e) Signs required to be maintained or posted by law or governmental order, rule or regulation, unless specifically prohibited, limited or restricted.

(f) Small, nonilluminated signs, none exceeding one and one-half (1-1/2) square feet in area, displayed strictly for the direction, safety or convenience of the public, including signs which identify rest rooms and other similar facilities or conveniences, parking area entrances or exits and freight entrances, or for purposes of indicating the location or restricting the use of off-street parking areas when these are provided by the owner or occupant of the building.

(g) Name and address signs, not more than one (1) for each street frontage of each principal use on a lot and not exceeding one (1) square foot in area, showing only the name of the occupant and/or the numerical address designations of the premises on which they are situated.

(h) Temporary construction signs, not exceeding twelve (12) square feet in area, either affixed to the wall of the building to which they pertain or to a post, identifying the project under construction, participating designers, contractors or developers, etc. Such a sign shall be permitted only during the construction period of the project and shall conform in all respects to the provisions of §1404 of this Title.

(i) Signs not visible from the public right-of-way.

(j) Temporary signs for tag or garage sales, provided that such signs contain the name of the seller and date of the sale, are displayed only two (2) days prior to the sale and are removed the day after the sale.

(k) "No-trespassing" signs.

(l) Real estate for sale sign (single or double face) on any lot or parcel, provided such sign is located entirely within the property to which the sign applies, is not illuminated, is not in excess of six (6) square feet, and is removed within seven (7) days after the sale, rental, or lease of the property has been consummated. One additional sign, as described above is permitted where a parcel has an excess of three hundred (300) feet of frontage or fronts on two (2) streets.

(m) Signs not to exceed four (4) square feet in area when used for a Customary Home Occupation pursuant to Rutland City Zoning Regulations as it may be amended from time to time.

§ 1412. Prohibited signs

The use, erection or installation of the following sign types is strictly prohibited:

(a) Flashing or intermittently illuminated signs. A sign which exhibits changing light or color effects, even though the intensity of light may be relatively constant, shall be deemed a flashing sign. Flashing signs shall not include signs using LED bulbs which display a message for at least 15 seconds before changing.

(b) Moving or rotating sign.

(c) Portable signs, with or without wheels, type, A-frame or other. Any sign not permanently affixed to a building or the ground.

§ 1413. Nonconforming Signs; variance procedure.

(a) Every sign which would be nonconforming by this chapter and which existed as nonconforming prior to January 1, 2014, will become a "legal nonconforming sign". A legal nonconforming sign shall immediately lose its legal non-conforming designation if:

(1) the sign is altered in any way in structure, which tends to or makes the sign less in compliance with the requirement of this code than it was before the alteration; or

(2) the sign structure is relocated to a position making it less in compliance with the requirements of this code; or

(3) the sign is replaced.

On the happening on any one of 1, 2 or 3 above, the sign shall immediately be brought into compliance with this code with a new permit secured therefore or shall be removed.

(b) Temporary or Interim signs that do not conform must be discontinued, removed or varied by February 1, 2014

(c) A variance may be granted for a permit for a sign which does not conform with the provisions of this code upon a determination by the building inspector that the variance will not change the character of the surroundings, will not result in danger to public safety and welfare, and that a variance is warranted for the property and the sign as submitted.

§ 1414. Notice of change of sign owner or user.

Whenever there is a change in the sign user, owner, or owner of the property on which the sign is located, the new sign user, owner or new property owner shall forthwith notify the Building Inspector of this change of ownership. A new sign permit will not be required unless the sign is altered or relocated. If the alteration to the sign only includes a relettering of the sign, permit must be made but fee will be waived.

§ 1415. Inspection.

The person erecting, altering or relocating a sign shall notify the Building Inspector upon start of construction and on completion of the work for which permits are required, provide a picture of the completed sign to the Building Inspector, and a sworn statement that the sign conforms to the requirements of the permit that was issued.

§ 1416. Abandonment.

If the building becomes vacant, or the user, owner of premises, or owner of business fails to continue with the business usage that utilizes the sign and such continuance is for a period of six (6) months, then that sign must be removed immediately.

§ 1417. Enforcement; penalties.

(a) When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this Title, the owner thereof or the person or firm maintaining the same, upon written notice of the building official shall make such sign conform to the provisions of this Title or shall remove it.

(b) Failure to obtain a permit, comply with the terms of the permit or otherwise violate any of the terms of this ordinance shall result in a civil penalty of an amount for the first offense not to exceed Fifty Dollars (\$50.00). A second offense of this ordinance will result in a minimum civil penalty of One Hundred Fifty Dollars (\$150.00) and a third offense will result in a minimum civil penalty of Five Hundred Dollars (\$500.00). Each and every day of noncompliance will be another day of violation and can result in an additional civil penalty of an equal amount.

§ 1418. Severability clause

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this ordinance are declared to be severable.

CHAPTER 2  
Posting Advertisements, Bills

Section

1451. Posting advertisements, bills on private or public property

§

1451. Posting advertisements, bills on private or public property.

(a) No person shall post a bill, advertisement or paper, or paint a sign, advertisement or notice on a building, fence, post, pole, store or wall within the city without the consent of the owner thereof, except for governmental business.

(b) No person shall post a show bill, paper or any sign, advertisement or symbol of any nature on any bench, support column, light pole, planter, bike rack, litter container or any other public amenity within the city except such spaces designated for such purpose by the Rutland Redevelopment authority.

(c) No person shall post or place a bill, advertisement or paper or paint a sign, advertisement or notice on any vehicle or trailer within the city without the consent of the owner thereof except for official governmental business.

(d) Any person in violation of this chapter shall be subject to a civil penalty of not less than \$50 nor more than \$500 for each offense. Each day of such violation and each separate location shall be considered a separate offense.

**TITLE 11  
BUSINESS LICENSES AND REGISTRATION**

Chapter

1. License Board; General Provisions
2. Entertainment Club Permit
3. Bowling Alleys, Shooting Galleries and Indoor Skating Rinks
4. Bottle Clubs - Repealed No. 185
5. Circuses, Carnivals, Shows and Fairs
7. Coin Machines
9. Gasoline Service Stations - Repealed No. 185
11. Hotels, Motels and Inns
13. Itinerant Photographers - Repealed No. 185
15. Jewelry Sales at Public Auction - Repealed No. 185
17. Meat Selling, Slaughtering - Repealed No. 185
19. Peddlers, Solicitors and Transient Merchants
- 20. Taxi Ordinance: Vehicles for Hire (8-15-2014)**
21. Pool and Billiard Rooms
23. Restaurants and Victualing Establishments
25. Repealed No. 210
27. Theaters
28. Construction Trailers - Repealed No. 185

CHAPTER 1  
License Board; General Provisions

Section

1510. License board; definition of license
1511. Duration of licenses; license period; renewal
1512. License fees
1513. Application for license

- 1514. Issuance of license
- 1515. Hearing on application
- 1516. Revocation of license
- 1517. Violations and penalties
- 1518. Construction of chapter with other chapters of this title

§ 1510. License board, definition of license; Vermont criminal record checks

(a) The president of the board of aldermen, the chief of police and the city clerk are hereby constituted the license board, and the word "license" or "licensed" as used in this chapter shall mean a license issued by such board.

(b) The Chief of Police is authorized to conduct Vermont criminal record checks of all applicants for licenses under this title as well as applicants for alcoholic beverage licenses in accordance with Title 7 Vermont Statutes Annotated.

§ 1511. Duration of licenses; license period; renewals

(a) All licenses issued under the provisions of this title shall continue and be in force until the first day of May next following the date thereof, unless otherwise provided in the fee schedule, or unless sooner revoked as hereinafter provided.

(b) Existing licenses may be renewed annually by filing application for renewal by April 30.

§ 1512. License fees

(a) License fees shall be set by the board of aldermen. A license fee shall be established for new licenses and renewal licenses. A new license fee shall include an additional amount for background check, police investigation and processing. A current list of fees will be posted in the office of the city clerk. For a license issued under the provisions of this title on or after January 1 of any year, for the remainder of such license year, the fee shall in each case be equal in amount to one-half the amount of the fee set by the board of aldermen.

(b) A license for which the licensee fails to apply for a renewal license by April 30 of each renewal year, shall be considered a new license and subject to all additional requirements and fees.

§ 1513. Application for license

Application for a license shall be made on forms approved by the license board which shall include, but not be limited to, the following information: name, residence address, social security number, date and place of birth for all individuals, partners or corporate directors; information regarding the activity to be licensed; authorization for a criminal history records examination of local, state and federal record repositories; statement that applicant agrees to comply with all applicable local and state laws; certification that all statements and information provided on the application are true, and signature of individual applicants, partners or authorized agent of corporation. Completed application shall be submitted to the city clerk with the license fee.

§ 1514. Issuance of license

(a) The city clerk shall forward all new license applications to the chief of police for a background investigation of the applicant(s). If the background investigation does not reveal any information which could adversely affect public safety, health or welfare, the city clerk shall issue the license on behalf of the license board upon completion of the application process subject to §1515 of this title.

(b) A license issued under the provisions of this title shall not be sold, assigned or transferred without the consent of the license board.

§ 1515. Hearing on application

If the report of the Chief of Police reveals information which could adversely affect public safety, health or welfare, the license board shall hold a hearing with the applicant prior to approving or denying the application.

§ 1516. Revocation of license by license board

(a) Licenses issued under the provisions of this title may be revoked by the license board after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application for license;
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on business;
- (3) Any violation of this title;
- (4) Conviction of any crime or misdemeanor involving moral turpitude;
- (5) Conducting the business in a unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to health, safety or general welfare of the public.

(b) Notice of the hearing by the license board for the revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his/her last known address, or otherwise placed in his/her possession.

§ 1517. Violations and penalties

A person who shall violate any of the provisions of this title for which no other penalty is provided shall be subject to a civil fine of not less than \$50, nor more than \$500 per day, and if a licensee, his/her license shall be revoked as hereinbefore provided. Each day shall constitute a separate violation hereof.

§ 1518. Construction of chapter with other chapters of this title

The provisions of this chapter shall be construed as general rather than as specific in scope, and where any provision of any other chapter of this title differs from any provision of this chapter or contains any provision not included in this chapter, such different or additional provision of such other chapter of this title shall prevail, insofar as it relates to the subject matter of such other chapter.

## CHAPTER 2 ENTERTAINMENT CLUB PERMIT

### Section 1530. 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). City: City of Rutland
- (b). Club Premises: Any place where 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 live public music or performance on the premises.
- (d). Live public music or performance: Includes but is not limited to bands, DJ=s, karaoke, Stand-up comedy, and dancers.
- (e) Exceptions:
  - (1) Theaters where the patrons sit in parallel rows of fixed seats.
  - (2) Full service restaurants where the only entertainment consists of background music which is incidental to the primary function of serving food.
  - (3) A banquet, party or celebration conducted for invited guests which is not open to the public.
  - (4) Dances or events sponsored and operated by a governmental entity, an educational, fraternal, or social organization and other like uses.

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

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

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

#### Section 1531. ENTERTAINMENT CLUB PERMIT REQUIRED.

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

#### Section 1532. APPLICATION FOR PERMIT.

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

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(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 Fire Chief, Police Chief, Building/Zoning Officer, and City 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 authorize agent of corporation.

(j). Certification that the following has been completed:

(1) Inspection by the Building Inspector/Zoning Administrator.

(2) Inspection by the Fire Department for a determination of Fire Prevention Code Compliance.

(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 1533. 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 April 30.

Section 1534. PERMIT FEES

A fee of **Fifty** dollars (\$**50.00**) shall be paid to the City Clerk on the granting of an entertainment club permit by the Board of Alderman. (**Amended September 10, 2009**)

Section 1535. PROCEDURES FOR ISSUANCE OF PERMIT.

After receiving a completed application for an entertainment club permit, as specified in §1532 above, the City Clerk shall follow the following procedures:

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After the City Clerk receives the completed application from the applicant with the comments and suggested conditions from the Chief of Police, Fire Chief, Building Inspector/Zoning Administrator, Treasurer, Tax Collector, the City Clerk shall forward the application to the Police Department for a background investigation and then forward the application to the Board of Alderman for their review and consideration.

Section 1536. CONDITIONS OF PERMIT; DISAPPROVAL.

(a) The Board of Alderman 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 Fire Chief, Police Chief, Building Inspector/Zoning Administrator and City Treasurer.
- (2). Compliance with all City Ordinances and regulations and State Laws and regulations.
- (3). Compliance with all State liquor law Statutes and regulations.
- (4). Any other conditions the Board of Alderman deems reasonable and necessary.

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

- (1). Non-compliance with all applicable City Ordinances and regulations and State laws and regulations.
- (2). The application is incomplete or if it contains any material misrepresentation.
- (3). 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 the entertainment club.
- (4). Delinquent property, entertainment, rooms and meals taxes, water and sewer fees and parking fines;
- (5). Failure to obtain a taxpayer ID number for the rooms, meals and entertainment tax;
- (6). Any other reasons the Board of Alderman deem appropriate and reasonable for disapproval.

Section 1537. OPERATING RULES AND REGULATIONS.

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

- (a). The standards of conduct applicable to all businesses in the City shall apply to entertainment clubs.
- (b). Persons of the following ages shall not be permitted to enter or remain on the premises of a teen club:

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- (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.
- (c). 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.
  - (d). 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 City.
  - (e). 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 do not have liquor licenses.
  - (f). 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.
  - (g). 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 entertainment club on club premises or in the immediate vicinity.
  - (h). 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.

Section 1538. RESTRICTIONS ON MULTI-USE FACILITIES.

- (a). No teen club shall be located on premises used at any time during the week or weekend as a sexually-oriented entertainment facility or as a facility to serve alcoholic beverages. If otherwise permitted to be located in the same premises as an over twenty-one club, no teen club shall be operated within 12 hours of the operation of any over twenty-one club on the same premises, nor shall an over twenty-one club be operated within 12 hours of the operation of a teen club on the same premises.
- (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.

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**Section 1539. ACCESS BY CITY OFFICIALS.**

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

**Section 1540. 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 to knowingly or recklessly 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.

**Section 1541. SUSPENSION OR REVOCATION OF PERMITS.**

- (a). The Board of Aldermen may, at any time, suspend or revoke an entertainment club permit based on any of the following grounds:
  - (1). Violation of any City 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 entertainment clubs specified in this Ordinance.
  - (3). Material misrepresentation, or failure to disclose any material information to the City, in connection with any application for the entertainment club permit or any permit renewal.
  - (4). Knowingly allow conduct on the permitted premises that violates any Federal, State or City criminal or penal statute, law or ordinance.
  - (6). Whenever operation of the 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 Board of Alderman 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 1542. SEVERABILITY.**

The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person 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.

March 1, 2002

Section 1543. PENALTY.

Any person, firm or corporation violating any provision of this Ordinance shall pay a civil fine not less than fifty dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

WAIVER FINES

(within the same calendar year)

\$25.00 1<sup>ST</sup> Offense

\$50.00 2<sup>nd</sup> Offense

\$100.00 3<sup>rd</sup> Offense

March 1, 2002

CHAPTER 3

BOWLING ALLEYS, SHOOTING GALLERIES AND  
INDOOR SKATING RINKS

Sections

1561. License required; fee

1562. Gambling

§ 1561. License required; fee

No person shall keep any bowling alley, shooting gallery or indoor skating rink within the city, for public use, until he/she shall have first obtained a license therefore as provided in chapter 1 of this title. The annual fee for an indoor skating rink or shooting gallery shall be as set by the board of aldermen. The annual fees for bowling alleys shall be as set by the board of aldermen.

§ 1562. Gambling

No person keeping any bowling alley, shooting gallery or indoor skating rink, for public use, or having the care or control thereof, shall allow, suffer or permit any gaming or gambling therein.

CHAPTER 4

Bottle Clubs - Repealed No. 185

CHAPTER 5

## Circuses, Carnivals, Shows and Fairs

### Section

- 1671. Circuses, carnivals, etc.; license required; fee
- 1672. Small tent shows; mechanical rides, etc; fee
- 1673. Mechanical rides, games and tent shows in conjunction with fair or carnivals
- 1674. Fairs or carnivals; food and refreshments; fee
- 1675. Fairs or carnivals; nonfood concessions; fee
- 1676. License required for each location
- 1677. Exemptions from payment
- 1678. License for multiple activities

§ 1671. Circuses, carnivals, etc.; license required; fee  
No person or corporation shall conduct or exhibit a circus, wild west show, carnival company, trained animal show or fair within the city, until he/she shall have first obtained a license therefor as provided in Chapter 1 of this title. The fee for such license shall be as set by the board of aldermen.

§ 1672. Small tent shows; mechanical rides, etc.; fee  
No person or corporation except at a fair or carnival shall operate a merry-go-round or other line contrivance, or small tent show, within the city, until he/she shall have first obtained a license therefore, as provided in chapter 1 of this title. The fee for such license shall be as set by the board of aldermen.

§ 1673. Mechanical rides, games and tent shows in conjunction with fair or carnivals  
No person or corporation shall operate mechanical rides, games or tent shows in conjunction with a fair or carnival without first having obtained a license therefor as provided in chapter 1 of this title. The fee for such license shall be as set by the board of aldermen.

§ 1674. Fairs or carnivals; food and refreshments; fee  
No person or corporation shall operate a concession offering food or refreshments in conjunction with a fair or carnival without first having obtained a license therefor as provided in chapter 1 of this title. The fee for such license shall be as set by the board of aldermen. Those persons or corporations possessing a valid City of Rutland license issued under other provisions of Title 11 and issued at least ten days prior to the beginning date of the fair or carnival pertaining to the sale of food or refreshments shall be exempt from further payment under this section.

§ 1675. Fairs or carnivals; nonfood concessions; fee  
No person or corporation shall operate a concession offering items other than food or refreshments for sale in conjunction with a fair or carnival without first having obtained a license therefor as provided in chapter 1 of this title. The fee for such license shall be as set by the board of aldermen. Those persons or corporations possessing a valid City of Rutland license issued under other provisions of Title 11 pertaining to the sale of items other than food or refreshments shall be exempt from further payment under this section.

§ 1676. License required for each location  
Each separate location which comes within prior provisions of this chapter shall require a separate license unless otherwise provided.

§ 1677. Exemptions from payment  
Authorized representatives of religious, charitable, educational, or service organizations shall be exempt from payment of any fee required by any section of this chapter, but shall still be required to apply for a license pursuant to chapter 1 of this title.

§ 1678. License for multiple activities

An event that encompasses multiple activities requiring licenses under the provisions of this chapter may be issued one license to cover all activities. The fee for this license shall be determined by the board of aldermen on an individual basis.

## CHAPTER 7

### Coin Machines

#### Section

- 1731. Definitions
- 1732. License required
- 1733. Fee
- 1734. Additional requirements for license
- 1735. Attendant

#### § 1731. Definitions

The following terms as used in this chapter shall be construed as follows:

"Coin Machines" shall include one or more gaming machines, or devices, and one or more viewing machines or booths used for viewing moving pictures and any kind into which may be inserted a piece of money or other object for which money is paid, and which may be operated by a player attempting to make a score or reach a standard, or view a moving picture.

"Operator" shall include a person engaged in the business of leasing, renting, letting on shares, selling, exposing or offering for sale or collecting from or for the use of a coin machine.

"Person" shall include an individual, firm corporation or association.

"Place of amusement" shall include any part of a place of public resort, or any part of premises occupied by a person or under the management or control of such person wherein is located, kept or maintained, temporarily or permanently, a coin machine for public use.

#### § 1732. License required

(a) No coin machine shall be located, kept or maintained in the place of amusement of a person unless such person shall have first been issued a city license for such place.

(b) Said license shall include the condition that while local, primary and secondary schools are in session, children under the age of 16 registered as students in the City of Rutland, shall not be allowed to play any machine, apparatus, game or device licensed under this chapter.

#### § 1733. Fee

The annual license for such place of amusement shall be as set by the board of aldermen.

#### § 1734. Additional requirements for license

Application for coin machine license shall be accompanied by a copy of the license for such machines issued by the State of Vermont.

#### § 1735. Attendant

Any establishment with more than 5 coin machines as defined in this chapter shall have an attendant on duty during all hours of operation. Said attendant shall be 18 years of age or more and shall be responsible for enforcing the terms and conditions of licenses issued under this chapter.

## CHAPTER 9

### Gasoline Service Stations - Repealed No. 185

## **CHAPTER 11**

### Hotels, Motels, Inns

#### Section

- 1841. Hotels, motels, rooms, etc., requiring license
- 1842. Fee

§ 1841. Hotels, motels, rooms, etc., requiring license  
No person shall keep an inn, hotel, motel, tourist house or tourist camps or cabins within the city, which contain or have available any rooms intended for public rental, until he/she shall have first obtained a license therefor as provided in chapter 1 of this title.

§ 1842. Fee  
The annual fee for such license shall be as set by the board of aldermen.

## **CHAPTER 13**

Itinerant Photographers - Repealed No. 185

## **CHAPTER 15**

Jewelry Sales at Public Auction - Repealed No. 185

## **CHAPTER 17**

Meat Selling, Slaughtering - Repealed No. 185

## CHAPTER 19

### Peddlers, Solicitors, and Transient Merchants

#### Section

- 2071. License required
- 2072. Definitions
- 2073. Exceptions
- 2074. Religious, charitable, educational and service organizations
- 2075. Additional requirements for license
- 2076. Repealed No. 185
- 2077. Display of license
- 2078. Transfer of license
- 2079. Loud noises and amplifying devices
- 2080. Use of streets
- 2081. Enforcement by police
- 2082. Records

#### § 2071. License required

It shall be unlawful for any person to engage in the business of peddler, solicitor, or transient merchant as defined in section 2072 of this chapter within the corporate limits of the City of Rutland without first obtaining a license therefor as provided herein.

#### § 2072. Definitions

"Peddler" is defined as any person, whether a resident of the City of Rutland or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions or popcorn, ice cream, sodas, or other refreshments of like character, offering and exposing the same for sale, or making sales and delivering articles to purchasers or who without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter.

The word "Person" as used herein shall include the singular and the plural and shall also mean and include any person, firm, or corporation, association, club, co-partnership or society, or any other organization.

"Solicitor" is defined as any person, whether of the City of Rutland or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he/she is collecting advance payments on such sales or not, provided that such definition shall include any person who, for him/herself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad box car, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

"Transient merchant" is defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling (and delivering) goods, wares and merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, garage, structure, motor vehicle, tent, railroad box car, public room in hotels, lodging houses, motel, apartments, shops, or any street, driveway, alley, or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person who, while occupying such temporary locations,

does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of association temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

§ 2073. Exceptions

(a) The provisions of this chapter shall not apply to one who sells or offers for sale in person or by his/her employees or agents, newspapers, ice, bread, pastry, wood, milk or products of the land.

(b) The provisions of this chapter shall not apply to sales made to manufacturers, merchants and dealers for resale only.

§ 2074. Religious, charitable, educational and service organizations

Authorized representatives of religious, charitable, educational or service organizations desiring to solicit money or to distribute literature shall be exempt from the payment of any fee required by any section of this chapter. All such organizations shall be required to submit an application for license pursuant to §1513 of this title. If the city clerk, after investigation, shall find that the organization is a bona fide charitable, religious, educational or service organization, he/she shall issue, free of charge a license to carry on such activity. Such license shall cover all persons engaged in the activity for which the license is issued.

§ 2075. Additional requirements for license

In addition to the application requirements set forth in §1513 of this title, applications for licenses under this chapter, shall set forth the name, permanent and local address, business address and physical description of all persons to be covered by the license; description of any vehicles to be used in the licensed activity, including registration number; the nature of the business to be conducted; the last place of such business, the and the period of time requested to be covered by the license.

§ 2076. Deleted [No. 185, effective March 6, 1995]

§ 2077. Display of license

Each solicitor, peddler and transient merchant shall at all times while doing business in this city keep in his/her possession the license provided for in this chapter, and shall, upon the request of prospective customers, exhibit the license as evidence that he/she has complied with all requirements thereof. Each transient merchant shall publicly display his/her license in his/her place of business.

§ 2078. Transfer of license

No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued.

§ 2079. Loud noises and amplifying devices

No peddler, solicitor or transient merchant, nor any person in his/her behalf, shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of this city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any foods, wares or merchandise which such licensee proposes to sell.

§ 2080. Use of streets

No transient merchant shall be permitted to sell from any location in the public streets, nor shall any peddler or solicitor be permitted a stationary location in any metered parking space, nor shall any peddler, solicitor or transient merchant be permitted to operate in any congested area where his/her operations might impede or inconvenience the public without the approval of the board of aldermen.

§ 2081. Enforcement by police

It shall be the duty of any police officer of the City of Rutland to require any person seen peddling, soliciting, or doing business as a transient merchant and who is not known by such officer to be duly licensed, to produce his/her license, and to enforce the provisions of this chapter against any person found to be in violation thereof.

§ 2082. Records

The chief of police shall report to the city clerk all convictions for violation of this chapter, and the city clerk shall maintain a record for each license issued and record the reports of violation therein.

## **Chapter 20 Vehicles for Hire**

### **Subchapter 1 General Provisions**

§2100 Authority.

This ordinance is adopted pursuant to §3.1(46) of the City Charter.

§2101 Short title.

This ordinance may be known as the "Taxi Ordinance".

§2102 Definitions.

Unless otherwise expressly provided, the following words for the purpose of this chapter shall have the meanings herein indicated:

"Business" shall mean a single act of transporting a passenger or passengers for hire.

"City" shall mean the City of Rutland, Vermont and the police jurisdiction thereof.

"City Operator's driver's license" shall mean a license issued by the license board for the operation of a vehicle for hire by an applicant therefor.

"Driver" shall mean a person operating a vehicle for hire upon the public streets of the city. "For hire" shall mean a transaction whereby there is compensation paid to the driver or his or her employer by a passenger or the passenger's agent for the transport of the passenger. Compensation shall mean any form of payment, donation or gratuity. Vehicles for hire that only accept gratuities, tips, etc., are considered to be providing "for-hire" transportation services.

"Operate" shall mean the picking up or dropping off of a passenger for hire within the city, or through the city, and shall be synonymous with the word "drive." Operate shall also mean stopping or parking a vehicle for hire within the city limits.

"Owner" shall mean a person owning or controlling one or more vehicles for hire and driving or causing any such vehicle to be driven upon the public streets for hire.

"Passenger" shall mean a person other than the driver who is an occupant of a vehicle for hire and for the purpose of this chapter, such person or persons shall be presumed to be a passenger or passengers for hire.

“Person” shall mean an individual, partnership, firm, association, corporation or any other legal entity.

“Vehicle for Hire” shall mean a motor vehicle used in the business of transporting passengers for hire in the city and accepting or discharging all such persons as may offer themselves for transportation and not operated on a fixed route. The term also includes vehicles commonly known as limousines, cabs, taxis, and jitneys. The classification “vehicle for hire” shall not apply to any motor vehicle which is:

(1) Used exclusively by or under a written agreement with a hotel, motel, airport, hospital, club or other such entity for the transportation of its members, guests, patients or clients; provided, that each vehicle under such agreement will have the same distinctive visible outside-painted appearance as each other vehicle under the agreement to any such hotel, motel, airport, hospital, club or other such entity.

(2) Operated as a bus on a fixed route under the authority of a regional transit district or state authority.

§2103 City held harmless.

In accepting any license under this chapter, the licensee shall agree to indemnify and hold the city, its agents, servants, or employees harmless from any and all claims, demands, damages, causes of actions, and costs, including all costs of litigation, costs of any kind including attorney’s fees arising out of the operation or use of a vehicle for hire licensed under this chapter.

§2104 Effective Date.

The provisions of this chapter shall become effective October 1, 2014.

## **Subchapter 2. Vehicle for Hire Business License Requirements and Procedures**

§2110. License Required.

It shall be unlawful for any owner of any vehicle for hire to operate or to permit the same to be operated upon the public streets of the city without having first obtained and having then in force a business license therefore pursuant to Chapter 1 of this title.

§2111 License Application.

Every person who desires a business license to operate vehicles for hire shall, prior to obtaining a business license from the city license board, pay an application fee of \$65.00 and make a written application for a license to the city clerk on a form provided, verified under oath stating or providing:

(1) The name and address of the applicant, specifying, in the case of any unincorporated association, partnership or firm, the names and addresses of each member thereof, and the quantum of interest of each member; and in the case of any corporation, the names and

addresses of each stockholder, officer and director thereof with the number of shares of stock owned or held by each of them.

(2) A complete statement by the applicant, specifying the amounts of all unpaid judgments against the applicant, each member, officer or director, and the nature of the transaction or acts giving rise to the judgments and the name and location of the court in which, and the date on which, each was entered.

(3) All misdemeanors or felonies of which the applicant and any member thereof, if an unincorporated association, partnership or firm, and any officer or director, if a corporation, have been convicted stating the names and locations of the court in which, and the date on which, such convictions were held and the penalties imposed therefor.

(4) The number of vehicles which the applicant wishes to operate.

(5) A description of each motor vehicle to be operated by the applicant pursuant to the license, including the make, model, passenger seating capacity, year of manufacture, state license number, serial number thereof, and the name and address of the owner.

(6) A certificate of insurance that the applicant and each motor vehicle license is insured against public liability in the minimum limits of \$100,000 for personal injury to any one person in any one accident and \$300,000 for personal injury to two or more people in any one accident and \$20,000 for property damage in any one accident, which insurance policy and certificate shall provide that the city shall be given at least 30 days prior notice of cancellation. Such policy shall not be canceled or suspended either by the insured or the insurer unless at least 30 days' notice in writing of the intention to cancel or suspend policy has been filed with the office of the city attorney, and upon such suspension or cancellation of insurance, the license of the insured shall stand suspended until such time as an acceptable policy and certificate of insurance shall be on file with the city revenue department.

(7) Any other relevant information which the City Clerk may require.

#### §2112 Hearing on Issuance.

The chief of police shall review the application for a vehicle for hire business license and the reports and the certificates required to be attached thereto and recommend to the license board whether to approve or reject the application. If the chief of police recommends that the application be rejected, the license board shall hold a hearing pursuant to R.O.R. §1515 on the issuance of the license. At such hearing, the applicant may appear and present evidence as to why the recommendation of the chief of police should not be followed and a business license issued to the applicant. The hearing shall take place within thirty (30) calendar days of the receipt of the chief of police's recommendation.

#### §2113 Issuance of License.

If the license board determines that the applicant is qualified and able to perform public transportation and conform with the provisions of this chapter, then the license board shall instruct the city clerk to issue upon payment of a fee established by the board of aldermen, a business license stating the name and address of the business license applicant, the date of the issuance thereof, the number of vehicles the applicant is licensed to operate, and at the same time, the city clerk shall furnish to the individual a written statement of restrictions, limitations or requirements, if any, the license board may wish to further impose along with a statement of the number of vehicles the applicant is authorized to operate, and the number assigned to each

#### §2114 License Renewal.

Any license issued under this subchapter may be renewed annually for additional periods of one year each from the date of expiration upon the certification under oath that there have been no changes in the information submitted as required by §1007, payment of a \$40.00 annual renewal fee, and the approval of the license board pursuant to §1008, provided, however, that no license shall be renewed after May 1 each year without reapplying therefor as herein provided.

#### §2115 Licenses Nontransferable.

The business license issued pursuant to this subchapter shall not be transferable without written consent of the city.

#### §2116. Additional Licensed Vehicles.

(a) Every person licensed under this subchapter who shall desire to add to the number of vehicles the person is then or has previously operated shall, additionally for each new vehicle, pay a filing fee of \$25.00 and make a written application to the city upon forms to be furnished by the city clerk, verified under oath stating:

- (1) The name and address of the applicant.
- (2) A statement of whether any information furnished on the original application has changed, and if so, indicate the changes.
- (3) A description of each such additional vehicle, including the make, model, passenger seating capacity, year of manufacture, state license number, motor number, and name and address of the owner.
- (4) Any other relevant information which the city clerk may require.

(b) The procedure outlined in §2111-2112 to determine whether a business license shall be granted shall be followed in determining whether a person shall add to the number of vehicles the person is then operating.

#### §2117 Suspension or Revocation of License.

(a) A license issued under the provisions of this subchapter may be revoked or suspended by the license board pursuant to §2160(c) of this chapter if the holder has:

- (1) Violated any of the provisions of this chapter,
- (2) Discontinued operations for more than 60 days,
- (3) Violated any of the provisions of this chapter, other ordinances of the city, or the laws of the United States or of the state, the violation of which reflects unfavorably on the fitness of the holder to offer public transportation, or
- (4) In the event of recovery of any final judgment and termination of final appeal proceedings, if any, against the holder for damages on account of bodily injuries or death or for damage to property resulting from the ownership, maintenance or use of vehicles for hire in the city and nonpayment thereof for a period of 80 days thereafter; provided, however, that such licensee has been given a 10-day written notice in person or addressed and mailed to licensee at the address furnished on the application and full opportunity to be heard in licensee's own defense.

(b) It shall be unlawful and cause for suspension or revocation of the applicable application and license to fail to operate for a period of over 60 days; provided, however, a vehicle for hire shall not be deemed to be out of operation for the purposes of this subsection for a period of 60 days from the date such vehicle for hire failed to be certified as herein provided.

#### §2118 Changes in License Information.

Any change in the information furnished in the application for a business license pursuant to this subchapter must be reported to the city clerk in writing within 10 days and failure to so report shall be cause for suspension or revocation of the license.

#### §2119. Notification of Sale of Vehicle; Removal of Markings.

(a) Every licensee upon the sale or other disposition of a licensed vehicle for hire shall within 24 hours notify the city clerk of such sale or other disposition.

(b) All identification markings shall be removed prior to delivery of a vehicle for hire upon sale or other disposition thereof.

### **Subchapter 3 Operator License Requirements and Procedures**

#### §2120. Vermont Operator's License Required.

No person shall operate a vehicle for hire upon the streets of the city and no person who owns or controls a vehicle for hire shall permit it to be so driven and no vehicle for hire licensed by the city shall be so driven at any time for hire, unless the driver of such vehicle for hire shall have first obtained and shall have then in force a Vermont operator's license issued by the Vermont Department of Motor Vehicles.

§2121. City Operator's License Required.

(a) No person shall operate a vehicle for hire upon the streets of the city and no person who owns or controls a vehicle for hire shall permit it to be so driven and no vehicle for hire licensed by the city shall be so driven at any time for hire, unless the driver of such vehicle for hire shall have first obtained and shall have then in force a city operator's license issued under the provisions of this subchapter.

(b) No holder shall permit any of its vehicle for hire to be driven upon the streets of the city by any person who does not have a city operator's license.

§2122. City Operator's License Application.

(a) An application for a city operator's license shall be filed with the license board on forms provided by the city. Such application shall be verified under oath and shall contain the following information:

- (1) That the applicant is a citizen of the United States.
- (2) That the applicant is able to speak, read, and write the English language.
- (3) That the applicant is 18 years of age or over, and has no less than two (2) years of driving experience.
- (4) That the applicant is free of defective vision, defective hearing, epilepsy, vertigo, heart trouble, communicable social diseases and any other infirmity, physical or mental, which in the opinion of the chief of police would render *[him/her]* unfit for the safe operation of a vehicle for hire.
- (5) That the applicant is not addicted to the use of alcohol or drugs and such.
- (6) Have a letter from a vehicle for hire business licensee licensed under this chapter stating that the applicant is currently employed by the business licensee or that the applicant has an offer of employment conditioned upon issuance of a city operator's license, except for single vehicle for hire owner-operators.
- (7) A statement by the applicant agreeing to hold the city harmless from any and all claims, demands, damages, causes of actions, and costs, including all costs of litigation, costs of any kind including attorney's fees, arising out of the operation or use of a vehicle for hire licensed under this chapter; and
- (8) A statement by the applicant agreeing to abide by the terms and conditions of this chapter and to comply with all federal, state or local laws.
- (9) Such other information reasonably required by the city clerk or licensing board.
- (10) In the case of a single vehicle for hire owner-operator, be applying for both a city operator's license and a vehicle for hire business license concurrently.

(b) Each application for a city operator's license shall be accompanied by a certificate from a physician licensed by the state of Vermont who shall certify, after examination of the applicant, that the applicant is free from each and every infirmity mentioned in subsection (a) hereof and that the applicant is not afflicted with any disease or infirmity which might make applicant an unsafe or unsatisfactory driver.

(c) The applicant shall file with the application for a city operator's license three photographs, two inches by three inches in size, which photograph shall have been taken within 30 days next preceding the date of application. Each application shall be accompanied by a set of the applicant's fingerprints, which fingerprints shall be taken by the police department of the city.

#### §2123 Investigation of city operator's license applicant.

The police department shall conduct an investigation of each applicant for a city operator's license and a report of such an investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the chief of police.

#### §2124 Hearing on Issuance.

The chief of police shall, upon consideration of the application for a city operator's license and the reports and the certificate required to be attached thereto, recommend to the license board whether to approve or reject the application. If the chief of police recommends that the application be rejected, the license board shall hold a hearing pursuant to R.O.R. §1515 on the issuance of the license. At such hearing, the applicant may appear and present evidence as to why the recommendation of the chief of police should not be followed and a city operator's license issued to the applicant. The hearing shall take place within thirty (30) calendar days of the receipt of the chief of police's recommendation.

#### §2125 City Operator's License Fee.

Every driver of a vehicle for hire, before receiving a city operator's license, shall pay a fee of \$50.00 for the first year and \$50.00 per annum for renewals thereof.

#### §2126 Issuance of city operator's license.

Upon approval of an application for a city operator's license and the payment of the required fee, the city clerk shall issue a license to the applicant.

#### §2127 Renewal of city operator's license.

(a) City operator's licenses as provided in this subchapter shall expire on the last day of April of each year. Applications for renewal thereof shall be filed with the chief of police at least 30 days prior to the expiration date of each such license.

(b) Each renewal application form shall contain a certificate from a physician licensed by the state, which certificate shall set forth the same information that is required under an application for an original city driver's license.

(c) A recommendation shall be made on each such application for renewal by the chief of police to the license board prior to its expiration. If the chief of police does not recommend renewal of such license, the proceedings before the license board shall be the same as in the cases in which the chief recommended that an original application for a city operator's license not be issued.

§2128. City operator's license nontransferable.

No city operator's license shall be assigned or transferred to any other person.

§2129 Revocation or Suspension.

The license board may revoke or suspend the city operator's license of any vehicle for hire driver pursuant to §2160(c) of this chapter for any of the following reasons:

- (1) Any false statements made in the application for a driver's license or the renewal thereof.
- (2) If the licensee has become physically or mentally incapable of driving a vehicle for hire.
- (3) If the licensee has contracted and is suffering from a communicable social disease.
- (4) Any immoral conduct while in charge of a vehicle for hire.
- (5) Failing or refusing to comply with the provisions of this chapter.
- (6) The revocation, suspension, or lack of a state operator's license.
- (7) The failure to comply with all provisions of this chapter, other ordinances of the city, and all laws of the United States and the state of Vermont.
- (8) For defacing any license, badge, tag, identification card or rate card issued under the provisions of this chapter.
- (9) For allowing some other person to use licensee's driver's license, badge or identification card.

§2130. Change in city operator's license information.

Every person holding a city operator's license shall have a residence address on file with the city clerk at all times and in case of any change of address shall notify the city clerk of such change within seven days after making the same. Such person shall appear before the city clerk, bringing the license and identification card for correction.

§2131. Notice of Loss, Revocation, or Suspension of License or Change of Address.

Every vehicle for hire driver licensed as such pursuant to this subchapter shall within seven days notify the city clerk and his or her employer of any change of address or loss of city driver's license. Additionally, every driver of a vehicle for hire shall notify his or her employer and the city clerk upon suspension or revocation of his or her Vermont Operator's License.

#### **Subchapter 4 Vehicle and Insurance Requirements**

##### §2140. Vehicle Requirements.

Every vehicle for hire shall be kept clean, sanitary, fit, and of good appearance, and in a safe condition for the transportation of passengers and conform to the following standards:

- (1) Each vehicle for hire shall bear on each side, in painted letters not less than 2½ inches in height, the name of the owner or the trade name under which the owner does business.

##### §2141 Vehicle Insurance.

(a) In addition to obtaining and providing proof of jitney insurance as required by 23 V.S.A. § 841-3, each vehicle for hire operated within the city limits or police jurisdiction thereof shall be required to carry and maintain in effect the following minimum personal injury and property damage liability insurance:

- (1) Comprehensive general liability insurance, public liability including premises, products and complete operations:

- a. Bodily injury liability:  
Each person: \$250,000  
Each occurrence: \$500,000

- b. Property damage liability:  
Each occurrence: \$100,000

or in lieu of a. and b., above

- c. Bodily injury and property damage combined:  
Single limit: \$500,000

- (2) Comprehensive automobile liability insurance including owned, nonowned and hired vehicles:

- a. Bodily injury liability:  
Each person: \$250,000  
Each occurrence: \$500,000

- b. Property damage liability:  
Each occurrence: \$100,000  
or in lieu of a. and b., above

c. Bodily injury and property damage combined:  
Single limit: \$500,000

(b) No permit required by this chapter or business license shall be granted to any person to operate any vehicle for hire upon the streets or elsewhere in the city or its police jurisdiction until such person shall have first filed with the office of the city attorney a certificate of the above stated insurance requirements, issued to such person by a public liability insurance company authorized to do business in the state.

(c) The insurance coverage required by this section shall at all times be maintained for the full amount. The certificate of each policy or policies of insurance required by this section to be filed with the city revenue department shall contain a clause obligating the company issuing the same to give not less than 30 days' written notice to the city revenue department before cancellation thereof. Notice of cancellation shall not relieve the company issuing such policy or policies of liability insurance for any injury or claim arising before the cancellation becomes effective. The cancellation of any such policy shall have the effect of suspending the permit of such person to operate any vehicle for hire or business covered thereby until a new policy or policies complying with the provisions of this section is filed with the office of the city attorney.

(d) Every insurance policy required hereunder shall contain a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon, that the liability of the insurer shall not be affected by the insolvency or the bankruptcy of the insured, and that until the policy is canceled the insurance company will not be relieved from liability on account of nonpayment of premium, or any act or omission by the named insured. Such policy of insurance shall further provide for the payment of any and all judgments, up to the limits of such policy, recovered against any person other than the owner, the owner's agent or employee of any such business, who may operate the same with the consent or acquiescence of the owner.

#### §2142. Vehicle Inspection.

All vehicles for hire must have a valid Vermont State Inspection as required by law. A Vermont State inspection certificate shall be presented to the city when applying for a vehicle for hire business license. The issuance of a business license to the owner of such vehicle shall be conditioned upon the receipt by the city clerk's office of such inspection certificate.

### **Subchapter 5 Operation Requirements**

#### §2150 Cleanliness and Safety of Vehicles.

It shall be the duty of every person operating a vehicle for hire to keep and maintain any such vehicle at all times in a safe, comfortable, clean and sanitary condition. The seats, floors, steps, running boards, upholstery and baggage compartments of any such vehicle shall be thoroughly cleaned in such a manner as to be free of grass, dirt, dust, soil, trash and rubbish of every description.

No person shall drive any vehicle for hire upon the streets of the city unless there is displayed in such vehicle for hire, in a manner in which it is clearly visible and can be readily observed by all passengers therein the valid city operator's license of the driver.

§2154. Driver's Appearance.

Each driver of a vehicle for hire while operating such vehicle for hire shall be neat and clean in appearance, shall wear shirts or blouses and shoes at all times while operating a vehicle for hire upon the streets of the city.

§2155 Smoking prohibited.

Smoking or the use of tobacco products is prohibited by the driver or the passenger in any vehicle for hire at any time, including times when there are no passengers in the permitted vehicle or when the permitted vehicle is not in operation.

**Subchapter 6 Penalties**

§2160 Penalties.

(a) The penalties set forth herein and in the City Charter and Ordinances shall be in addition to and not instead of any other penalties imposed by any other applicable law, code, rule or regulation of any other governmental or regulatory agency or entity.

(b) An offense against any provision of this chapter shall constitute a civil violation not to exceed \$500 with waiver penalties to be determined by the Board of Aldermen.

(c) In addition to the penalties herein provided, any license issued pursuant to this chapter shall be subject to suspension or revocation pursuant to R.O.R. §1516. The license holder may appear before the license board and give evidence as to why the license should not be suspended or revoked. Any other interested party may appear before the license board and give evidence as to whether the license should be suspended or revoked.

(1) Suspensions. In addition to any fines or conditions, the license board may impose a suspension of up to ninety (90) days for violations of this chapter. A suspension that begins in one license period may extend into the following license period if so ordered by the license board.

(2) Revocation. Where there is sufficient evidence that continued licensing or permitting would undermine the vehicle for hire industry and/or would pose serious risk to public safety and welfare, the license board may revoke a license as set herein. The licensee may not apply for a license or permit for a minimum period of three (3) years from the date of revocation.

(d) Violations cumulative. If a person or business has more than one license under this chapter, violations under any of those licenses or permits shall be cumulative for purposes of determining the number of violations by such person and/or business.

(e) The city may take any appropriate action to enjoin or abate any violation of this chapter. In addition to the penalty set forth herein, the city shall recover its costs of suit including reasonable attorney's fees and costs associated with enjoining or abating said violation(s).

#### CHAPTER 21

##### Pool and Billiard Rooms

###### Section

- 2211. License required
- 2212. Fees
- 2213. Gambling

###### § 2211. License required

No person shall keep any billiard or pool room, or place wherein the game of billiards, pool or other like game is played in this city, for public use, until he/she shall have first obtained a license therefor, as provided in chapter 1 of this title.

###### § 2212. Fees

The annual fee for such license shall be as set by the board of aldermen.

###### § 2213. Gambling

No person keeping any billiard or pool room or other like place, for public use, or having the care or control thereof, shall suffer or permit any gaming or gambling therein.

#### CHAPTER 23

##### Restaurants and Victualing Establishments

###### Section

- 2261. License required
- 2262. Fees

###### § 2261. License required

No person shall keep a restaurant, lunchroom or victualing house, within the city, until he/she shall first have obtained a license as provided in chapter 1 of this title.

###### § 2262. Fees

The annual fee for such license shall be as set by the board of aldermen.

#### CHAPTER 25

Repealed No. 210

#### CHAPTER 27

##### Theaters

###### Section

- 2371. Theaters; motion picture and stage shows
- 2372. Fee

###### § 2371. Theaters; motion picture and stage shows

No person shall conduct a theater or moving picture show, within the city, until he/she shall have first obtained a license therefor, as provided in chapter 1 of this title.

§ 2372. Fee  
The annual fee for such license shall be as set by the board of aldermen.

## **CHAPTER 28**

Construction Trailers - Repealed No. 185

## **TITLE 12 ROOMS, MEALS AND ENTERTAINMENT TAX**

SECTION: 2401--General Provisions (**Amended 6/6/2012**)  
2402--Definitions  
2403--Taxes Imposed  
2404--Tax, When Due  
2405--Payment of Tax  
2406--Examination of Records  
2407--Information Confidential  
2408--Reconsideration and Appeal  
2409--Refunds  
2410--Failure to Comply; False Returns or Statements  
2411--Collection of Delinquent Tax  
2412—Violations (**Amended 6/6/6012**)  
2413--Tax as a Debt  
2414--Remedies Cumulative  
2415--Severability

Section 2401 GENERAL PROVISIONS:

1) This title shall be known as the "Rooms, meals and entertainment tax."

2) This ordinance is enacted pursuant to the authority granted to the City of Rutland by Chapter 3 of the Revised Charter of the City of Rutland.

Section 2402 DEFINITIONS:

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein.

(1) "Entertainment" -- providing entertainment of every kind exhibited for money, including but not limited to, circuses, fairs, plays, motions pictures, public dance halls, carnivals, theaters and stage shows, shows and films and charges for the use of, pool halls, skating rinks, billiard tables, bowling alleys, arcades, electric amusement devices, mechanical amusement devices, or the use of other places of amusement or of amusement devices including coin machines, video tapes, VCR players, DVD's, DVD players, movies of whatever nature, CDs, game players, of whatever nature and of whatever name and character except those of educational or nonprofit institutions or organizations or wholly for charitable purposes.

**Effective July 1, 2012, this definition shall not include classes offered by or memberships in gymnasiums or fitness centers. Amended June 6, 2012**

(2) "Person"--any individual, combination of individuals, firm, partnership, society, association, joint stock company, corporation, or any of the foregoing acting in a fiduciary or representative capacity, whether appointed by court or otherwise.

(3) "Hotel"--an establishment which holds itself out to the public by offering sleeping accommodations for a consideration, whether or not the major portion of its operating receipts is derived therefrom and whether or not the sleeping accommodations are offered to the public by the owner or proprietor or lessee, sub-lessee, mortgagee, licensee, or any other person or the agent of any of the foregoing. The term includes but is not limited to, inns, motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes, rooming houses, furnished-room houses, boarding houses and private clubs, as well as any building or structure or part thereof to the extent to which any such building or structure or part thereof in fact is held out to the public by offering sleeping accommodations for a consideration. The term shall not include the following:

(A) a hospital, licensed under chapter 43 of Title 18 of the Vermont Statutes Annotated, or a sanatorium, convalescent home, nursing home, or a home for the aged;

(B) any establishment operated by any state or United States agency or institution, except the department of forests, parks and recreation of the state of Vermont;

(C) an establishment operated by a nonprofit corporation or association organized and operated exclusively for religious, charitable or educational purposes, one or more, which, in furtherance of any of the purposes for which it was organized, operates a hotel as defined herein.

(D) a continuing care retirement community certified under chapter 151 of Title 8 of the Vermont Statutes Annotated.

(4) "Operator"--any person, or his agent, operating a hotel, whether as owner or proprietor or lessee, sub-lessee, mortgagee, licensee or otherwise; and any person, or his agent, charging for a taxable meal; and any person, or his agent, engaged in both of the foregoing activities. In the event that an

operator is a corporation or other entity, the term "operator" shall include any officer or agent of such corporation or other entity who, as an officer or agent of the corporation, is under a duty to pay the gross receipts tax to the Vermont Commissioner of Taxes as required by Chapter 225 of Title 32 of the Vermont Statutes Annotated.

(5) "Occupant"--a person who, for a consideration, uses, possesses or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license or agreement. The term shall not include a permanent resident.

(6) "Occupancy"--the use or possession, or the right to the use or possession, of any room or rooms in a "hotel" for any purpose, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of a room or rooms. The term shall not include occupancy by a "permanent resident," or by an employee of an operator when such occupancy is granted to the employee as remuneration for his employment, or any occupancy furnished in a summer camp for children.

(7) "Permanent resident"--any occupant who has occupied any room or rooms in a "hotel" for at least thirty consecutive days.

(8) "Rent"--the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever; and any monies received in payment for time-share rights at the time of purchase, provided, however, that such money received shall not be considered rent and thus not taxable if a deeded interest is granted to the purchaser for the time-share rights. The term "rent" shall not include rental charges for living quarters, sleeping or household accommodations to any student necessitated by attendance at a school as defined herein.

(9) "School"--an incorporated non-stock educational institution, including an institution empowered to confer educational, literary or academic degrees, which has a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, which keeps and furnishes to students and others records required and accepted for entrance to a school of secondary, collegiate or graduate rank, no part of the earnings of which inure to the benefit of any individual.

(10) "Taxable meal"--

(A) Any food or beverage furnished within the state by a restaurant for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises.

(B) Where furnished by other than a restaurant, any non-prepackaged food or beverage furnished within the state and for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises. Fruits, vegetables, candy, flour, nuts, coffee beans and similar unprepared grocery items sold self-serve for take-out from bulk containers are not subject to tax under this subdivision.

(C) Regardless where sold and whether or not prepackaged:

(i) sandwiches of any kind except frozen;

(ii) food or beverage furnished from a salad bar;

(iii) heated food or beverage.

(D) "Taxable meal" shall not include:

(i) Food or beverage, other than that taxable under subdivision (10)(C) of this section, that is a grocery-type item furnished for take-out: whole pies or cakes, loaves of bread; single-serving bakery items sold in quantities of three or more; delicatessen and non-prepackaged candy sales by weight or measure, except party platters; whole uncooked pizzas; pint or larger closed containers of ice cream or frozen confection; eight ounce or larger containers of salad dressings or sauces; maple syrup; quart or larger containers of cider or milk.

(ii) Food or beverage, including that described in subdivision (10)(C) of this section:

(I) served or furnished on the premises of a nonprofit corporation or association organized and operated exclusively for religious or charitable purposes, in furtherance of any of the purposes for which it was organized; with the net proceeds of said food or beverage to be used exclusively for the purposes of the corporation or association;

(II) served or furnished on the premises of a school as defined herein;

(III) served or furnished on the premises of any institution of the state, political subdivision thereof or of the United States to inmates and employees of said institutions;

(IV) prepared by the employees thereof and served in any hospital licensed under chapter 43 of Title 18 of the Vermont Statutes Annotated, or a sanitarium, convalescent home, nursing home or home for the aged;

(V) furnished by any person while transporting passengers for hire by train, bus or airplane if furnished on any train, bus or airplane;

(VI) furnished by any person while operating a summer camp for children, in such camp;

(VII) sold by nonprofit organizations at bazaars, fairs, picnics, church suppers, or similar events to the extent of four such events of a day's duration, held during any calendar year; provided, however, where sales are made at such events by an organization required to have a meals and rooms registration license or otherwise required to have a license because its selling events are in excess of the number permitted, the sale of such food or beverage shall constitute sales made in the regular course of business and are not exempted from the Vermont meals and rooms gross receipts tax;

(VIII) furnished to any employee of an operator as remuneration for his employment;

(IX) provided to the elderly pursuant to the Older Americans Act, 42 U.S.C. chapter 35, subchapter VII;

(X) purchased with food stamps;

(XI) served or furnished on the premises of a continuing care retirement community certified under chapter 151 of Title 8 of the Vermont Statutes Annotated.

(11) "Alcoholic beverages"--any malt beverages, vinous beverages, or spirituous liquors as defined in 7 V.S.A. § 2 and served on premises by a holder of a first or third class license issued under chapter 9 of Title 7 of the Vermont Statutes Annotated.

(12) "Food or beverage"--any substance used by humans for food, drink, confectionery or condiment, including alcoholic beverages.

(13) "Heated food or beverage"--any food or beverage prepared for sale in a heated condition by, for example, cooking, micro waving, or warming by infrared lights, steam tables or other heating devices. Food is considered heated regardless of cooling to air temperature that incidentally occurs. Bakery products that are sold still warm from initial baking are not heated foods unless a heat source is applied to maintain them for sale in a heated condition.

(14) "Prepackaged"--packaged off the premises of the operator, whether packaged in single servings or larger quantities, and sold in the original unopened container; or packaged on the premises and sold in the unopened package provided the operator sells for resale at least 80 percent of all items packaged in the same type and size of packaging.

(15) "Restaurant"--

(A) An establishment from which food or beverage of the type for immediate consumption is sold or for which a charge is made, including a café, cafeteria, dining room, diner, lunch counter, snack bar, private or social club, bar, tavern, street vendor, or person engaged in the business of catering.

(B) An establishment 80 percent or more of whose total sales of food and beverage in the previous taxable year were, or in the first taxable year are reasonably projected to be, of alcoholic beverages, food and beverage that are taxable under subdivision (10)(C) of this section, and food and beverage that are taxable under subdivision (10)(B) and are not exempt under subdivision (10)(D) of this section.

(C) "Restaurant" shall not include a snack bar on the premises of a retail grocery or "convenience" store.

(D) A vending machine is not a restaurant, but food or beverage that is sold from a vending machine shall be deemed to be sold by a "restaurant" if the vending machine is located on the premises of a restaurant.

(16) "Salad bar"--any counter, stand, table or other display of salads and other foods at which the customer may handle, cook, cut, mix or dispense in a non-packaged state the food displayed.

(17) "Snack bar"--a counter with no seating at which prepared food is offered only for self-service.

(18)“Successor” -- any person who shall, through direct or mesne conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stocks, goods, wares or merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his/her business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

(19)“Sworn statement” -- an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury or an accounting of gross receipts of business done as required to be filed under this ordinance.

(20)“Taxpayer” -- any individual, group of individuals, corporation, partnership or association required to pay a tax under this ordinance, or any person who engages in any occupation for which tax is imposed by this ordinance.

(21)“Treasurer” -- the treasurer of the City of Rutland, or his/her designated representative.

#### Section 2403 TAXES IMPOSED:

(1) Meals Tax: There is hereby imposed a tax upon all persons engaged in the business of preparation and serving of meals as defined herein within the City of Rutland. The tax imposed shall be at the rate of one (1) percent of the gross receipts from business done per monthly period in accordance with the provisions of this ordinance.

(2) Rooms Tax: There is hereby imposed a tax upon all persons engaged in providing rooms as defined herein within the City of Rutland. The tax imposed shall be at a rate of one (1) percent of gross receipts from business done per monthly period in accordance with the provisions of this ordinance.

(3) Entertainment Tax: There is hereby imposed a tax upon all persons engaged in providing entertainment as defined herein within the City of Rutland. The tax imposed shall be at the rate of one percent of the gross receipts from business done per monthly period in accordance with the provisions of this ordinance.

(4) It shall be unlawful for any person to transact or carry on any business, occupation or activity subject to the provisions of this ordinance without complying with all applicable provisions herein.

#### Section 2404 TAX -- WHEN DUE:

(1) Every taxpayer subject to the provisions of this ordinance shall file within thirty (30) days after the effective date hereof an application to be provided by the City of Rutland with the treasurer for a taxpayer identification number. This application shall contain the legal name of the taxpayer, any trade name(s) employed, the address, place(s) of business within the city, principal place of business, phone number, authorized agent for service of process, the type(s) of taxable admissions and charges received by the taxpayer and the taxable business (es) in which the taxpayer is engaged. Upon receipt of a complete application, the treasurer shall issue to each taxpayer an identification number. Failure of a taxpayer, or anyone reasonably likely to be a taxpayer as herein defined at the time that levy of the taxes herein commences, to file for an identification number shall be a violation.

(2) The tax imposed by this ordinance shall be due and payable commencing July 1, 2001 in monthly installments and remittance therefor shall be made on or before the last day of the month next succeeding the end of the monthly period in which the tax accrued. The remittance shall be made as provided in this ordinance and shall be accompanied by a return on a form to be provided and prescribed by the City of Rutland. The taxpayer shall be required to make a sworn statement that the information therein given is complete and true and that the taxpayer knows the same to be so.

(3) If a person fails to file a return under oath when required to do so by this ordinance, the treasurer, shall fix taxpayer's gross receipts using any information in the treasurer's possession for the period in respect to which such person has failed to file a return, and shall assess the amount of tax due including applicable penalties.

(4) The tax shall be considered delinquent on the day after it becomes due and payable pursuant to subsection (2) above.

(5) If the treasurer determines that a taxpayer has failed to pay any tax, penalty or portion thereof due under this ordinance, the treasurer shall mail to such taxpayer a statement showing the balance due and shall add thereto a thirteen dollar (\$13.00) late penalty payment or interest at the rate of one (1) percent per month, whichever is greater. That unpaid balance and penalty total shall be subject to interest at a rate of one (1) percent per month from the date of underpayment. Such interest shall accrue pro rata until the date of payment. Within five (5) days from the date the statement is mailed, the taxpayer shall pay such balance and all interest due thereon. No such demand shall be made more than four (4) years after the close of the fiscal year in which the same accrued, except:

(A) As against a taxpayer who has been guilty of any fraud or misrepresentation of material facts; or

(B) Where a taxpayer has executed a written waiver of such limitation.

(6) In the event any business subject to the tax defined herein closes or changes ownership, said business shall file a closing return with the treasurer and pay the tax due within thirty (30) days from the time of closing or changing of ownership of said business. A closing return shall be construed delinquent if not filed within the specified time.

In the event a business referenced above fails to file a closing return, it shall be the responsibility of the successor to file the return and pay any taxes and penalties due thereunder.

(7) It shall be the responsibility of the taxpayer to advise the treasurer of any change in the type of business or the activities carried on.

(8) The treasurer may, for good cause, extend for not more than ninety (90) days the time for paying any sum, or a portion thereof, required to be paid hereunder. The extension may be granted at any time, provided a written request therefor is filed with the treasurer prior to the delinquency date. Interest at the rate herein stated shall accrue during the period of extension.

#### Section 2405 PAYMENT OF TAX:

At the time the return is required to be filed under this ordinance, the tax shall be paid to the city treasurer by bank draft, certified check, cashier's check, personal check or money order or in cash. If payment is made by draft or check, the tax shall not be deemed paid unless the check or draft is honored in the usual course of business; nor shall the acceptance of any sum by the treasurer be an acquittance or

discharge of the tax due unless the amount of the payment is in full and actual amount due. The return shall be presented to the treasurer who shall endorse thereon the date and amount of the payment received by him and forthwith file the return in the office of treasurer.

Section 2406 EXAMINATION OF RECORDS:

(1) The treasurer or his/her designee is hereby authorized to request, examine, audit and inspect such books and records of any person or taxpayer as may be relevant or necessary to verify or ascertain the amount of the tax due.

(2) All persons engaged in occupations subject to the provisions of this ordinance are hereby required to permit examination of such books and records for the purpose aforesaid:

Section 2407 INFORMATION CONFIDENTIAL:

(1) Financial information furnished or secured pursuant to this ordinance shall be deemed confidential in character and shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration and enforcement of this ordinance.

(2) No officer, administrator or employee of the City of Rutland shall in any manner reveal the contents of any part or portion of the contents of any confidential information except as otherwise provided in this ordinance, or in a legal action to enforce the provisions of this ordinance, or pursuant to a court order.

Section 2408 RECONSIDERATION AND APPEAL

(1) Any person aggrieved by any decision of the treasurer with respect to the assessment of any tax or penalty by the treasurer, or any person aggrieved by the refusal of the treasurer to make a refund requested under section 2409, may petition the treasurer for a reconsideration within sixty (60) days after notice shall have been given such person. If a petition for reconsideration is not filed within such period, the amount of the assessment or the refusal to refund shall become final. If a petition is filed within such period, the treasurer shall reconsider his/her earlier action within twenty (20) days and, if the petitioner so requested in taxpayer's petition, shall grant said petitioner an oral hearing and shall give the petitioner ten (10) days' notice of the time and place thereof. The treasurer shall issue his/her final determination in writing to the petitioner within ten (10) days of the petition or the close of the hearing, whichever is later.

(2) An appeal from any decision of the treasurer issued under subsection (1) above shall be taken to the Board of Aldermen by filing notice of such appeal with the City Clerk within thirty (30) days of the date of the decision of the treasurer.

The Board of Aldermen may grant such relief as may be equitable and may order the treasurer to pay to the aggrieved taxpayer the amount of such relief with interest at the rate of six (6) percent per annum.

(3) If a petition or an appeal is not taken in strict conformance with this section, the decision of the treasurer shall be final. The remedies provided by this section shall be the exclusive remedies of a taxpayer with respect to any decision taken under this section. Upon failure to petition or appeal as provided under this ordinance, the taxpayer shall be bound by such decision and shall not thereafter contest, either directly or indirectly, such decision in any proceeding, including, without limitation, any proceeding brought to enforce any provision of this ordinance.

Section 2409 REFUNDS:

(1) In the event of overpayment of any tax due under this ordinance, the treasurer, or his/her authorized agent, upon written application by the taxpayer for a refund or credit filed within two (2) years after the date of such overpayment, may offset the amount of such overpayment against the taxpayer's existing tax liability under this ordinance or certify the request for refund for the purpose of processing a cash payment to such taxpayer.

(2) No refund or credit may be allowed with respect to any payments made to the city more than two (2) years before the date of such application. Provided, however, where a taxpayer makes application for a refund or credit of any overpayment made more than two (2) years before the date of such application and such taxpayer has an outstanding tax deficiency, the amount of the refund or credit which would otherwise be allowable for the portion of the assessment period preceding the two year period shall be offset against any such deficiency.

#### Section 2410 FAILURE TO COMPLY; FALSE RETURNS OR STATEMENTS:

It shall be unlawful for any person subject to the provisions of this ordinance to fail or refuse to do any act required by this ordinance. It shall also be a violation of this ordinance for any person to make any false or fraudulent application or return or any false statement or any representation in or in connection with any such application or return, or to aid or abet another in any attempt to evade payment of the tax, or any part thereof. Any violation may be subject to a civil penalty up to Five Hundred Dollars (\$500.00) and may result in the suspension of any license or permit issued or approved by the City of Rutland.

#### Section 2411 COLLECTION OF DELINQUENT TAX:

Any tax due and unpaid and delinquent under this ordinance, and all penalties thereon, may be collected by civil action, which remedy shall be in addition to any and all existing remedies.

Additionally, any taxes, penalties and interest due under this ordinance may be collected as real estate taxes or business personal property taxes and are a lien on the real estate or business personal property of any person responsible therefore.

#### Section 2412 VIOLATIONS

An operator who knowingly files a fraudulent return, fails to file a return, fails to collect a tax or fails to remit a tax required under this ordinance shall be subject to a civil penalty of not more than \$500.00 and may result in the suspension of any license or permit issued or approved by the City of Rutland. **The waiver fine shall be in an amount as set by the Board of Aldermen. Amended June 6, 2012**

#### Section 2413 TAX AS A DEBT:

(1) The amount of the tax and penalty imposed by the provisions of this ordinance shall be deemed a debt to the City of Rutland.

(2) Any operator who fails to collect the required tax or to pay it to the city as required under this ordinance shall be personally and individually liable for the amount of such tax together with such

interest and penalty as has accrued; and if the operator is a corporation or other entity, the personal liability shall extend and be applicable to any officer or agent of the corporation or entity who as an officer or agent of the same is under a duty to collect the tax and transmit the tax to the City of Rutland as required in this ordinance.

(3) Any sum or sums collected in accordance with this ordinance shall be deemed to be held by the person in trust for the City of Rutland. Such sums shall be recorded by such person in a ledger account so as clearly to indicate the amount of tax collected and that the same are the property of the City of Rutland.

#### Section 2414 REMEDIES CUMULATIVE:

(1) All remedies prescribed in this ordinance shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

(2) The conviction and punishment of any person for violation of this ordinance shall not excuse or exempt such person from the payment of any tax due or unpaid at the time of such conviction.

#### Section 2415 SEVERABILITY:

If any part or parts or application of any part of this ordinance is held invalid, such holding shall not affect the validity of the remaining parts of this ordinance.

**TITLE 13  
DOGS AND OTHER ANIMALS**

**CHAPTER 1  
Dogs**

Section

13-2250.	License/Registration Required (Amended 1/29/2016) #283
13-2551.	Nuisance Animals
13-2552.	Definitions (Amended 11/15/2010) #263 8/25/2016 #284
13-2553.	At-large Prohibited
13-2554.	Removal of Dog Waste Required
13-2555.	Offenses/Violations/Fines
13-2556.	Impoundment
13-2557	Animal Control Hearings (Amended 11/15/2010) #263 8-25-2016 #284

**§13-2250 License/Registration Required.**

**A resident of the city who is the owner of a dog shall annually register each dog as required by 20 V.S.A. §3581. It shall be a violation of this chapter if a dog required to register under the aforementioned statute remains unregistered after May 1 of each year.**

§13-2551 Nuisance Animals.

No owner, keeper or other person having control shall permit an animal to be a nuisance animal. For the purposes of this section, nuisance animal means any animal or animals which:

- (1) Molests or harasses passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Damages property other than that of its owner;
- (4) Defecates off the premises of the animal's owner, and the owner or other individual in control of the animal, fails to remove such deposit immediately;
- (5) Barks, whines, howls or cries in an excessive and continuous fashion so as to disturb the peace and quiet of any other person.

**§13-2552 Definitions.**

**The following definitions shall apply to this article:**

- (a) **(a) Animal Control Board.** The Animal Control Board shall be a five (5) member Board comprised as follows: One (1) member shall be the Chairman of the Rutland City Police Commission, two (2) members shall be members of the Rutland City Police Commission appointed by the Chairman of the Rutland City Police Commission, two (2) members shall be members of the Board of Aldermen appointed by the Board of Aldermen President. The Chair or the Police Commission and President of the Board of Aldermen may appoint alternates from their respective boards who may hear vicious dog complaints pursuant to §2557(a) below in order to make a quorum or in the event of disqualification of a member for a conflict of interest. Members appointed as set forth above shall serve until their replacements have been appointed, or until they are no longer members of their respective Boards.

**(b) At-large.** At-large shall mean not under the control of the owner, or another individual either by leash, cord, chain or other similar means of physical restraint.

**(c) Dog.** Dog shall include both male and female of the canine species. Dog shall also mean any animal which is considered to be wolf-hybrid as defined in 20 V.S.A. Section 3541(6).

**(d) Enforcement official.** Enforcement official when used herein shall mean any animal control officer, police officer, pound keeper or other individual specifically designated by the Board of Alderman to enforce the provisions of this chapter.

**(e) Owner.** Owner shall include any person or persons, firm, association or corporation owning, keeping, harboring or having control of a dog.

**(f) Vicious dog.** Vicious dog shall mean a dog that:

1. attacks or bites a person or other domestic pet;
2. the attack or bite occurred without provocation; and
3. the person or pet attacked or bitten requires medical attention.

Vicious dog complaints shall be investigated pursuant to section 2557 of this Title.

#### §13-2553 At-large prohibited.

*Prohibition.* No person shall permit a dog owned by him or her or under his or her control to be at-large as defined in section 2552(a) of this Title or to trespass upon the property of another, public or private, except if the dog is on the premises of the dog's owner.

#### §13-2554 Removal of dog waste required.

The owner, keeper or person in control of any dog shall be responsible for the removal of any defecation deposited by such dog on any public or private property.

#### §13-2555 Offenses/Violations/Fines.

An offense of any provision of this chapter by any person shall be deemed a civil ordinance violation and shall be punishable by the following penalties:

(1) *First offense.* A first offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than fifty dollars (\$50.00) and no more than five hundred dollars (\$500.00).

(2) *Second offense.* A second offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than one hundred dollars (\$100.00) and no more than five hundred dollars (\$500.00).

(3) *Third and subsequent offenses.* A third or subsequent offense of any provision of this chapter in any twelve-month period shall be punishable by a fine of no less than two hundred dollars (\$200.00) and no more than five hundred dollars (\$500.00).

The Board of Aldermen may establish wavier fines for each of the above offenses. In addition to the penalties provided in this section, any animal found in violation of this chapter may be impounded as provided in section 2556 of this Title.

#### §13-2556 Impoundment.

(a) *Authority to impound.* Dogs in violation of any provision of this chapter may be taken by the enforcement officer and impounded in the City pound and there confined in a humane manner.

(b) *Impoundment fees.* Any dog impounded under the provisions of this chapter shall be released only on payment of a twenty-five dollars (\$25.00) impounding fee and boarding fees; provided, however, that any dog impounded for the second time in any twelve-month period shall be released only on payment of a fifty dollar (\$50.00) impounding fee, and if so captured three (3) or more times in any twelve-month period it shall be released only upon payment of a seventy-five dollar (\$75.00) impounding fee.

(c) *Boarding fee.* In addition to the impound fee charged herein there shall be an additional charge per day as set by the Humane Society or boarding facility for board for each day the dog is impounded, except that if an animal is claimed up to three (3) hours after impoundment, the owner will be responsible for one-half day's boarding fee. If an animal is claimed within two (2) hours of opening business hours on the following business day, the owner will not be charged for that day's boarding fee.

(d) *City Clerk to collect fees before releasing dog.* It shall be the duty of the City clerk to collect all pound and board fees before releasing a dog.

(e) *Unlicensed dogs to be licensed before release.* If an impounded dog is unlicensed, in addition to the impounding and boarding fees set forth herein, the dog shall not be released without the payment of the license fee require by State law, except that if the impounded dog has not had its proper vaccinations to be registered a thirty-five dollar (\$35.00) cash deposit shall be posted with the City Clerk or his or her designated agent(s) until proof of registration is presented. A dog released under cash deposit shall be registered within two (2) working days after its release. If the dog is not registered within the time period set forth herein, the cash deposit shall be forfeited and the owner of the animal shall be subject to additional penalties under the provision of 20 V.S.A. Chapter 193.

(f) *Disposition of unredeemed dogs.* If any impounded dog with a current and effective license established by proof a dog license tag, is not redeemed within (7) days of its impoundment, it shall be sold or given away. If any impounded dog without a current and effective license established by proof of a dog license tag, is not redeemed within (5) days of its impoundment, it shall be sold or given away. Any proceeds from the sale of any impounded dog shall first be allocated to fines, fees and other charges related to the impoundment. Any balance then remaining shall be paid to the owner if the owner can be found. If proceeds from the sale of the unredeemed dog do not cover the costs associated with the impoundment, the balance of sums owed under this chapter may be collected in a civil action brought under this section. If any unredeemed dog is not sold or given away because of disease, temperament or other cause, it shall be destroyed in a humane way. The cost may be recovered from the owner. The impoundment period may be waived by the pound keeper in case of a severely injured animal whose owner cannot be located or is unwilling to claim the animal.

(g) *Interference with impoundment.* Any person who interferes with the impounding of a dog under provision of this article or releases, or who attempts to release and impounded dog contrary to this article shall be in violation of this chapter, in addition to any other violation of the law.

(h) *Notice of impoundment.* Within twenty-four (24) hours of the impoundment of any dog under this chapter, the enforcement officer shall make every reasonable attempt to notify the owner of the impounded dog of such impoundment. Such notice shall include either personal contact with the owner or a written notice posted at the dwelling house of the owner.

**§13-2557 Animal Control Hearings.**

(a) Vicious dogs. Upon written complaint that a dog is alleged to be vicious as defined in section 2552(e) of this Title, the Animal Control Board may hold a hearing on the acts of the complaint. A majority of the Board constitutes a quorum. A majority of the Board will constitute the decision of the Board in accordance with 1 V.S.A. § 172. ~~and, if~~ If the dog is found to be vicious, the Board may make such order as necessary to protect the public. Such order may include, but is not limited to, any of the following; confinement in a secure enclosure or other similar restriction, muzzling, adoption, or destruction in a humane manner. Compliance with said order will be at the dog owner's expense. In addition, the Animal Control Board may revoke the privilege of any owner to keep, harbor or have custody of any animals while in the City and that no new privileges be granted.

(b) Repeated impoundment. In the event that any dog shall be impounded three (3) or more times in a twelve-month period, the Animal Control Board may, at the request of an enforcement officer, or in its discretion, hold a hearing after which it may make such order as is necessary to protect the public. Such order may include, but is not limited to, any of the following; confinement in a secure enclosure or other similar restriction, muzzling, adoption, or destruction in a humane manner. Compliance with said order will be at the dog owner's expense. In addition, the Animal Control Board may revoke the privilege of any owner to keep, harbor or have custody of any animals while in the City and that no new privileges be granted.

(c) *Penalty for violation of orders.* Any person who violates any provision of any order of the **Animal Control Board** shall be guilty of a misdemeanor offense and shall be punishable by a fine of from one hundred dollars (\$100.00) to five hundred dollars (\$500.00).

WAIVER FINES

\$50.00	First Offense
\$100.00	Second Offense
\$150.00	Third Offense

# TITLE 15

## FIRE PROTECTION AND PREVENTION

### Chapter

1. Fire Department
3. Abatement of Fire Hazards (Amended 6/3/2013)
5. Incendiarism
7. Prohibitions; Mandatory Provisions
9. Violations and Penalties

### CHAPTER 1

#### Fire Department

#### Subchapter 1. General Provisions

### Section

2701. Members--Qualifications
2702. Repealed (No. 228)
2703. Repealed (No. 228)
2704. Chief engineer as commander; succession of command; duties at fires
2705. --Additional duties at fires; destruction of buildings
2706. --Additional duties; suspension of members
2707. Repealed (No. 228)
2708. Repealed (No. 228)

#### Subchapter 2. Use of Apparatus Beyond City

2721. Authority of chief engineer for use beyond city
2722. Conditions for use of apparatus beyond city
2723. Charges to other communities
2724. Mutual agreements with other communities
2725. Repealed. (No. 228)

#### Subchapter 3. Fire Alarm System

2730. Fire-alarm telegraph as apparatus
2731. --Duties of chief engineer

#### Subchapter 4. Fees for Service

2741. Fees For service

## Subchapter 1. General Provisions

### § 2701. Members--Qualifications

Every person to be eligible for appointment as a regular fireman must be a citizen of the United States, must be certified as a Vermont Level 1 Firefighter, must be able to read, write and speak fluently the English language, and shall not belong to any other fire or hose company.

### § 2702. Repealed (No. 228)

### § 2703. Repealed (No. 228)

### § 2704. Chief engineer as commander; succession of command; duties at fires

The chief engineer, or his or her designee, subject to the ordinances and regulations of the board of aldermen, shall have sole and absolute control and command over all other members of the department and all persons present at fires, and shall take prompt measures to arrange and operate the fire apparatus in the most advantageous manner to extinguish all fires with the least possible damage to life and property, and prevent unnecessary damage by water; to avoid unnecessary waste and damage during removal, and detect and prevent theft, during and after the fire; and he shall issue such orders as he may deem necessary.

### § 2705. --Additional duties at fires; destruction of buildings

During the continuance of any fire, the chief engineer or his/her designee shall have absolute control of the streets adjacent thereto; he/she may blockade any such street, and forbid passage therein; he/she may order those present to stand back to any required and reasonable distance; he/she may command the assistance of any police officer, or other person present at the fire, in extinguishing the same or preventing its spread, or in saving and securing property. He/she shall have power, with necessary assistance, to enter any building or premises, for the purpose of extinguishing or checking the progress of fire, or securing and protecting property; and he/she may, with the advice of the mayor, direct the destruction of any building, to stay the further progress of the fire.

### § 2706. --Additional duties; suspension of members

The chief engineer shall promptly report to the mayor any officer or member of the department, who, by reason of age, disease, accident or other incompetence, does not or cannot fully, promptly and properly perform full and satisfactory duty in the department. He/she shall have power, and it shall be his/her duty, to summarily suspend from duty and from compensation, for a period not to exceed **FOUR** weeks, any person under his/her command for a flagrant violation or disregard of law, ordinance, rule, regulation or direction, in all cases where the interests of the people or the reputation of the department would suffer if such prompt action should not be taken.

### § 2707. Repealed (No. 228)

### § 2708. Repealed (No. 228)

## Subchapter 2. Use of Apparatus Beyond the City

### § 2721. Authority of chief engineer for use beyond city

No fire department apparatus shall be taken beyond the territorial limits of the City of Rutland to assist at a fire or for any other purpose except by order of the chief engineer of the fire department or his/her designee and subject to the restrictions and conditions hereinafter set forth in this subchapter.

### § 2722. Conditions for use of apparatus beyond city

(a) Notwithstanding any other provision of this subchapter, the chief engineer or his/her designee shall dispatch men and apparatus from the fire department in order to extinguish a fire outside of the territorial limits of the City of Rutland in any of the following circumstances:

(1) If the fire occurs in a city, village or town which has entered into a written contract with the City of Rutland by the terms of which contract the City of Rutland has agreed to furnish fire protection to said city, village or town during the period in which such fire occurs;

(2) If the fire occurs on premises outside the City of Rutland owned or leased by any person, firm or corporation which has entered into a written contract with the City of Rutland by the terms of which contract the City of Rutland has agreed to furnish private fire protection to such premises of said person, firm or corporation during the period in which such fire occurs;

(3) If, in the discretion of the chief engineer, or his/her designee, chief, elements of the fire department are needed and can be spared to help mitigate a fire or emergency in another city, village or town.

(b) No contract for private fire protection shall be entered into by the City of Rutland with any person, firm or corporation in another city, village or town without similar contracts being made available to all persons, firms or corporations in said city, village or town.

§ 2723. Mutual aid assistance

The chief engineer or his/her designee is authorized to seek and obtain the assistance of any other fire department with which the City of Rutland has a mutual aid agreement whenever, in the opinion of the chief engineer or his/her designee, the City of Rutland may be left unprotected against the hazard of fire by reason of the fact that elements of the fire department have been dispatched outside of the city pursuant to section 2722.

§ 2724. Mutual agreements with other communities

The chief engineer or his/her designee of the fire department may make such mutual aid agreements with other jurisdictions, towns and cities as he/she believes to be proper, and such agreements shall be in writing and subject to the approval of the board of aldermen and the city attorney.

§ 2725. Repealed (No. 228)

### Subchapter 3. Fire Alarm System

§ 2730. Fire-alarm telegraph as apparatus

The fire-alarm telegraph in this city shall be considered as apparatus connected with the fire department and shall be under as full control of the department as the apparatus commonly used by the fire department for the extinguishment of fires in the city.

§ 2731. --Duties of chief engineer

The chief engineer, or his/her designee, of the fire department shall have charge of all the electric lines, instruments, batteries, battery-room and supplies thereof. He/she shall ensure they are kept in working order, and for this purpose he/she shall at all times have access to the instruments and apparatus wherever located. He/she shall ensure that all electric light and other wires are kept at a safe distance from the fire-alarm circuit; and he/she shall cause to be inspected and tested each fire-alarm box at least once annually.

### Subchapter 4. Fees for Services

§ 2741. Fees for service

The chief engineer, or his/her designee, shall be authorized to recover the direct costs associated with non-emergency services performed by the fire department. Direct costs include salaries, equipment expended or used, and apparatus use. Non-emergency services would include, but are not limited to standby at special events, removing water from flooded cellars or basements, and hanging banners and flags. Annually, on July 1<sup>st</sup> the chief engineer, or his/her designee, shall submit to the Board of Aldermen and the City Treasurer a listing of hourly rates for all members of the department, and hourly rates to be used for apparatus and special equipment use. In addition, the chief engineer, or his/her designee, shall be authorized

to recover costs associated with emergency response to hazardous materials and petroleum spill incidents as authorized under Title 20, Internal Security and Public Safety of the Vermont Statutes.

## CHAPTER 3

### Abatement of Fire Hazards

#### Section

- 2801. Inspections by fire marshal; abatement of hazards
- 2802. Orders, failure to comply; appeal therefrom
- 2803. Enforcement of orders; costs and expenses
- 2804. Record of orders; reports to commissioner; complaints to city attorney
- 2805. Life Safety Code of National Fire Protection Association as applicable in Rutland amended 5-20-2013**
- 2806. Key Box Systems
- 2807. Hazardous Materials Cabinets

#### § 2801. Inspections by fire marshal; abatement of hazards

(a) The chief engineer, or his/her designee, of the fire department shall also act as the fire marshal. The fire marshal, or his/her designee, shall act as the liaison between the City of Rutland fire department and the state fire marshal. The fire marshal shall be authorized to inspect at all reasonable times, any public building or premises for dangerous or hazardous conditions set forth in this code. The fire marshal shall have the authority to order and person(s) to remove or remedy such dangerous or hazardous condition or material. Any person(s) failing to comply with such order shall be in violation of this code. For the purpose of this section, the fire marshal shall have access to any and all premises within the city at all reasonable times.

(b) Where conditions exist, and are deemed to be hazardous to life and property by the authority having jurisdiction, the authority having jurisdiction shall have the authority to summarily abate such hazardous conditions that are in violation of the code.

#### § 2802. Orders, failure to comply; appeal therefrom

(a) All orders in respect to any of the particulars mentioned in section 2801 shall be given in the manner following, to wit: the fire marshal shall specify in writing the thing to be done and the time within which the order must be complied with, and shall leave or cause to be left a true copy of such order in the hands, or at the place of business or abode, of the person upon whom such order is made

(b) Any person who fails to comply with the order as provided in subsection (a) of this section shall be subject to a civil penalty of not less than \$50 or more than \$500. Each day that such failure shall continue shall be deemed a separate offense.

#### § 2803. Enforcement of orders; costs and expenses

If any order of the fire marshal, as provided in this chapter, shall not be complied with in the time prescribed therein, it shall be the duty of the fire marshal, with the advice of the mayor, taking such assistance as may be necessary, to cause such order to be complied with, and the expense and costs thereof shall be recovered, in any proper form of action on behalf of the city, or as may be provided in the case of abatement of nuisances.

#### § 2804. Record of orders; reports to commissioner; complaints to city attorney

The fire marshal shall keep a record book wherein he shall enter the substance of all orders issued by him, all complaints made to him in reference to matters within his cognizance, and all inspections and examinations made by him. Such record book shall be available for examination by any member of the board of aldermen. He/she shall file a civil complaint in municipal court for any violation of the provisions of this title.

§ 2805—Life Safety Code of National Fire Protection Association as applicable in Rutland

(a) All buildings and places referred to in this chapter shall be inspected and examined by the fire marshal in accord with the Fire Prevention Code (NFPA 1) and the Life Safety Code (NFPA 101), promulgated by the National Fire Protection Association, the building code, and all referenced publications, using the editions adopted and in force by the State of Vermont fire prevention division.

(b) Emergency Forces Notification: Where Fire Department notification is required by another section the code, the fire alarm system shall be arranged to transmit the alarm automatically via the following means in order:

1. Fire Department Master Box.

2. Dedicated Lease Line to the Fire Department.

3. Dual Line DACT (Digital Alarm Communicator Transmitter) to approved Central Station.

4. Single Line DACT (Digital Alarm Communicator Transmitter) to approved Central Station

§ 2806. Key Box Systems

(a) The following structures shall be equipped with a key lock box at or near the main entrance or other such location required by the chief engineer, or his/her designee:

(1) new commercial or new industrial structures to be protected by an automatic alarm system or automatic suppression system or renovations which include an automatic alarm system or automatic suppression system.

(2) new multi-family residential structures that have a restricted access through locked doors and have a common corridor for access to the living units or renovations, which include an automatic alarm system or automatic suppression system.

(3) new governmental structures and new nursing care facilities or renovations which include an automatic alarm system or automatic suppression system.

(b) All newly constructed or renovated structures subject to this section shall have the key lock box installed and operational before the issuance of the occupancy permit.

(c) The chief engineer, or his/her designee, shall designate the type of key lock box system to be implemented within the city and shall have the authority to require structures to use the designated system.

(d) The owner or operator of the structure required to have a key lock box shall at all times, keep a key in the lock box that will allow for access to the structure, or other keys required by the chief engineer, or his/her designee.

(e) Penalties – Any building owner violating this requirement shall, after receiving due notice by the chief engineer, or his/her designee, be subject to a civil penalty of up to five hundred dollars (\$500).

§ 2807. Hazardous Materials Cabinets

(a) Any facility, firm, or corporation that handles, uses or stores hazardous material in the (3) or (4) range of the N.F.P.A. 704M symbol, and total aggregate is more than 55 gallons, 500 pounds, or 200 cubic feet, shall have a hazardous materials data cabinet.

(b) All newly constructed structures subject to this section shall have the haz-mat cabinet installed and operational prior to the issuance of the occupancy permit. All structures in existence on the effective date of this section and subject to this section shall have twelve (12) months from the effective date of this section to have a haz-mat cabinet installed and operational.

(c) The chief engineer, or his/her designee, shall designate the type of cabinet system to be implemented within the city and shall have the authority to require structures to use the designated system.

(d) The owner or operator of the structure or facility required to have a cabinet shall keep the following items in the cabinet at all times:

(1) Binder with:

- List of responsible persons and phone numbers (i.e., plant manager, owner, principal employees, management types, and major chemical manufacturers).

- A scaled drawing of the facility to include room numbering, extinguishing systems (OSY, post indicator valves, and fire department connections) drains, secondary containment, ventilation systems, and hydrant locations.

- (2) Keys for interior locations as required by the chief engineer, or his/her designee.
  - (3) Material data safety sheets (MSDS)
- (e) Penalties – Any building owner violating this requirement shall, after receiving due notice by the chief engineer, or his/her designee, be subject to a civil penalty of up to five hundred dollars (\$500).

## CHAPTER 5

### Incendiarism

#### Section

2881. Inspections to determine cause of fires; prosecution

§ 2881. Inspections to determine cause of fires; prosecution

The fire marshal or his duly authorized agent shall attend at every fire occurring in the city, and shall determine the cause and origin of such fire. Where there shall be reason to believe that any fire may have been incendiary in its origin, it shall be his/her duty to notify the proper investigating authority as provided in the laws of this state for further investigation and prosecution and assist such agency upon request.

## CHAPTER 7

### Prohibitions; Mandatory Provisions

#### Section

2931. Unauthorized use of fire department insignia

2932. Obedience to orders of officer in charge at fire

2933. Tampering with fire-alarm system

2934. Tampering with fire-alarm box; false alarm of fire

2935. Misappropriation of fire department property

2936. Burning in open places or near buildings

2937. Deposit of hay, straw or combustible substances near fire or ashes

2938. Maintaining structures free of combustible trash; littering of street

§ 2931. Unauthorized use of fire department insignia

No person not a member, in good standing, of the fire department shall wear or keep in his/her possession any firefighter's badge, clothing, or other thing issued by or belonging to the city, or wear any uniform or insignia adopted for the department, or in any other way act as, or represent themselves to be, a member of such department.

§ 2932. Obedience to orders of officer in charge at fire

All firefighters and citizens are hereby enjoined and required to obey the orders and directions of the officer in command at any fire, and to render their services, if ordered by him/her so to do.

§ 2933. Tampering with fire-alarm system

No person shall destroy, deface, or in any manner injure the fire-alarm telegraph or any part thereof, or any of the appurtenances thereof, or shall interfere with, or do anything thereto, so as to prevent or delay the proper or timely use thereof.

§ 2934. Tampering with fire-alarm box; false alarm of fire

No person shall open any alarm box connected with the fire-alarm telegraph, except by the authority of, and with the key furnished by an authorized officer of the department; nor shall any person cry out or ring in, or cause to be given, any false alarm of fire.

§ 2935. Misappropriation of fire department property

No person shall wrongfully appropriate, use, take away, conceal, or refuse or neglect to deliver up to an authorized officer of the city or of the fire department any property belonging to the city and used by or required for the use of such department.

§ 2936. Burning in open places or near buildings

No person shall engage in any open burning except under a local permit from the Rutland City Fire Chief and in compliance with the laws and regulations of the State of Vermont.

§ 2937. Repealed. (No. 228)

§ 2938. Maintaining structures free of combustible trash; littering of street

No person occupying any building or operating any shop shall allow the accumulation of any combustible substance so as to constitute a fire hazard, in the opinion of the fire marshal. No person in removing straw, chips, shavings, paper, or other combustible substance, from any shop, building or yard, shall throw or scatter the same into any street, lane, court or area, or direct or permit any such combustible substance to be thrown or scattered upon any private premises as to endanger any building or be liable to be blown upon any street, lane or public place.

## CHAPTER 9

### Violations and Penalties

#### Section

2991. Refusal to obey officer at scene of fire; hindering or obstructing; violation of regulations

§ 2991. Refusal to obey officer at scene of fire; hindering or obstructing; violation of regulations

Any person who shall refuse to obey the orders of officers in command at fires, or interfere with or hinder, obstruct, resist or abuse any such officer or any member of the city government or any other officer or member of the fire department in any of the duties imposed under the provisions of this title, or who shall violate any provision of this title or any regulation, rule or order of the department shall be subject to a civil penalty of not less than \$50 nor more than \$500.

## TITLE 17

### HEALTH AND WELFARE

#### Chapter

1. Health Officer and Board of Health - Repealed No. 203
3. Public Health Nuisances
5. Charities and Correction - Repealed No. 203
7. Food Offered for Sale, General Provisions - Repealed No. 203
9. Processing and Sale of Meat - Repealed No. 203
11. Milk, Cream, and Milk Products - Repealed No. 186
13. Sewage Collection and Treatment
14. Sewer Discharge Capacity Allocation
15. Sewers and Drains
17. Nuclear Reactors, Facilities, Materials, Wastes - Repealed No. 203

## CHAPTER 1

Health Officer and Board of Health  
Repealed No. 203

## CHAPTER 3

### Public Health Nuisances

#### Section

- 3121. Keeping of swine, cattle, horses and other animals as public health nuisance
- 3122. Keeping of fowls as public health nuisance
- 3123. Depositing offal, garbage, etc., in ways or waters of city
- 3124. Penalties

§ 3121. Keeping of swine, cattle, horses and other animals as public health nuisance  
No swine shall be kept within 100 feet of any dwelling house or street, nor in such a place and manner as to be offensive to the persons residing in the vicinity; and their pens and yards must be kept deodorized by the application of dried muck, dry earth or some other effective absorbent or disinfectant; provided, nevertheless, that no person, persons, firm, partnership, corporation or other legal entity shall keep or maintain more than 4 swine within the limits of the city. No cattle, goats, horses or other animals shall be kept in such a place or manner as to be offensive to the persons residing in the vicinity. Violation of the provisions of this section shall constitute a public health nuisance.

§ 3122. Keeping of fowl as public health nuisance  
No fowl shall be kept within such place or manner as to be offensive or cause a nuisance to persons residing in the vicinity, and the buildings and yards shall be kept deodorized by the application of dry earth or some other effective absorbent or disinfectant. All fowl so kept within the city limits shall be confined in an enclosure, and shall not be permitted to run at large. Violation of the provisions of this section shall constitute a public health nuisance.

§ 3123. Depositing offal, garbage, etc., in ways or waters of city  
No person shall put or place, or cause to be put or placed, in any street, lane, alley, or other public place in the city or in the waters thereof, any house-dirt, ashes, garbage, shreds, shavings, filth, offal, oystershells or other kind of rubbish, except in such place and in such manner as the board of aldermen may prescribe. Violation of the provisions of this section shall constitute a public health nuisance.

§ 3124. Penalties  
A violation of the provisions of these sections may result in a civil penalty of not less than \$50.00 nor more than \$500.00.

## CHAPTER 5

### Charities and Correction

Repealed No. 203

## CHAPTER 7

### Food Offered for Sale, General Provisions

Repealed No. 203

## CHAPTER 9

### Processing and Sale of Meat

Repealed No. 203

## CHAPTER 11

### Milk, Cream, and Milk Products

Repealed No. 186

# Title 17

## CHAPTER 13 Sewage Collection and Treatment

### Section

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### § 3401. Construction with state law

This chapter is enacted pursuant to chapter 79, Title 24 V.S.A. §§ 3601-3619, and amendments thereto. In the enactment of this chapter, the board of aldermen shall be deemed to be exercising the powers vested in it by chapter 24 of V.S.A., both as the legislative body of the city and as sewage commissioners of the city.

### § 3402. Purpose

It is hereby declared to be needful to establish charges, rules and regulations for the control and operation of the municipal sewage department, and the charges, rules and regulations herein established are enacted for such purpose.

### § 3403. Sewage department; commissioners; superintendent; council committee

There is hereby established within the city a municipal sewage department of which the board of aldermen shall be commissioners. The commissioners shall have and exercise the various powers and duties conferred upon them by the statutes of Vermont. The commissioner of public works shall be the superintendent of the sewage department. The superintendent shall have general charge of the sewage department, subject to the ordinances of the city and the direction of the sewage commissioners. The commissioners may in their discretion appoint a committee of three from among their members whose function it will be to review and make recommendation on the various problems that may arise with reference to the operation and maintenance of the aforementioned sewage department.

### § 3404. User charge system

(a) User charges shall be determined by the board of aldermen and are hereby imposed upon every user of the sewers and sewage treatment plant for the payment of costs of operating, maintaining and repairing said sewers and plant.

(b) The user charges are a means of accounting to insure that each recipient of wastewater collection and treatment services will pay its proportionate share of the costs of operation and maintenance, including replacement. The intent of the user charges and user surcharge revenue structure is to equitably distribute the cost of operation and maintenance of the publicly owned sewage facilities to the pollutant source and to promote self-sufficiency of the facilities with respect to operation and maintenance costs.

(c) The user charge system of the City of Rutland results in the distribution of treatment works operation and maintenance costs to each user in approximate proportion to the user's contribution to the total wastewater loading of the treatment works.

(d) The total annual sewer user charges cannot be less than the annual cost of operating and maintaining the sewage facilities. Also, the charges must be sufficient to allow the treatment plant to be operated self sufficiently.

(e) The city uses its municipal accounting to account for revenue and expenditures. This system is audited periodically.

(f) All users will be notified, at least annually, in conjunction with a regular bill, of the rates and that portion of the user charges which are attributable to wastewater collection and treatment services.

(g) The user charges are determined as follows:

(1) Metered users. User charges will be based on a per 100 cubic foot basis using water meter data to determine wastewater sewerage from a user. The charges will be based upon the following standard relation:  $SA = (TOM/TQ) * UQ + AC$  Where:

SA = Annual Sewer Assessment (dollars)

TOM = Total annual operation and maintenance costs including capital retirement, excluding total administrative charges

TQ = Total annual volume of water metered to users plus estimated flow to unmetered users

UQ = Annual water metered to a single user

AC = Administrative charge assessed to each user

(2) Unmetered users. Charges for existing residential users currently without water meters will be based on a defined unit of service. The actual number of people residing at a particular location shall form the basis of the annual sewer assessment. This charge shall be based upon 15 cubic feet per person per day of metered water.

(3) Exceptions

a. Users of more than 1,000,000 cubic feet per quarter can request to base the sewer assessment for all usage on the component charge method shown in Tables 1 and 2. All usage under this method (from users) shall be charged (based) using the relationships in Tables 1 and 2. Testing for wastewater characteristics will be required on a quarterly basis. The sampling will be done by the city and at the expense of the user. The testing will be accomplished at a laboratory of the city's choice, the testing for five day biological oxygen demand, chemical oxygen demand and suspended solids concentration will be at the user's expense.

b. Water users not discharging all water used to the sewer system can request an adjustment to the sewer charges for that portion of water which is not discharged to the sewer system. Any such adjustments will be allowed only under the following conditions:

1. The applicant shall clearly demonstrate that the volume of water to be exempted from sewer charges is positively measurable by direct means and, if necessary, that the applicant has in place equipment capable of making those measurements. Estimation of water loss percentages prepared by the applicant or others, equipment manufacturers' specifications or other indirect volume calculations shall not be allowed;

2. The applicant shall clearly demonstrate that the volume of water to be exempted is not discharged into the sewer system measurable by direct means and, if necessary, that the applicant has in place equipment capable of making those measurements. Typically, this requirement can be satisfied by the proven absence of a connection to the sewer system. However, other verifiable demonstrations will be considered; and,

3. The applicant seeking an adjustment must be in compliance with the provisions of all ordinances and regulations of the City of Rutland and all applicable regulations and statutes of the State of Vermont relating to water supply and wastewater disposal.

Compliance with the above conditions shall be at the expense of the applicant and to the satisfaction of the commissioner of public works. Any additional meters required shall be subject to the administrative charge/meter fee as described in 3404(g)(5).

c. Exceptions for non-essential water use. To promote water conservation and limit water waste, no exceptions will be provided for non-essential water use such as, but not limited to, lawn or garden watering, exterior washing and swimming pool filling. Therefore, exemptions shall generally not be considered for residential users.

d. Commercial and industrial exemptions. Exemptions for commercial and industrial facilities will be considered insofar as the use of the water is demonstrated to be essential to the operation of the commercial or industrial facility. Water used for activities such as decorative fountains, lawn watering, exterior washing, vehicle washing, etc. is considered non-essential and as such not eligible for exemption.

(4) Surcharges.

a. Users discharging strong or toxic pollutants into the treatment system which increase the costs of the treatment or the cost of managing the effluent or sludge from the treatment works, shall pay for these increased costs.

b. If the strength of the water sewered from any user has five day biological oxygen demand (BOD5) above 220 milligrams per liter, chemical oxygen demand (COD) above 450 milligrams per liter or a suspended solids concentration above 300 milligrams per liter, the user will be assessed a surcharge. The amount of the surcharge will be a function of the additional operation and maintenance costs necessary to treat the stronger wastewater. These charges will be based upon the BOD5, COD and suspended solids concentration of the wastewater sampled by the city and as actually determined by an independent testing laboratory selected by the city. The amount of the surcharge shall be as developed in Tables 1 and 2.

c. Each user suspected of discharging strong or toxic wastes will be evaluated for user surcharges by the City of Rutland. These tests, including any BOD5, COD or suspended solid testing, will be performed by an independent testing laboratory selected by the city. If the tests indicate a toxic waste, a BOD above 220 mg/l, a COD above 450 mg/l or a suspended solids concentration above 300 mg/l, the user shall pay for all tests and charges. If the tests indicate toxic constituents are not present and BOD5, the COD and suspended solids concentrations are less than those stated, the city shall pay for all testing.

d. Once it has been determined that a user is discharging strong or toxic wastewater in violation of these criteria, quarterly monitoring and surcharge assessments shall continue until such time as four consecutive quarterly tests indicate that the violation no longer exists. This testing will be done at the user's expense.

TABLE 1

Treatment cost per unit of flow, BOD, COD and Suspended Solids surcharge basis and/or users of more than 1,000,000 cubic feet per quarter which request method

UNIT COST DETERMINATION	FLOW GAL.	BOD5 BC	COD CC	SS SC
1. Percent O&M allocation (a)	35%	25%	15%	25%
2. Total O&M cost less administrative cost addressed to all users	(0.35xTOM)	(0.25xTOM)	(0.15xTOM)	(0.25xTOM)

NOTE: (a) Percent O&M allocation determined from data analyzed for similar plants.

TABLE 2  
Surcharge Computation

And for users of more than 1,000,000 cubic feet per quarter requesting method

1. Flow  $FC = [0.35 \times TOM] / TQ * UQ$
2. BOD  $BC = [(0.25 \times TOM) / P] * PU(B)$
3. COD  $CC = [(0.15 \times TOM) / R] * PU(C)$
4. S.S.  $SSC = [0.25 \times TOM] / P * PU(S)$
5.  $TSC = FC + BC + CC + SSC + AC$

Where:

- FC = Flow component sewer assessment cost
- TOM = Total operation and maintenance costs less administrative costs
- TQ = Total annual volume of water metered to users plus estimated flow to unmetered users
- UQ = Annual water metered to single user
- BC = BOD5 component of sewer assessment cost
- P = Total annual BOD5 loading at treatment facility
- PU(B) = Annual BOD5 contributed from single user
- CC = COD component sewer assessment cost
- R = Total annual COD loading at treatment facility
- PU(C) = Annual COD contributed from single user
- SSC = Total annual suspended solids loading at treatment facility
- PU(S) = Annual suspended solids contributed by single user
- TSC = Total sewer charge
- SA = Annual sewer assessment (based on standard relation)
- SUR = Surcharge
- AC = Administrative charge

(5) Administrative Charge/Meter Fee

Administrative charges will be assessed upon all users. The administrative charge will include all costs associated with administration not directly involved with the operation of the treatment plant but included in the yearly operation and maintenance budget for the plant.

These costs will include:

- a. Accounting and the processing of bills for payment and payrolls all done at the department of public works office.
- b. Expenses associated with metering.
- c. Accounting and billing expenses done at the city treasurer's office.

These administrative expenses are periodically calculated based upon actual costs and are included in the billing for water use as a "meter fee".

§ 3405. Responsibility for costs of system expansion

The design, construction and development costs of a public sewage expansion and extension which have been approved by the City of Rutland shall be borne by the developers and property owners requiring, requesting or directly benefiting from such extensions and/or expansion. If the board of aldermen determine that substantial expansion or extension of the existing sewage system, or the purchase of an existing sewage system is in the best interest of the city, the board of aldermen shall determine whether to place a question on the ballot regarding the payment of all or a portion of the expansion, extension or purchase costs. When the voters of the city vote to assume all or a portion of the costs, such costs will be paid in the manner provided by law.

§ 3406. Use of proceeds

The charges and receipts of the municipal sewage department shall only be used and applied to pay the interest and principal of the sewage bonds of the city as well as the expense of maintenance and operation of the sewage department or other expenses of the sewage system.

§ 3407. Collection of charges, delinquent charges (effective 4/2/2008)

Sewage charges shall be a fee for utilities and may be collected by all means permitted by law, including but not limited to those collection mechanisms provided for in Title 24 of the Vermont Statutes Annotated.

§ 3408. Capital reserve funds

(a) Types, purposes and use of funds

(1) Separate capital reserve funds may be utilized for:

a. major maintenance/replacement expenditures associated with the sewers and plant and;

b. expansion/upgrading expenses associated with the sewers and plant. (This shall include the purchasing of private sewer systems if authorized per section 3405.)

(2) When capital reserve fund assets are not disbursed fully for major expenditures for which the funds were established, excess assets shall be redeposited into the capital reserve funds for future eligible expenditures. Capital reserve funds established for plant expansion may be generated from general sewer benefit assessments and/or from connection/impact fees paid by prospective users to defray plant expansion costs, which fund shall not exceed the estimated future expansion costs for the plant. Impact fees assessed and collected by the city for sewers and plant expansion shall be deemed appropriated, encumbered and expended as of the date of receipt. When the city so votes, the expansion/upgrade capital revenue funds may be used to finance major sewer and plant maintenance/replacement expenditures, but under no circumstances shall the major maintenance/replacement capital reserve fund be used to finance plant expansion/upgrade expenses. Funds created under this section shall be maintained in segregated accounts and may be expended, together with accrued interests, only for the purpose for which each fund was established.

(3) Any capital reserve fund policy shall contain the following: major maintenance/replacement identification, estimated expenditures, estimated year of expenditure, payment amount, type of account used to accumulate capital reserve fund assets and source of funding.

(b) Reserve fund adjustments or withdrawals

The board of aldermen reserve the right to increase or decrease regular deposits to a capital reserve fund. Such deposits for any one year shall not exceed:

(1) for the major maintenance/replacement fund; 15% of the normal total budgeted expenses for sewers and plant (including debt service);

(2) for the expansion/upgrading fund; 5% of the normal total budgeted expenses for sewers and plant (including debt service).

The board of aldermen holding office have the authority to withdraw capital reserve fund amounts only for the purpose of paying for major expenditures for which the fund was established.

## CHAPTER 14

### Sewer Discharge Capacity Allocation

#### Section

- 3410. Definitions
- 3411. Ownership and permit
- 3412. Authority to allocate
- 3413. Application for allocation
- 3414. Requirements for approval
- 3415. Interim and final approval
- 3416. Authority to require connection
- 3417. Annual allocations
- 3418. Basis of calculation
- 3419. Severability

#### 3410. Definitions

As used in this ordinance, the following definitions shall apply:

(a) "Affordable Housing": Affordable housing shall be that housing, whether it be owner or renter occupied, that is affordable and available to individuals or households within Rutland County where the annual ownership or rental costs shall not exceed 30% of the median income level for the most recent reporting period within the County. In addition, subject to the discretion of the board of aldermen, affordable housing may include that housing which is available for financing under the current guidelines and rules promulgated by the Vermont Housing Finance Agency single family home ownership program.

(b) "Allocation" and "gallorage" shall have the same meaning as those terms are used in the agreement dated January 18, 1984, by and between the City of Rutland and the Town of Rutland, and the Otter Creek wasteload allocation resolution adopted May 4, 1981, by the board of aldermen.

(c) "Board of sewer commissioners" shall mean the board of aldermen of the City of Rutland convened as a board of sewage commissioners under 24 V.S.A., section 3614 and the powers granted to the BOA under chapter 24, section 24-7 of the revised charter of the City of Rutland, Vermont.

(d) "Committed reserve capacity" shall mean the total amount of total equivalent daily flow (gallons per day) from all persons, projects, and/or buildings approved by the board and department for discharge to the treatment plant, but not yet discharging at the time of the calculation. (See also "Reserve Capacity".

(e) "Connection charge" shall mean a fee, hereby imposed, as set by the board of aldermen for each direct and indirect connection or attachment to sewers or plant, which fee approximately equals the costs incurred by the city in administering and inspecting such connections.

(f) "Discharge Permit" shall mean a permit issued pursuant to authority granted in 10 V.S.A., chapter 4.

(g) "Equivalent daily flow" shall mean the project wastewater flow converted to equivalent gallons of sanitary wastewater based on the pounds of UOD/gallon of sanitary wastewater using generally accepted engineering procedures and formulas as determined by the city engineer.

(h) "Impact fee" shall mean a fee imposed on applicants for capacity allocation equal to the capital cost per gallon of sewage treatment and disposal capacity attributable to the project.

(i) "Person" shall have the meaning prescribed in 1 V.S.A. section `128.

(j) "Reserve capacity" shall mean the permitted sewage treatment plant capacity minus the actual plant wastewater flow averaged over the preceding twelve months. As used in this ordinance, "reserve capacity", "uncommitted reserve capacity", and "committed reserve capacity, shall mean the City of Rutland's portion thereof as described in the Otter Creek wasteload allocation resolution adopted May 4, 1981 by the board of aldermen.

(k) "Sludge" shall mean the solid or semi-solid waste product of the sewage treatment process which is not discharged together with plant effluent but is instead disposed of in another manner.

(l) "Uncommitted reserve capacity" shall mean the reserve capacity minus the committed reserve capacity. (see also "Reserve Capacity.")

(m) "Wastewater flow" shall mean the discharged liquid wastes from a property to a combined or sanitary sewer; such flow to be calculated as the average gallons per day on a yearly basis (365 days) as determined by reference to Table 7-A Flow Quantities adopted by the Vermont Agency of Natural Resources, department of environmental conservation, as promulgated at the time a connection permit application is made.

§ 3411. Ownership and permit

The City of Rutland owns and operates a sewage treatment plant (plant) and sewage collection system (sewers) as defined in 24 V.S.A., section 3501(6) and 3601. The plant is operated in accord with a discharge permit issued by the Vermont Agency of Natural Resources (agency) under authority granted in 10 V.S.A., chapter 47, which discharge permit establishes the plant treatment capacity. The city is obligated by law to comply with conditions of that permit, and to operate and manage the plant and sewers as governmental functions under and pursuant to 24 V.S.A. chapters 97 and 101.

§ 3412. Authority to allocate

The unreserved and unallocated capacity of the plant and sewers to adequately collect, treat and discharge sewerage is the property of the city, and shall be allocated by the board of aldermen in the manner prescribed herein. This ordinance is adopted pursuant to the provisions of 10 V.S.A. Section 1263(g)(1), in the manner provided in 24 V.S.A. 4403-4404, and shall not be construed as an abandonment or relinquishment of the responsibility of the city to regulate, control, and supervise all means and methods of sewage collection, treatment and disposal within the city, nor shall it be construed to impair or inhibit the ability of the city to contract with persons for the collection, transmission and treatment of sewerage.

§ 3413. Application for allocation

(a) Persons wishing to use uncommitted capacity of the plant and sewers, including any change in permitted volume or character of pollutants that are being discharged, shall apply to the board of aldermen. At the discretion of the commissioner of public works, applications may be required to be accompanied by a certification of a licensed or registered engineer attesting to the wastewater flows and ultimate oxygen demand (UOD) to be generated by the project which will be introduced into the plant and sewers.

(b) Applications for reserve capacity shall be considered by the board of aldermen in the order in which they are received; providing, however, that the granting of any connection permit shall be conditioned upon the applicant either paying for or reimbursing the city for the cost of any sewer or plant improvements, replacements or enlargements necessary to implement or use such connection.

§ 3414. Requirements for approval

The board of aldermen may grant and approve a request for use of uncommitted capacity if all of the following facts are found:

(a) (1) The proposed wastewater is of domestic sanitary origin, or;  
(2) the proposed wastewater is not of domestic sanitary origin but that sufficient evidence has been presented by the applicant to demonstrate that the flow and character of the wastewater is compatible with the proper operation of the plant and sewers and that the proposed wastewater will not alone or in combination with other wastes cause a violation of the discharge permit or other pre-existing allocation, pass through the plant without treatment, interfere or otherwise disrupt the proper quality and disposal of plant sludge or be injurious in any other manner to the plant or sewers, and;

(b) The priority and eligibility standards set forth in Section 3417 hereof have been met, and;

(c) There is sufficient uncommitted reserve capacity to accommodate the volume and strength of the wastewater from the proposed connection.

§ 3415. Interim and final approval

The board of aldermen, on making the affirmative findings above, may issue an interim connection approval which shall:

(a) Specify the volume, flow rate, strength and any other characteristics determined appropriate by the board of aldermen.

(b) Prohibit the sale or other transfer of the interim connection approval by the applicant to any other person or location without written approval of the board of aldermen, except as an appurtenance to the land and an integral part of the project approved in accordance with Section 3414 above.

(c) Specify the period of time during which the interim connection approval shall remain valid and any specific conditions which must be fulfilled by the applicant to maintain validity of the interim connection approval, which conditions shall, as a minimum, include:

(1) payment of all connection charges upon the granting of interim connection approval for the project;

(2) payment of any other sewage charges, including but not limited to impact fees, shall be made no later than 30 days from the due date; and

(3) completion of all construction associated with the project within a prescribed period of time from the date of the interim approval, which period of time shall be six months or as set by the board of aldermen, subject to renewal on application.

d) Be revocable upon failure of the applicant to fulfill requirements of the interim connection approval or upon expiration of the time limit of 3415(c)(3).

e) Become final and irrevocable upon compliance with the above conditions.

§ 3416. Authority to require connection

Nothing herein shall be construed as limiting or impairing the authority of the city or its board of aldermen to require connections to the plant and sewers under the general laws of the state.

§ 3417. Annual allocations **Amended June 9, 2009**

Allocations may be recalculated at the start of each calendar year based upon the uncommitted reserve capacity at that time. Allocations not assigned to a specific project will not be carried over from one allocation period to the next. Any allocation of uncommitted reserve capacity shall be made and promulgated by the board of aldermen in accordance with the following policies outlined in the sections (a), (b) and (c) that follow:

(a) Within Rutland City. There is reserved for the benefit of all property located within the City of Rutland 65% of existing uncommitted reserve capacity, to be allocated as follows:

(1) No less than 23% of the above mentioned 65% shall be dedicated for unforeseen reserves and contingencies;

(2) Applications for reserve capacity allocation for industrial and commercial use within the city shall be afforded the highest priority.

(3) Applications for reserve capacity which directly or indirectly serve to redevelop properties within the city which have been determined by the building inspector to be blighted, abandoned, unsightly or deteriorated shall be afforded special preference.

(4) Applications for reserve capacity for residential purposes within the city shall be allocated in the following order of priorities:

a. Owner occupied: Attached

b. Owner occupied: Detached

c. Multi-family, Existing: 6 or fewer units

d. Multi-family, Existing: more than 6 units

e. Multi-family, New: 12 or fewer units

f. Multi-family, New: more than 12 units

(5) Applications for reserve capacity to serve moderate income and elderly residential projects within the city shall be dedicated to the extent of 4% of the total existing uncommitted reserve plant capacity available for allocation with the City of Rutland.

(6) Applications for reserve capacity for municipal, publicly owned, and non-profit projects or developments providing essential or desirable public services within the city shall be dedicated to the extent of 4% of the total existing uncommitted reserve capacity available for allocation within the City of Rutland.

(b) Outside of Rutland City. There is reserved for the benefit of all property located without the City of Rutland 25% of uncommitted plant reserve capacity to be allocated in accordance with the following priorities:

(1) Prior commitments made by the City of Rutland for extraterritorial sewage disposal services.

(2) Applications for reserve capacity which directly or indirectly result in the retention or expansion of existing industrial facilities located outside the City of Rutland;

(3) Applications for reserve capacity which directly or indirectly result in the creation of new industrial facilities which cannot reasonably or adequately be located within the boundaries of the City of Rutland. Such determination shall initially be made by the development review committee who shall forward their recommendation to the board of aldermen for the purposes of making a final determination;

(4) Applications for reserve capacity which directly or indirectly results in the construction of new affordable housing units as defined in Section 3410 herein.

(5) Applications for reserve capacity which, in the determination of the board of aldermen, will address unique circumstances in which regional environmental, public health or economic concerns can be resolved through the provision of municipal sewage treatment services as determined by the Board of Aldermen.

(6) Applications for reserve capacity which directly or indirectly result in the expansion, retention or creation of new publicly-owned, municipal or non-profit facilities which provide essential or desirable public services;

(c) Outside of Rutland City - Sales. In addition to the reservation established in the preceding sub-sections, there is reserved for the benefit of all property located outside the boundaries of the City of Rutland 10% of plant uncommitted reserve capacity which may be sold by the board of aldermen. Said shall be allocated at a rate not to exceed 25% of said 10% of such reserve capacity per calendar year. Such sales shall be consistent with but not limited by the following considerations:

(1) The net financial benefit to be derived by the City of Rutland as a result of the city providing sewage treatment services;

(2) The number and type of employment opportunities within the region that will result from the provision of municipal sewage treatment services;

(3) The capacity of the City of Rutland's capital and transportation facilities to support the proposed development for which an application to purchase reserve capacity is made;

(4) The potential of the applicant for receiving of all municipal, state and federal permits and approvals required for the project or development for which an application to purchase reserve capacity is made.

#### § 3418 Basis of calculation

The capacity allocations made herein by reference to gallonage quantities shall be converted to equivalent daily flow based upon pounds UOD/day using generally accepted engineering procedures and formulas, as determined and promulgated by the city engineer.

#### § 3419. Severability

The declaration of invalidity of any section, term of provision or this ordinance shall not affect any other section, term or provision.

## CHAPTER 15

### Sewers and Drains

#### Section

- 3451. Definitions
- 3452. Use of public sewers as mandatory
- 3453. Private (rural) sewage disposal
- 3454. Building sewer connection requirements
- 3455. Use of public sewers
- 3456. Protection from damage; violations and penalties
- 3457. Powers and authority of inspectors
- 3458. Penalties

#### § 3451. Definitions

As used in this ordinance the following definitions shall apply:

(a) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20° C., expressed in milligrams per liter.

(b) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet (1.5 meters) outside the inner face of the building wall.

(c) "Building sewer" shall mean the extension from the building drain to the public sewer septic system distribution box, or place of disposal.

(d) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(e) "Commissioner" shall mean the commissioner of public works of the City of Rutland, or his duly authorized deputy, agent, or representative.

(f) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

(g) "Health Officer" shall mean the health officer of the City of Rutland, or his duly authorized deputy, agent, or representative.

(h) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

(i) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

(j) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

(k) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(l) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

(m) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(n) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

(o) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

(p) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(q) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(r) "Sewer" shall mean a pipe or conduit for carrying sewage.

(s) "Shall" is mandatory; "may" is permissive.

(t) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes, more than 5 times the average 24 hour concentration or flows during normal operation.

(u) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(v) "Suspended solids" shall mean solids that either float on the surface or, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(w) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(x) "Secretary" shall mean the secretary of the agency of environmental conservation, State of Vermont, or his representative.

§ 3452. Use of public sewers as mandatory

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sanitary sewage, industrial wastes, or other polluted waters.

(c) The owner of any house, building or property used for human occupancy, employment, recreation, or other purpose, situated within the city and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer of the city is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so, provided that such public sewer is within 100 feet of the property line.

§ 3453. Private (rural) sewage disposal

(a) Where a public sanitary or combined sewer is not available under the provisions of section 3452(c), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the commissioner, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the commissioner.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the commissioner. He shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the commissioner when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the commissioner.

(d) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the department of public health and the agency of natural resources of the State of Vermont. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet (1858 square meters). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(f) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 3452(c), a direct connection shall be made to the public sewer in compliance with this ordinance within 90 days of the issuance of an order to do so by the commissioner.

Any septic tanks, cesspools, and similar private sewage disposal facilities shall be cleaned of sludge and scum, abandoned and filled with suitable material.

(g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer.

§ 3454. Building sewer connection requirements

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the commissioner and paying the required connection fee, deposit and any other fees as set by the board of aldermen. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the commissioner at least 45 days prior to the proposed change or connection.

(b) All costs and expenses incident to the installation, connection, and repair of the building sewer shall be borne by the owner. Where the work involved will or may disturb public property, a monetary deposit in an amount to be determined by the board of aldermen shall be required. This deposit will be returned to the applicant upon satisfactory restoration of the disturbed area or facilities. If the area or facilities are not satisfactorily restored, the deposit shall be applied towards completing the work, and any remaining money returned to the applicant. If the deposit is insufficient to complete the work, the applicant shall be billed for the shortfall. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(d) The building sewer shall be push-on joint, gasketed cast iron, ductile iron, or SDR 35 PVC pipe installed per the manufacturer's recommendations. Joints shall be watertight. The use of other pipe may be considered by the commissioner on a case by case basis.

(e) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. The size and slope of the building sewer shall be subject to the approval of the commissioner, but in no event shall the diameter be less than 4 inches. The slope of such 4-inch pipe shall be not less than 1/4 inch per foot.

(f) The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If the public sewer is twelve inches in diameter or less, and no properly located "Y" branch is available, the owner shall at his expense install at "Y" branch in the public sewer at the location specified by the commissioner. Where the public sewer is greater than twelve inches in diameter, and no properly located "Y" branch is available, a neat hole may be cut into the public sewer and a saddle type "y" connection or an "Insert-a-tee type fitting installed. The invert of the building sewer at the point of connection shall be at a higher elevation than the invert of the public sewer. Other special fittings may be used for the connection only when approved by the commissioner. The connection to the sewer main shall be made watertight.

(g) The applicant for the building sewer permit shall notify the commissioner when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the commissioner or his representative.

(h) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(i) Whenever possible the depth of the building sewer shall be sufficient to afford protection from frost, when not possible, it shall be the owner's responsibility to protect the pipe from freezing. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe fittings, each fitting not to exceed a 45 degree bend. Cleanouts shall be installed at each change of direction which exceeds 45 degrees and at intervals of not more than 100 feet. Manholes may be used in lieu of cleanouts.

(j) An approved backwater valve or trap shall be installed when necessary, as required by the commissioner, at the expense of the owner. It shall be the owner's responsibility to maintain such valve or trap in operating condition.

(k) All work and materials are to be in compliance with applicable city, state and federal codes and regulations.

§ 3455. Use of public sewers

(a) No person shall make connection of roof downspouts, exterior foundation drains, area way drains, or other sources of storm water, surface runoff or ground water to a building sewer, building drain or other pipe which in turn is connected directly to a public sanitary sewer.

(b) No person shall make connection of roof downspouts, exterior foundation drains, area way drains, or other sources of surface runoff or ground water to a building sewer, building drain or other pipe which in turn is connected directly or indirectly to a public combined sewer. In special circumstances, where no storm sewer is available, the commissioner may authorize such connection to the combined sewer subject to any special conditions that he may determine to be appropriate.

(c) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers unless authorization to discharge to a combined sewer has been obtained as required in section (b) above.

(d) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or creation any hazard in the receiving waters of the sewage treatment plant.

(3) Any waters or wastes having a pH lower than 5.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(4) Any radioactive wastes or isotopes.

(e) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the commissioner that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the commissioner will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquor or vapor having a temperature higher than 150°F. (65°C.).

(2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150°F (0 and 65°C.),

(3) Any garbage that has not been properly shredded.

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the commissioner for such materials.

(6) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the commissioner as necessary, after treatment of the composite sewage to meet the requirements of the State, Federal, or other public agencies or jurisdiction for such discharge to the receiving waters.

(7) Any waters or wastes having a pH in excess of 9.5.

(8) Materials which exert or cause:

- a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
- b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
- c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works, may cause the effluent limitations of the discharge permit to be exceeded.
- d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(10) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works.

(f) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (d), and which in the judgment of the commissioner, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the commissioner may:

- (1) Reject the wastes.
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (3) Require control over the quantities and rates of discharge, and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this ordinance.

If the commissioner permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the commissioner, and subject to the requirements of all application codes, ordinances, laws and the municipal discharge permit. Further, such pretreatment installations must be consistent with the requirements of any state pretreatment permit issued to the industry.

(g) Grease, oil, and sand interceptors shall be provided and maintained by the owner, when in the opinion of the commissioner, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the commissioner, and shall be located as to be readily and easily accessible for cleaning and inspection.

(h) Where preliminary treatment or flow-equalizing facilities (including grease, oil and sand separators) are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(i) When required by the commissioner, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters, and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the commissioner. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the commissioner may reasonable require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the commissioner. Where industrial pretreatment permits are issued by the State of Vermont, monitoring records must also be submitted to the secretary in accord with such permit. Records of any other monitoring will be supplied by the commissioner to the secretary on request.

(j) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24 hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken.) Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.

(k) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern.

§ 3456. Protection from damage; violations and penalties

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to a civil penalty of not more than \$500.

§ 3457. Powers and authority of inspectors

(a) The commissioner and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The commissioner or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for wastes treatment.

(b) The commissioner and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 3458. Penalties

(a) Any person found to be violating any provision of this chapter except section 3456 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) of this section shall be subject to a civil penalty of not more than \$500. Each day in which any such violation shall continue shall be deemed a separate offense.

(c) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such offense.

## CHAPTER 17

### Nuclear Reactors, Facilities, Materials, Wastes Repealed No. 203

TITLE 18

REGULATES TRASH AND RECYCLABLES - REPEALED NO. 194

**TITLE 19**

**MORALS AND CONDUCT**

Chapter

3. Sundry Prohibitions and Penalties
4. Obscenity - Repealed No. 198
5. Public Consumption of Alcoholic Beverages
6. Public Indecency Ordinance

CHAPTER 3

Sundry Prohibitions and Penalties

Section

- |        |  |
|--------|--|
| 3660   | Marijuana Dispensaries ( <b>Added 10-25-2012</b> )                           |
| 3661.  | Prohibition against Loud Noise from sound amplification system in a vehicle. |
| 3662A. | Public nuisance  |
| 3663.  | Repealed No. 195   |
| 3664.  | Riots and disturbances of the peace  |
| 3665.  | Disturbance of religious service   |
| 3666.  | Trespass on private property   |
| 3667.  | Offenses against police officer in performance of duty                       |
| 3668.  | Obstructions on sidewalks  |
| 3669.  | Horses restricted to streets   |
| 3670.  | Penalties for violations of chapter  |

**§ 3660 – Marijuana Dispensaries**

**Marijuana dispensaries as defined in 18 V.S.A. Chapter 86 are prohibited within the City of Rutland. This prohibition shall include dispensaries that distribute and/or cultivate marijuana.**

§ 3661. Prohibition against loud noise from a sound amplification system in a vehicle.

(a) DEFINITIONS

(i) "Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

(ii) "Sound Amplification System" includes any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification system of the human voice, music or any other noise or sound.

(b) RESTRICTED USES AND ACTIVITIES

(i) A Sound Amplification System in a vehicle shall not be operated in such a manner that it is plainly audible at a distance of 75 feet in any direction from the operator between the hours of 8:00 A.M. and 10:00 P.M. Between the hours of 10:00 P.M. and 8:00 A.M., sound from such equipment shall not be plainly audible at a distance of 50 feet in any direction from the operator.

(c) EXCEPTIONS

(i) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

- (1) The system as being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
- (2) The vehicle was an emergency or public safety vehicle operating in its official capacity;
- (3) The vehicle was owned and operated by the City or a gas, electric, communications or water utility company operating in its official capacity;
- (4) The person or organization using a sound amplification system in a vehicle had obtained permission from the Board of Aldermen.
- (5) The person is in the business of installing sound amplifications systems, and the use is for a short duration for testing.

(ii) No person or entity is excluded for enforcement for unofficial use of a sound amplification system in a vehicle.

(d) PENALTY

(i) Violation of this section is subject to a civil penalty of not more than \$500.00.

§ 3662A. Public nuisance

No person shall engage in tumultuous or threatening conduct or unduly obstruct, disrupt or harass vehicular or pedestrian traffic.

§ 3663. Repealed No. 195

§ 3664. Riots and disturbances of the peace

No person shall make, aid, countenance or assist in making a riot, noise disturbance, or improper diversion on any public or private premises, or elsewhere within the city, to the annoyance or disturbance of the public.

§ 3665. Disturbance of religious service  
No person shall willfully disturb, interrupt or disquiet any assemblage of people met for religious worship, by profane discourse, by rude and indecent behavior, or by making noise, either within the place of worship or so near it as to disturb the order and solemnity of the meeting.

§ 3666. Trespass on private property  
No person shall enter any private yard, garden or enclosure, or site or lounge upon or about any private fence or curbing or other private property within the city, or take or destroy any fruit or produce in any such yard, garden or enclosure, or destroy, or in any manner injure any tree, shrub or plant therein, or permit any animal or fowl owned by him or in his charge to enter any such yard, garden or enclosure, without permission from the owner thereof.

§ 3667. Offenses against police officer in performance of duty  
No person shall willfully hinder, resist or obstruct any police officer who is in the performance of his duty.

§ 3668. Obstructions on sidewalk  
No person shall unnecessarily obstruct any sidewalk so as to interfere with the safe and convenient use thereof by pedestrians.

§ 3669. Horses restricted to streets  
No person shall ride, drive or lead a horse within the limits of any public right of way, except in that portion thereof provided for motor vehicles.

§ 3670. Penalties for violation of chapter  
Any person who shall violate any of the provisions of this chapter shall be subject to a civil penalty of not less than \$100 nor more than \$500 CHAPTER 4

OBSCENITY  
Repealed No. 198

CHAPTER 5

Public Consumption of Alcoholic Beverages

Section

- 3501. State laws applicable
- 3502. Short title
- 3503. Definitions
- 3504. Prohibition
- 3505. Permits
- 3506. Penalty
- 3507. Separability

§ 3501. State laws applicable  
Except as otherwise provided herein, the laws of the State of Vermont and ordinances of the City of Rutland shall be applicable to the sale, possession, consumption, transportation, and use of alcoholic beverages within the City of Rutland.

§ 3502. Short title

This ordinance shall be known as the alcoholic beverage control ordinance of 1987.

§ 3503. Definitions

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. The word "shall" is to be construed as mandatory and not merely directory.

(a) "Alcohol" is the product of distillation of any fermented liquor, rectified either once or oftener whatever may be the origin thereof, and includes ethyl alcohol and alcohol which is considered non-potable.

(b) "Malt beverage" is any fermented beverage of any name or description manufactured for sale from malt, wholly or in part, or from any substitute thereof, known as beer, porter, ale and stout, containing not less than one percent nor more than six percent of alcohol by volume at sixty degrees Fahrenheit.

(c) "Person" is an individual, partnership, corporation, association, trust, or other institution or entity.

(d) "Possession" is the detention and control, or the manual or physical custody of a container or containers of a beverage for which possession is prohibited under the terms of this ordinance.

(e) "Public place" is a place to which the general public has a right to resort including but without limitation thereto all lands and buildings owned by or leased to the City of Rutland shall include all public streets, highways, bridges and sidewalks within the city. Public place as used herein shall also include private property which is accessible to the public, or is used in connection with or adjacent to mercantile establishments open to the general public.

(f) "Spirits" is any beverage containing alcohol obtained by distillation, fortified wines and liquors and any other beverage containing more than twenty percent of alcohol by volume at sixty degrees Fahrenheit.

(g) "Vinous beverage" is all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar contents of fruits, or other agricultural products, containing sugar, the alcoholic content of which is not less than one percent nor more than twenty percent by volume at sixty degrees Fahrenheit.

(h) "Open container" is any vessel or device from which an alcoholic beverage may be consumed, poured, or otherwise dispensed. An open container as defined herein, shall not include the container provided by a bottler, distiller, or manufacturer where the seal, sealing device, or closing device provided by such bottler, distiller, or manufacturer has not been broken or removed, provided that no other opening in such container is made by the consumer.

§ 3504. Prohibition

It shall be unlawful for any person to have in his possession any opened container containing any quantity of spirituous liquor, malt, or vinous beverages or any blends, or mixture thereof as defined herein on, under or above any public place whatsoever. Possession shall include possession by any person in a motor vehicle.

§ 3505. Permits

Upon first obtaining a written permit, which may be included within the regular permit granted for use of such property, any publicly recognized organization or organized group, or family group, may be exempted from the provisions of section 3504 of this ordinance for a short period of time only, not to exceed twenty four hours, subject to all other laws and ordinances. Permits may be obtained from the board of control commissioners for all events, upon written request.

§ 3506. Penalty

A person who violates any provision of this ordinance shall be subject to a civil penalty of not less than \$100 nor more than \$500.

§ 3507. Separability

In the event any section, subsection, sentence, clause or phrase of this ordinance shall be adjudicated invalid or unconstitutional, such phrase is declared to be separable and the remaining portions of this ordinance to be in full force and effect.

## CHAPTER 6

### Public Indecency Ordinance

#### Section

- 3701. Authority
- 3702. Purpose
- 3703. Definitions
- 3704. Public indecency
- 3705. Enforcement
- 3706. Waiver fee
- 3707. Civil penalties
- 3708. Other relief

#### § 3701. Authority

This ordinance is enacted pursuant to the authority granted the city to promote the public health, safety, welfare and convenience contained in 24 V.S.A. §2291, and 3-1 of the revised charter of the City of Rutland. This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. chapter 59.

#### § 3702. Purpose

It is the purpose of this ordinance to regulate public indecency, including public nudity, which is deemed to be a public nuisance.

#### § 3703. Definitions

(a) "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 nipple, or the depiction of covered male genitals in a discernibly turgid state. A woman breastfeeding her child, irrespective of whether her breast is covered, shall not be considered in a state of nudity.

(b) "Public Place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or 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. Premises used solely as a private residence whether permanent or temporary in nature shall not be deemed a public place. Public place shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals and similar 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 partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college.

#### § 3704. Public indecency

- (a) No person shall knowingly or intentionally in a public place:
  - (1) engage in sexual intercourse

- (2) appear in a state of nudity
- (3) fondle his/her genitals, or
- (4) fondle the genitals of another person

(b) No person who owns, leases or controls property shall knowingly allow any person to engage in the conduct described in subparagraph (a) above at any time such property is open to the public.

§ 3705. Enforcement

Any person who violates a provision of this civil ordinance shall be subject to a civil penalty of up to \$500 per day for each day that such violation continues. Police officers of the City of Rutland shall be authorized to act as issuing municipal officials to issue and pursue before the traffic and municipal ordinance bureau a municipal complaint.

§ 3706. 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 municipal complaint and pays the waiver fee:

first offense	-	\$ 50.00
second offense	-	\$125.00
third offense	-	\$200.00
fourth offense	-	\$275.00
fifth and subsequent offenses	-	\$350.00.

Offenses shall be counted on a calendar year basis.

§ 3707. Civil penalties

An issuing municipal official is authorized to recover civil penalties in the following amounts for each violation:

first offense	-	\$100.00
second offense	-	\$200.00
third offense	-	\$300.00
fourth offense	-	\$400.00
fifth and subsequent offenses	-	\$500.00.

Offenses shall be calculated on a calendar year basis.

§ 3708. Other relief

In addition to the enforcement procedures available before the traffic and municipal ordinance bureau, the City of Rutland is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

## TITLE 21

### POLES, WIRES AND ELECTRICAL CONDUITS

Chapter

- 1. General Provisions
- 3. Permits
- 5. Location and Use

CHAPTER 1

## General Provisions

### Section

- 3801. Installations in violation of this chapter; authority of board of aldermen
- 3802. Bond to indemnify city; approval by city attorney
- 3803. Violations and penalties

### § 3801. Installations in violation of this chapter; authority of board of aldermen

If any person, firm or corporation shall place, use or maintain, or shall cause to be placed, used or maintained, any pole, wire or underground conduit or buried cable, designed for the transmission of electricity, or of intelligence by electricity, or for any other purpose, in any public street or public way in the City of Rutland, without written permit granted by the board of aldermen or in violation of the terms of this title or of any other ordinance of the city, and shall fail or neglect, for an unreasonable time after being notified thereof by the board of aldermen, to procure a permit or to remedy such unlawful condition, then the board of aldermen shall, at the expense of the offending party, cause such pole, wire, underground conduit or buried cable to be wholly removed or to be repaired, replaced or relocated so as to be no longer unlawful. The cost of such removal, repairing, replacement or relocation may be recovered in an action of tort on this title in the name of the City of Rutland.

### § 3802. Bond to indemnify city; approval by city attorney

Every person, firm, or corporation erecting, maintaining or using such poles, wires, cables or other apparatus, or constructing or maintaining conduits or buried cables in the streets or public ways or places in the city, to carry lines for the transmission of electricity or of intelligence by electricity, shall indemnify and save harmless the City of Rutland, its officers, servants and agents from and against all lawful claims and demands for injuries to persons and property occasioned by the existence of such poles, wires, or apparatus, of the transmission of electric currents by means thereof; and shall execute a bond in a penal sum of not less than \$10,000, in form satisfactory to the city attorney, conditioned to indemnify and save the city harmless from the acts of neglect of such person, firm, or corporation in the performance of his or its duties under the permits issued by the board of aldermen, or by reason of the existence or maintenance of any poles, wires, cables, lines, underground conduits, buried cables or other apparatus erected or constructed thereunder.

### § 3803. Violations and penalties

Every person who shall remove, change the location of, or in any manner interfere with any of the wires that may be used by or for the City of Rutland without suitable authority therefore, and every person, firm or corporation who shall place, use or maintain, or who shall cause to be placed, used or maintained, and every person who shall do any work or be employed in placing, using, or maintaining, any pole, wire or conduit designed to carry an electrical current for any purpose whatever, in any public street or way in the City of Rutland, without written permit therefore being first had and obtained from the board of aldermen, in the premises, or violates any of the provisions of this title, shall be subject to a civil penalty of not less than \$100 nor more than \$500. Every day of such neglect or refusal, after notice thereof, shall be considered a separate offense.

## CHAPTER 3

### Permits

### Section

- 3861. Erections and installations requiring permits; exclusive franchise prohibited
- 3862. Applications for permits
- 3863. Conditions precedent to permit; exclusions
- 3864. Record of permits issued
- 3865. Revocation of permits
- 3866. Permits to use streets to gain access to installed wiring; restoration of street

§ 3861. Erections and installations requiring permits; exclusive franchise prohibited

(a) No telegraph, telephone, electric or other wire using company, or any other person, firm or corporation shall erect any pole to support wires, cables, or lines or construct and maintain underground conduits or buried cables for the transmission of electricity or of intelligence by electricity in, over or under any street or public way or public place in the City of Rutland, except by written permit of the board of aldermen, which shall set forth where and in what manner said poles, conduits or cables shall be erected or placed; however, no permit shall be required to replace existing poles, providing such poles are placed in the same, or approximately the same, location as the pole to be replaced. No exclusive or entire right or franchise to place or maintain any poles, wires, conduits or other electrical fixtures or apparatus, in, over or under any street or public way or place in the city, which shall be granted pursuant to this title, shall be construed as giving such person, firm or corporation any exclusive right of privileges therein.

(b) Any person, corporation, or other legal entity that shall violate the provisions of subsection (a) of this section shall be subject to a civil penalty of not less than \$100 nor more than \$500. Each day that such violation occurs shall be considered a separate offense.

§ 3862. Applications for permits

Every application presented to the board of aldermen for permission to erect poles to support wires, cables or lines, or to construct and maintain underground conduits, or place buried cables for the transmission of electricity, or of intelligence by electricity for any purpose, under the provisions of this title, shall specify the approximate location of each pole proposed to be erected, or of each conduit, or buried cable, to be placed, and the type and character of construction, the approximate clearance of the wires, cables or lines constituting a part thereof. Each such application shall be accompanied by a sketch showing the foregoing information.

§ 3863. Conditions precedent to permit; exclusions

A permit under the terms of this title shall not be granted for the erection and maintenance of poles for the support of wires, cables and other lines for the transmission of electricity or of intelligence by electricity unless such poles shall be of wood or other suitable material, straight, properly trimmed and painted, and in case of wooden poles, shall be at least 6 inches in diameter at the smallest end, unless a lesser diameter shall be prescribed by the board of aldermen as sufficient. Such poles shall be firmly and properly set in the ground to a depth of at least 4 feet, shall be at least 25 feet in height above the ground unless a lesser height shall be prescribed by the board of aldermen as sufficient to procure proper clearance as hereinafter provided, and shall be marked in a clear, legible and durable manner, with the name of the owner and a number at a proper height from the ground. A permit under the terms of this title shall not be granted to attach any wire, cable or line for the transmission above the surface of the ground of electricity or of intelligence by electricity to any pole, or other fixture or to run such wires, cables, or lines along or across any public way at a height from the ground of less than 18 feet at highway crossings and of less than 12 feet elsewhere. The provisions of this section shall not apply to any poles, wires, lines or cables heretofore erected and being maintained prior to Sept. 12, 1942. The commissioner of public works shall have general supervisory powers over all location, height, arrangement and construction, attachment and appearance of all such poles, wires, conduits and apparatus under the provisions of this section.

§ 3864. Record of permits issued

Every permit of the board of aldermen issued to a person or corporation to erect and maintain poles or to attach wires to the poles of another or to place and maintain conduits and buried cables shall be recorded by the city clerk in a book kept exclusively therefore. The person or corporation in whose favor the permit is issued shall be entitled to an attested copy of every such permit, by paying the city clerk his legal fee.

§ 3865. Revocation of permits

All permits granted and any permission given to any person, firm or corporation to place or maintain any such poles, wires, conduits or other apparatus, may be revoked at any time by the board of

aldermen, after 10 day's notice and opportunity to be heard shall have been given to the parties interested; and any of such poles, wires, conduits or other apparatus may be removed by the city, from time to time without notice, in case of public necessity or emergency.

§ 3866. Permits to use streets to gain access to installed wiring; restoration of street

The commissioner of public works may issue permits to persons, firms or corporations, to open, occupy, obstruct and use streets for replacing, repairing, rearranging or removing conduits, buried cables, markers and appurtenances, or for replacing, repairing or renewing cables wires, and lines, for the placing of which permission had previously been granted by the board of aldermen, as provided in this title. Such person or corporation shall restore or cause to be restored the paving or surface of the street to its condition at the time of such disturbance, promptly after the completion of their work.

## CHAPTER 5

### Location and Use

#### Section

- 3921. Location of poles
- 3922. Reservation of space for wires for municipal purposes
- 3923. Unauthorized attachment of wires
- 3924. Relocation after installation
- 3925. Protection of trees
- 3926. Disturbance of private property without permission
- 3927. Removal of manhole covers
- 3928. Penalties

§ 3921. Location of poles

On streets where curbing stones are set all poles shall be erected inside the line of the curbing, and on streets where there is no curbing, the poles shall be erected outside of the gutter, so as not to interfere therewith; and no pole shall be placed within 5 feet of any hydrant, nor so as to interfere with any water pipe or shade tree.

§ 3922. Reservation of space for wires for municipal purposes

There shall be reserved on every such pole erected by permission of the board of aldermen, to support wires, cables and lines for the transmission of electricity or of intelligence by electricity, and in every underground conduit constructed by such permission under a street or public way or place, sufficient and adequate space, all without charge to said city, for the use of the fire, police, telephone and telegraph signal wires belonging to said city, or any other wires used by said city for municipal purposes.

§ 3923. Unauthorized attachment of wires

No person or corporation, other than the city for the uses and purposes set forth in the preceding section, shall attach any wires, cables or lines for the transmission of electricity or of intelligence by electricity, or for any other purpose, to any pole or poles already erected by or for the use of any other person, firm or corporation, except by consent of the owner thereof, or by written order or permit of the board of aldermen, and no poles shall be taken down or removed without the permission of the board of aldermen.

§ 3924. Relocation after installation

Whenever any pole or poles shall have been set, or underground conduits or buried cables placed in any street, or public way or place in the city, the same shall not be relocated without the permission of the board of aldermen; but the board of aldermen, if and whenever any such poles, wires, conduits, cables or lines interfere with repairs of such highway or the public convenience in traveling upon or in the use thereof,

upon notice and hearing, may direct any alteration in the location of such poles, wires, conduits, cables or lines; or if the same cross a street or highway, may, after due notice and hearing, direct that such wires, cables or lines be placed at a greater height or underground. Whenever the board of aldermen shall order such change or location or alteration to be made, and other suitable location having been provided, the owner or person or corporation using the same shall, at his or its own expense, promptly and without unnecessary delay, comply with such order.

§ 3925. Protection of trees

No person, or his agent or employee, or the agent or employee of any corporation, shall, for the purpose of placing or maintaining poles, wires, or lines, or for any other purpose connected with the construction and maintenance of telephone, telegraph, electric or other lines, climb any tree, by the use of spurs or of any instrument which shall pierce such tree, or shall in any way injure, pierce, tear, cut, deface or destroy a tree or branch of a tree, or any shrub or other plant, or fixture of ornament or utility in any street, roadway, or other public place of said city, and no company or person shall attach any wire, cross-bar or any other fixture to any tree without first obtaining the written permission of the board of aldermen or the owner of such tree.

§ 3926. Disturbance of private property without permission

Any person, firm, or corporation in laying, repairing, maintaining or removing its cables and wires in or from any street in the city shall not disturb or in any way interfere with the property of any other person or corporation therein, without proper permission.

§ 3927. Removal of manhole covers

No formal permit shall be necessary to sanction the temporary removal of manhole covers for the purpose of removing or repairing underground lines, wires, cables and appurtenances.

§ 3928. Penalties

Any person who shall violate any of the provisions of this chapter shall be subject to a civil penalty of not less than \$100 nor more than \$500. Each day that such violation occurs shall be considered a separate offense.

# TITLE 23

## POLICE DEPARTMENT AND PUBLIC SAFETY

### Chapter

1. Police Department
3. Firearms, BB Guns, Similar Weapons (**Amended June 9, 2009**)
4. Alarm Systems (**Amended 2-10-2017**)
5. Missiles, Rockets, Projectiles, etc.
6. **Child Safety (*Approved and added August 4, 2008; effective August 27, 2008*)**

### CHAPTER 1

#### Police Department

### Section

4101. Qualifications of police officers
4102. Chief of police; reports; records; financial statements
4103. --Additional records
4104. Fires, riots and disturbances; dispatch of officers
4105. Professional ethics; receipt of gifts
4106. Incompetency and misconduct
4107. Police radio; log; federal regulations
4108. Rules and regulations; police manual

§ 4101. Qualifications of police officers

Every person to be eligible to appointment as a regular police officer must be able to read and write in the English language; must be not more than 45 years of age; be at least 5 feet 8 inches in height; and shall be able to pass the required physical examination prescribed by the examining committee, established in accord with the city charter, and administered by the physician appointed by that committee. He must also be able to pass the aptitude test, or other examinations, prescribed by the examining committee.

§ 4102. Chief of police; reports; records; financial statements

The chief of police shall make to the board of aldermen a monthly report of the conditions of the property in his charge, and of the force under his superintendence, and of all cases of incompetency, inefficiency or meritorious service on the part of any member. He shall at the same time report the arrests that have been made, and by whom. A full report of all stolen property taken or recovered from prisoners shall be kept on file in the office of the chief of police, as well as a list of all personal property taken from prisoners. The chief of police shall keep a monthly financial statement on the expenditures of the department on file in his office. He shall annually, by the 15th day of August, make a report to the board of aldermen, covering the affairs of his office during the past fiscal year.

§ 4103. --Additional records

The chief shall keep at his office suitable books, in which shall be entered:

(1) The name of each regular policeman, his place of residence, when appointed on the force, when dismissed and for what cause, any neglect of duty, or breach of the rules, or any meritorious service performed, the time of each member on duty, and any delinquency in promptly reporting for duty, with the excuse, if there be any. A complete list of all special policemen shall also be kept.

(2) A complete descriptive list of each and every person arrested and brought to the police station, by giving his name, nativity, age, height, complexion, weight, color of hair and eyes, the amount of money he may have in his possession, his present residence and the offense for which he is arrested.

(3) Every complaint made upon personal knowledge with the name and residence of the complainant, and any information he may receive from policemen or others of offenses committed or persons suspected.

(4) A registry of lost, missing or stolen property and all property recovered, or taken from persons arrested.

§ 4104. Fires, riots and disturbances; dispatch of officers

The chief, or officer in charge, shall promptly send an adequate force of policemen to the scene of any fire, riot or threatened disturbance, to guard the firemen from annoyance, and assist them if need be; to save and protect persons and property, for the direction and control of traffic, or for the arresting of thieves or disorderly persons.

§ 4105. Professional ethics; receipt of gifts

No policeman shall receive a gift or reward of any kind, from a prisoner or person under arrest, or against whom a complaint has been made, or who is known or suspected to be guilty of any offense against the laws or ordinances or from any friend of such persons, on penalty of being dismissed from the force. No policeman shall receive a gift or reward, from any person, for service he may have rendered as policeman, nor receive from or divide with any other policeman or other officer any fee, fine or costs, or part thereof, without the consent of the board of aldermen. Application for permission to receive or retain such gift must be made in writing and without delay.

§ 4106. Incompetency and misconduct

Any member of the police force who shall prove to be incompetent or inefficient in his office, or who shall be guilty of disobedience or disrespect to his superior officer, or who shall be intoxicated, or visit any drinking saloon, gambling house, brothel, or other disreputable place, except in the discharge of his duty, or who shall use profane or obscene language, beat or bruise a person unnecessarily in making an arrest, maltreat a prisoner, take money or other valuable things for compounding an offense, or for performing or neglecting to perform his duty, or who shall wilfully and persistently violate any of the rules of this department, shall be subject to reprimand, suspension without pay, or dismissal from the force, according to the nature and circumstances of the offense.

§ 4107. Police radio; log; federal regulations

A daily radio log shall be kept at the station house and all use of the radio shall be listed on this log. All federal regulations shall be complied with by all operators.

§ 4108. Rules and regulations; police manual

The chief of police may establish such rules and regulations for the government of the police, not inconsistent with the city ordinances, as may be approved by the mayor. Such rules and regulations shall be published in a police manual, and each member of the police force shall be furnished with a copy of such manual by the chief of police.

## CHAPTER 3

### Firearms, BB Guns, Similar Weapons

#### Section

- 4161. Carrying and use of small arms; penalties
- 4162. Repealed No. 199

#### §

4161. Carrying and use of small arms; penalties

(a) No person shall discharge or fire or cause to be discharged or fired, any revolver, pistol, rifle, shotgun, sling shot, air rifle, BB gun or other similar firearm or weapon within the limits of the City of Rutland. This prohibition shall not apply to any duly constituted police officer or security personnel who has been certified in the use of firearms by the Vermont Criminal Justice Training Council when such use is reasonably necessary in the performance of his duties. Provided, however, that this section shall not prevent the discharge of firearms on any properly constructed firing range or in the conduct of a contest, shoot, meet or game when reasonable precautions are taken for the protection of the public safety and permission for said use has first been obtained from the chief of police of the City of Rutland; nor shall it prevent the use of firearms for the disposal of animals when permission for such use has been first obtained from the chief of police of the City of Rutland.

(b) A person who shall violate any of the provisions of this section shall be subject to a civil penalty of not less than **\$250** nor more than **\$1,000**. (Amended June 9, 2009)

#### §

- 4162. Repealed No. 199.

## CHAPTER 4

### Alarm Systems

#### Section

- 4180. Definitions and word usage
- 4181. Regulations
- 4182. Permit required; application procedure
- 4183. Issuance of permit
- 4184. Types of permit; fees; exemptions (Amended 2-10-2017)
- 4185. Excessive false alarms
- 4186. Limitation on liability of city

#### § 4180. Definitions and word usage

(a) When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(b) For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein.

(1) Alarm installation - The design, positioning, repair, alteration, maintenance and operation of alarm systems causing a signal to be sounded in the event of a hazard, intrusion or the occurrence of a predetermined inimical event to which police are expected to respond.

(2) Alarm system - Any combination or assembly of electronic devices or a single device at a premise or location, designed to transmit to Rutland City dispatch, either directly or through an intermediary, a warning signaling a hazard, intrusion or fire to which police or fire are expected to respond. In this chapter, the term "alarm system" shall apply to all electronic security systems, fire alarm systems, services and alarms defined herein by which police or fire are notified and expected to respond.

(3) Alarm user - Any person who owns and/or operates an alarm system within the City of Rutland, except for alarm systems on motor vehicles.

(4) Answering service - A telephone answering service which provides the service of receiving emergency signals from alarm systems and thereafter immediately relaying the message by live voice to the communications center of the City of Rutland.

(5) Central alarm station - Any facility which is privately owned that owns or leases alarm systems, which facility is staffed by employees who receive, record or validate alarm signals and relay information about such signals to Rutland City dispatch of a predetermined inimical event.

(6) Direct alarm - Any alarm system which is directly connected to the alarm processing unit of the City of Rutland.

(7) False alarm - Any activation of an alarm system to which police or fire respond where an emergency situation does not exist. Such terminology does not include alarms caused by electrical storms, floods, hurricanes or other violent events of nature.

(8) Local alarm - Any alarm system not connected to the City of Rutland alarm monitoring facility or to a private central alarm station or answering service that is designed to activate an audible and/or visual signaling device at the premises or location within which the alarm system is installed.

(9) Manual alarm - Any alarm system in which activation of the alarm is initiated by the direct action of the public, alarm user, their agents or employees and is installed with the purpose of eliciting a response to an emergency situation.

(10) Person - Any natural person, corporation, unincorporated association or other legal entity.

#### § 4181. Regulations

(a) Every alarm user shall provide to the City of Rutland the names and telephone numbers of at least two (2) persons, in addition to the alarm user, who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system.

(b) No alarm system directly connected to the City of Rutland alarm monitoring facility shall be tested, worked on or demonstrated without first notifying the City of Rutland.

(c) Within six (6) months from the effective date of this ordinance, all alarm systems which use an audible horn, siren or other audible device shall be equipped with a device which will terminate such horn, siren or bell or other audible device within fifteen (15) minutes after activation of the alarm system.

(d) A permit number used to identify the origin of the alarm signal shall be assigned by the City of Rutland and applied to the alarm permit at the time of issuance.

(e) No automatic dial alarms. No alarm system shall automatically select a telephone line connected to the City of Rutland alarm monitoring facility which reproduces a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect. No person shall have a self-dialing telephone alarm system connected to his/her telephone which automatically calls the City of Rutland alarm monitoring facility.

(f) All fire alarm systems shall comply with the BOCA Fire Prevention Code, 1987 Edition, together with all 1988 amendments and cumulative supplements hereafter, and the NFPA 101 Life Safety Code, 1988 Edition.

(g) Plans for alarm systems directly connected to the city shall be submitted to the fire or police department for approval prior to any work being done. The city shall have up to ten (10) working days to review plans and issue a permit for the system.

(h) Fire alarm system plans shall include the floor plan with device locations, the wiring riser diagram, the complete equipment list and specifications, and the type of occupancy, usual hazards, or unusual building features.

§ 4182. Permit required; application procedure

(a) Permit required. No person shall operate or have installed an alarm system within the City of Rutland without first acquiring a permit from the city.

(b) Existing alarm systems. Users of alarm systems presently operating shall conform to this ordinance prior to continued operation thereof. The chief of police, fire chief or their designee shall formulate a reasonable period of time not to exceed six (6) months within which users may be expected to comply with established requirements.

(c) Permit application requirements. Upon application to him/her, the chief of police, fire chief or their designee is hereby authorized to issue a permit to an applicant to have installed and to operate within the City of Rutland an alarm system, subject to the following provisions:

(1) Alarm user permit application and installation forms are available at the police or fire department. Alarm users will complete the application form and return it, together with the installation form (to be completed by the installer performing the installation), to the police or fire department before an alarm permit may be issued.

(2) Alarm users are responsible for notifying the police or fire department of any anticipated changes in the design, purpose or termination of any alarm system described in the original application for permit. The standard installation form may be used for this purpose and must be filed with the police or fire department prior to any change taking place.

(d) Any person who shall violate a provision of this section shall be subject to a civil penalty of not less than \$100 nor more than \$500. Each Day that said violation occurs shall be considered a separate offense.

§ 4183. Issuance of permit

(a) The chief of police, fire chief or their designee shall determine whether permit and installation applications conform to the requirements of this ordinance.

(b) The chief of police, fire chief or their designee, upon receipt of the permit fee required and upon compliance by the applicant with this ordinance, shall issue a permit to have installed and/or to operate the proposed alarm system.

(c) Alarm users to whom a permit has been issued shall keep said permit within the protected premises/location for which the permit was issued. Any alarm permit issued under this ordinance shall be made available for inspection upon demand of any authorized Rutland City representative.

§ 4184. Types of permit; fees; exemptions

(a) A residential permit shall include all private dwellings, summer (vacation) residences, individual apartments, rental property or condominium units occupied by the applicant, for which the applicant shall pay the City of Rutland a permit fee of twenty-five dollars (\$25.00).

(b) A commercial permit shall include all businesses, corporations, or unincorporated associations, for which the applicant will pay to the City of Rutland a permit fee of seventy-five dollars (\$75.00).

(c) A separate commercial permit shall be required for each alarm system owned or leased by a business, corporation, incorporated association or other legal entity which exists at a separate premises/location.

(d) A new permit shall be required upon the change of ownership or upon a new installation of an alarm system.

(e) All alarms directly connected to the city will pay an annual fee of one hundred fifty dollars (\$150.00). The fee will be billed by the city treasurer's office. If not paid within thirty (30) days it will become a general bill of the city and collected like all general bills. **Any fees collected pursuant to this subsection shall be deposited into the fire equipment fund.** (Amended 2-10-2017)

(f) All federal, state, county, local government and other agencies as approved by the board of aldermen shall be exempt from permit fees and service charges. However, they shall comply with all other requests of the chief of police or his/her designee as shall concern the operation of their alarm systems.

(g) All persons sixty-five (65) years of age or older who are the principal occupants of the private residence listed on the permit application shall be exempt from permit fees but shall comply with all other requirements of this ordinance.

§ 4185. Excessive false alarms

(a) Excessive false alarms shall mean more than two (2) false alarms from the same alarm system within a calendar year.

(b) Any alarm user having an alarm system on his/her premises/location who fails to obtain an alarm user's permit shall be charged twenty-five dollars (\$25.00) for each alarm that the police or fire respond to.

(c) Any alarm user having an alarm system on his/her premises/location and any user of alarm services or equipment designed and installed with the intent of eliciting a police or fire response shall pay to the City of Rutland a charge for each and every false alarm to which the police or fire respond in each calendar year as follows:

(1) After two (2) false alarms in a calendar year, where such false alarms result in a response by the police or fire department, the alarm user shall be assessed a service charge of fifty dollars (\$50.00) for the first excessive false alarm, one hundred dollars (\$100.00) for the second excessive false alarm and an additional one hundred dollars (\$100.00) for each excessive false alarm thereafter.

(2) Any person, firm, or corporation who fails to pay false-alarm service charges within thirty (30) calendar days from the date of receipt shall be subject to a civil penalty of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each violation in addition to the service charge assessed. Each day of such violation of this provision shall be deemed a separate offense.

§ 4186. Limitation on liability of city

(a) The City of Rutland shall take every reasonable precaution to assure that the alarm signals and prerecorded alarm messages received by the City of Rutland are given appropriate attention and are acted upon with dispatch. Nevertheless, the city shall not be liable for any defects in operation of alarm devices, for any failure or neglect to respond appropriately upon receipt of an alarm from such a defective system nor for failure or neglect of any person in connection with the installation and operation of alarm systems or their components or the transmission of alarm signals and messages. In the event that the city finds it necessary to require users to cease transmitting signals from alarm systems not conforming to this chapter or act to prevent the sounding of false alarms, the city shall not be held liable for such action.

(b) The provisions of subsection (a) will be prominently displayed on all permits.

## CHAPTER 5

### Missiles, Rockets, Projectiles, etc.

#### Section

- 4221. Experimentation with missiles, etc.; permit required
- 4222. --Granted by fire chief; conditions
- 4223. Firing or attempt to fire
- 4224. Responsibility of parents and guardian
- 4225. Penalties

#### § 4221. Experimentation with missiles, etc; permit required

It shall be unlawful for any person or persons to experiment with missiles or rockets or projectiles of any kind which are powered by solid, liquid or gaseous fuels, within the city limits of the City of Rutland, unless such person or persons secures, or secure a written permit from the fire chief of the City of Rutland, for such experimentation.

#### § 4222. --Granted by fire chief; conditions

(a) The fire chief of the City of Rutland shall grant such permit for experimentation with missiles, rockets, or projectiles, only upon being satisfied that applicants for such permits are persons of such scientific education and experience as to warrant the issuing of such permit, and that the experiments shall be performed under such conditions, as will not endanger the lives of the public or be dangerous either to public or private property.

(b) No permit for the supervised public display of fireworks granted by the chief of the fire department, pursuant to the authority of the Vermont state fire marshal, shall allow such display after the hour of 10:30 p.m. or before the hour of 8:00 a.m.

#### § 4223. Firing or attempt to fire

It shall be unlawful for any person or persons to fire, to attempt to fire or cause to be fired any rocket, missile or projectile powered by solid, liquid, or gaseous fuels within the limits of the City of Rutland.

#### § 4224. Responsibility of parents and guardian

The parents of a child under 21 years of age, and/or the guardian of a ward under 21 years of age shall not permit any such child or ward to violate any provision of this chapter.

#### § 4225. Penalties

Any person violating any provision of this chapter shall be subject to a civil penalty of not less than \$100 nor more than \$500 for each offense.

## CHAPTER 6

### Child Safety Ordinance

*Approved at the Board of Aldermen meeting August 4, 2008*

*Effective August 27, 2008*

#### Section:

- 4301 Authority**
- 4302 Purpose**
- 4303 Definitions**
- 4304 Residency Prohibitions**
- 4305 Sex Offender Presence**
- 4306 Penalties**

## **4307 Severability**

### **§ 4301. Authority**

**This ordinance is enacted pursuant to the authority granted the city in 24 V.S.A. §2291 to promote public health, safety, welfare and convenience and also pursuant to sections 3-1 and 5-1 of the Revised Charter of the City of Rutland.**

### **§ 4302. Purpose**

**It is the purpose of this ordinance to restrict the residency of sex offenders near schools and recreation facilities, as well as the presence of sex offenders in schools, recreation facilities and licensed day care facilities, which the city hereby defines as a public nuisance being contrary to the safety and welfare of the citizens of the City of Rutland, pursuant to 24 V.S.A. §2291(14).**

### **§ 4303. Definitions**

**For the purpose of this ordinance, the following terms shall have the respective meanings ascribed to them.**

**(a) “Sex offender” means sex offender as defined in Vermont statute; reflected in 13 V.S.A. § 5401(10)(B).**

**(b) “School” means a licensed or accredited public, private or religious school that offers instruction in pre-school, including other businesses permitted as a school by the City of Rutland or any of grades K through, and including, 12. This definition shall not include private residences in which students are taught by parents or tutors.**

**(c) “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 Rutland.**

**(d) “Licensed daycare” means any City of Rutland licensed daycare facility registered with the appropriate state agency.**

### **§ 4304. Residency Prohibitions**

**(a) 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, recreation facility or licensed daycare in the City of Rutland. The one thousand (1,000) foot restriction shall be measured from the nearest property line of the school, recreation facility or licensed daycare to the nearest property line upon which the house, apartment complex, condominium complex, motel, hotel or other residence is located.**

**(b) Established Residents. A sex offender residing within one thousand (1,000) feet of a school, recreation facility or licensed daycare is not in violation if the residency was established prior to the effective date of this ordinance and such 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, recreation facility or licensed daycare 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 4304(a) if the residency has been consistently maintained.**

**(c) Other Exceptions.** This restriction shall not apply to any sex offender incarcerated at the Marble Valley Regional Correctional Facility.

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

**(e) Notice to Move.** Sex offenders in violation of subsection a 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 (1,000) feet of any school, recreation facility or licensed daycare. 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, recreation facility or licensed daycare shall be considered a separate violation.

#### **§ 4305. Sex Offender Presence**

**(a) 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 law enforcement 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 Rutland in violation of this subsection, the penalties set forth in §4306 shall apply.

- (b) Exceptions.** A sex offender who enters upon a school, recreation facility or licensed daycare property does not commit a violation of this ordinance if any of the following apply:
- (1) The property also supports a church, synagogue, mosque, temple or other house of religious worship, subject to BOTH of the following conditions:**
    - (A)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**
    - (B)The sex offender does not participate in any religious education programs that include individuals under the age of 18.**
  - (2) 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:**
    - (A)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.**
  - (3) The property also supports a polling location in a local, state or federal election subject to all of the following conditions:**
    - (A) The sex offender is eligible to vote;**
    - (B) The property is the designated polling place for the sex offender;**

**and**

**(C) 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.**

**(4) 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.**

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

**(A)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**

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

**§ 4306. Penalties**

**A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. 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 civil ordinance.**

**The waiver fee shall be set at:**

**First offense: \$250.00 waiver fee and notification to offender's parole officer and/or probation officer and the Vermont Department of Corrections, if applicable.**

**Second and subsequent offenses: Full \$500.00 fine and notification to offender's parole officer and/or probation officer, and the Vermont Department of Corrections, if applicable.**

**Any law enforcement officer can enforce this section.**

**§ 4307. Severability**

**Each separate provision of this ordinance and any amendments hereto shall be deemed independent of all other provisions herein. If any provision of this Ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.**

# TITLE 25

## STREETS, HIGHWAYS AND PUBLIC PLACES

### Chapter

1. Street Department
3. Assignment of Street Numbers to Buildings and Lots
- 4. Shopping Carts (Added August 8, 2009)**
5. Injurious Practices in Streets and Public Places (Amended 7/05/2011)
6. Tree Ordinance
7. City Sanitary Landfill - Repealed No. 196
8. Sight Ordinance
9. Safe Schools

### CHAPTER 1

#### Street Department

### Section

4401. Commissioner of public works, duties
4402. Records, cost accounting
4403. Annual report to board of aldermen

§ 4401. Commissioner of public works; duties

It shall be the duty of the commissioner of public works to see that the ordinances of the city, with reference to digging up, using or occupying the streets, are not violated, and that no obstructions, nuisances or encroachments are permitted to exist or to be made therein. He shall have the care of all supplies, animals, vehicles, machinery, implements of labor and buildings belonging to the city, pertaining to or having relation to the street department; he shall keep the streets in a clean and wholesome condition; and he shall remove all ashes, house dirt, house offal and noxious refuse substances from yards and other areas and dispose of them, when directed by the board of aldermen or board of health so to do.

§ 4402. Records, cost accounting

The commissioner of public works shall keep an exact account of the receipts and expenditures in his department, of the kind, quality and cost of all materials and when and where they were used or expended therein, and the names and wages of all workmen employed by him, and where employed, which account shall at all times be subject to inspection by any member of the board of aldermen. He shall deliver to the city treasurer an account of all sales of materials, and of the sums due therefore, or of labor performed for individuals by the department of public works.

§ 4403. Annual report to board of aldermen

On or before the 15th day of August in each year, he shall make, to the board of aldermen, a detailed report of the work done and money expended in his department during the preceding financial year; specifying as near as may be the amount expended upon the different streets, number of feet or curbstones and yards of paving laid, and cost of the same, and such other information as he may consider desirable; together with an account and appraisal of the public property under his charge.

### CHAPTER 3

#### Assignment of Street Numbers to Buildings and Lots

Section

4445. Duty of assessors

§ 4445. Duty of assessors

It shall be the duty of the assessors to assign a number to all tenements and buildings on streets in the City of Rutland, at their discretion or when directed by the board of aldermen.

## CHAPTER 4

### Shopping Carts

§ 4446. Authority

This ordinance is hereby enacted pursuant to the authority granted the City of Rutland by 24 V.S.A. §2291 (14) and Rutland City Charter 3-1 (50).

§ 4447. Nuisance defined

The Board of Aldermen of the City of Rutland hereby finds that the taking of shopping carts off the premises of stores and shopping centers and the abandonment of shopping carts on the public streets, sidewalks and right-of-ways of the city is a public nuisance.

§ 4448. Removal from business premises prohibited.

No person shall, without authorization, remove from business premises shopping carts that are identified or made available for use at such business premises. Any person found in unauthorized possession of a shopping cart off the business premises at which such shopping cart is made available shall be in violation of this ordinance. Such violation is a civil offense and shall be punishable by a fine of \$50.

§ 4449. Identification required.

All merchants who make shopping carts available to their patrons shall firmly affix to and at all times maintain in legible condition on each of such shopping carts a metal, plastic or similarly suitable identification tag or plate, which shall identify the respective merchant by name. If for any reason such identification on any shopping cart is thereafter missing or illegible, the merchant shall remove such shopping cart from availability for use by patrons of such merchant until the shopping cart has been properly identified in accordance with this ordinance.

§ 4450. Impoundment; disposition of unclaimed shopping carts.

Shopping carts found on any city street, sidewalk or right-of-way apart from the business premises at which such shopping cart is made available may be retrieved by the city or its designee and retained by it in any storage facility available for such purpose. Such shopping carts shall be released to the owner thereof upon the payment to the city of a \$50 impound fee per shopping cart.

Shopping carts equipped with an anti-theft device shall be released to the owner thereof at no fee. For the purposes of this subsection, anti-theft device shall mean: a device that causes the wheel of a shopping cart to lock when the conveyance is moved near or across an antenna located at the perimeter of the establishment's parking area; an audible alarm device which sounds when a shopping cart is taken beyond the establishment's parking area; a vertical pole or arm attached to a shopping cart that physically prevents its removal from the interior of the establishment; or a system requiring a shopping cart user to remit collateral, including but not limited to a returnable monetary deposit, to use a shopping cart.

Shopping carts from establishments that have filed an intention to prosecute shall also be released to the owner thereof at no fee. For the purposes of this subsection, an intention to prosecute shall

mean a written statement, on company letterhead, of the owner's intention and willingness to fully cooperate and assist with prosecution of an individual found in possession of a shopping cart off the premises of such establishment. The statement shall be filed with the Office of the City Attorney and signed on behalf of the establishment by an individual with authority.

Shopping carts found shall be stored by the city for the calendar month in which they are retrieved. When, at the end of the month, any such shopping carts remain unclaimed or when a shopping cart impounded has no identification tag or plate, such shopping carts are deemed abandoned and shall become property of the city. The city may dispose of such shopping carts as permitted by law, without liability to itself. Such method of disposal may include the sale of such shopping carts, with any profit there from inuring to the city."

The above enactment shall take effect on August 28, 2009.

## CHAPTER 5

### Injurious Practices in Streets and Public Places

#### Section

- 4451. Digging ground or breaking pavement; permit required; fees
- 4452. --Conditions; safety precautions; restoration
- 4453. Awnings, shades and signs; permits therefore (Amended 7/05/2011)
- 4454. Porticos, doorsteps, etc.
- 4455. Disposition of trash
- 4456. Enclosing or obstructing public ways
- 4457. Barbed wire or rail along any sidewalk or street
- 4458. Sale of merchandise in street, sidewalk or other public place
- 4459. Tampering with signs, lamps, etc.
- 4460. Protection of trees and plants
- 4461. Littering street--By cleaning of building
- 4462. --Sidewalks, streets and sewers
- 4463. Franchises for use of streets and public places
- 4464. Skateboards, roller skates, roller skis and play vehicles
- 4465. Raising or lowering cargo into or over street; cellar doors and coal-holes in sidewalks.
- 4466. Fences immediately adjoining streets or public places
- 4467. Street littering by debris falling from vehicles
- 4468. Nuisances and obstructions on public ways and places; on private premises
- 4469. Maintenance of vacant lots; expenses; enforcement
- 4470. Violations and penalties
- 4471. Limitation of actions
- 4472. Use of sound devices in public places to attract public attention
- 4473. Snow and ice removal from sidewalks
- 4474. Violations and penalties
- 4475. Enforcement

§ 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, and signs; permits therefore

(a) No person shall establish or maintain any awning or shade, 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 or sign over any street or sidewalk at a height of less than 7 feet from the sidewalk to the lowest part of the awning, shade or sign; 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 therefor 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. **Notwithstanding the above, no flag may be suspended or displayed upon or over any part of any sidewalk at a height of less than five feet from the sidewalk to the lowest part of such flag. (Amended September 10, 2009) Not withstanding the above, the placement of temporary banners extending over the public right of way in the Rutland Downtown Redevelopment area shall be governed by R.O.R. §1409. (Amended 7/05/2011)**

(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 are 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 therefor 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 a 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 with 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 or 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 the 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, destroying, cleaning and/or removal of such weeds, hay, brush, or deleterious, unhealthful growths 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 1/2 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. Violations & Penalties

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.

§ 4475. Enforcement

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

## CHAPTER 6

### Tree Ordinance

#### Section

- § 4551. Jurisdiction of public shade trees in the City of Rutland
- § 4552. City forester and arborist
- § 4553. Ornamental tree program
- § 4554. Permits in regard to public shade trees
- § 4555. Protection of trees during construction
- § 4556. Substances harmful to tree life
- § 4557. Interference with official duties
- § 4558. Removal or pruning of trees
- § 4559. Penalties

#### § 4551. Jurisdiction of public shade trees in the City of Rutland

The commissioner of public works shall be the tree warden of the City of Rutland and shall have authority over any and all trees on public rights of way or any public property in the City of Rutland not under the jurisdiction of the recreation and parks department or school department. Trees so located shall be deemed public shade trees.

#### § 4552. City forester and arborist

The deputy tree warden shall be the city forester and arborist within the department of public works and shall have responsibility for the city's ornamental tree program under the supervision of the commissioner of public works.

#### § 4553. Ornamental tree program

(a) The city shall develop a plan and implement a city ornamental tree program. The purpose of the program will be to maintain the beauty of the City of Rutland by properly caring for its trees. This includes removal of dead and dying trees, removal of dead limbs, installing metal cables or metal rods to prevent splitting, removing low hanging limbs for street and sidewalk clearance, fertilizing trees and planting new trees.

(b) The city may enter into financial or other agreements with the owners of land adjoining or facing public ways or places for the purpose of encouraging and effecting shade tree planting and preservation programs.

#### § 4554. Permits in regard to public shade trees

(a) No person shall cut, climb, break, trim, or remove or in any way injure trees on public rights of way or other property of the City of Rutland without first having obtained a permit from the commissioner of public works or city forester and arborist.

(b) No person shall, without written permission from the commissioner of public works or city forester and arborist attach or keep attached to a tree on city property any wire, rope, wire insulator, notice, advertisement, object or other device.

(c) No person shall without a "digging in the street permit" from the commissioner of public works excavate soil, cut or fill or otherwise alter the grade or drainage within the grounds of a public right of way in the City of Rutland. Weeding around trees does not require such a permit.

(d) No person shall plant any shade tree on public rights of way in the City of Rutland without first having obtained a written permit from the commissioner of public works or city forester and arborist which permit shall set forth the kinds of trees which may be set out and conditions under which they may be planted.

(e) No person or corporation shall have power lines, telephone lines, cable TV lines, guy lines, cables or any other lines or obstructions on public rights of way with minimal vertical clearances from the ground other than as provided by the American National Standard National Electrical Safety Code, ANSI,

C2, latest edition, a copy of which shall be available at the city clerk's office, without first obtaining a permit from the commissioner of public works.

§ 4555. Protection of trees during construction

In the erection or repair of a building or structure, the owner shall place guards around all nearby trees on public rights of way to effectually prevent injury to them.

§ 4556. Substances harmful to tree life

It shall be unlawful for any person owning, using or having control of substances harmful to tree life to allow such substance or substances to permeate the soil surrounding the roots of any tree on any public property in such a manner as may injure or destroy the tree. Substances harmful to tree life shall include, but not be limited to, herbicides, gas from gas mains, petroleum lubricants, diesel, automotive, and heating fuels.

§ 4557. Interference with official duties

No person shall in any way interfere with or cause or permit any interference with any employee of the City of Rutland in the planting, mulching, protection, care or removal of any tree in the public rights of way of the City of Rutland.

§ 4558. Removal or pruning of trees

(a) Whenever the city forester and arborist determines that: 1) a tree or limb in or upon any public property or private premises in the City of Rutland is a danger to public safety and welfare because of defect, decay or lack of support because it may fall in or across any public right of way, or 2) A tree constitutes a threat to other trees on the public right of way because it harbors or breeds noxious insects or disease pests, he shall dispose of such trees if publicly owned or order removal of such trees if privately owned by proper notification to the owner or other persons responsible for the land as to the situation and reasons for the removal order. When the city forester and arborist determines that a tree or limb presents a danger to the public safety it shall be removed immediately. If the tree is on private premises, the owner will be billed for the costs of removal.

(b) If a tree trunk emerges from the ground on the line of the public right of way and private property, the cost of removal shall be shared proportionately by the city and the private landowner.

(c) If any condemned tree or trees are located on private property, the cost of removal shall be the sole responsibility of the landowner. If the owner fails to remove a tree or trees that have been deemed a danger to the public right of way, the city may procure its removal and charge the owner the cost. The cost, if unpaid, may be considered as a lien on the property, and be collected in the same manner as real estate taxes.

(d) When the city forester and arborist determines a tree or limb on private premises must be removed under the conditions stated in paragraph (a) above, he shall give notice to the owner or other persons responsible for the property. Said persons shall have thirty (30) days in which to appeal the determination of the city forester and arborist to the board of aldermen. If no appeal is filed and the subject tree or limb is not removed by said persons, the city shall remove the tree and bill said persons for the cost.

§ 4559. Penalties

Any person who defaces, critically injures or cuts down a public shade tree without permission of the commissioner of public works or violates any section or provision of this chapter shall pay a civil penalty of not more than \$500.00 and shall be assessed based on the value of the tree in addition to the penalty. Each day shall be considered a new violation. The value of the tree shall be determined per "Guide for establishing value of trees and other plants" which is prepared by the Council of Tree and Landscape Appraisers or any other acceptable method for determining values of trees. The total amount of the fine can be levied against the person cutting the tree, the person ordering the cutting of the tree, the tree company cutting the tree, a utility or other company ordering the cutting of the tree.

## CHAPTER 7

### City Sanitary Landfill - Repealed No. 196

## CHAPTER 8

### Sight Ordinance

#### Section

- 4600. Definitions
- 4601. Required clearances
- 4602. Inspections
- 4603. Responsibility for trimming or pruning
- 4604. Inspections; notifications regarding irregularities found on inspections
- 4605. Entry upon land and carrying out of work by city

- § 4600. Definitions
- Obstruction*--Any physical, fixed object with impedes, retards, or cuts off the clear view of any pedestrian, cyclist, or motorist.
- Shrubbery*--Any multi-stemmed plant or brush, dead or alive.
- Tree*--Any woody plant having a single main stem, dead or alive.
- Foliage*--Any and all leafage of any plant or tree, living or dead.
- Branches*--Any and all stems from the trunk or bough of any tree or shrub, living or dead.

- § 4601. Required clearances
- Horizontal and vertical clearances shall be maintained as follows:
- (a) *Sidewalks*. Trees and shrubbery shall be kept trimmed so as to provide clearance under adverse weather conditions for the full width of the walkway and a vertical clearance of at least 8 feet. The term "walkway" includes paved sidewalks within the confines of a dedicated street, a walkway on an easement provided for public usage, or a walkway on a public right-of-way normally used by the public as indicated by a worn path.
- (b) *Streets or alleys*. Trees and shrubbery shall be kept trimmed so that during adverse weather, the foliage or branches shall not extend beyond the curb line unless there is a clearance of at least 12 feet above the curb and 16 feet above the center of the nearest traffic lane. In those cases where no curb has been provided, the curb line clearance shall apply at the nearest edge of the traveled portion of the roadway surfacing.
- (c) *Line of sight at intersections or changes in direction*.
- (1) The foliage and branches of all trees or shrubbery shall be kept trimmed so as to provide a clear line of sight for at least 75 feet on the approach side for all street designation markings, traffic signals or traffic-control postings.
- (2) The owner or occupant of any lot in the City of Rutland which adjoins 2 intersecting streets, or a change in the direction of a street, shall not obstruct in any manner the clear view of any person using such street or streets or any person operating a motor vehicle approaching the interest or change in direction, by any earth (other than the natural ground line), wall, shrub, tree, hedge, or other growth or obstruction if the object blocks the view of the motorists within an area described thus:
- Beginning at the intersection of the 2 property lines (or tangents immediately adjacent to the change in direction) and running back along each line a distance of 15 feet and diagonal line connecting the 2 fifteen-foot points previously determined; except where zoning ordinance provisions permit the location of a building up to the property line. It shall be presumed that any obstruction within the described area at a height greater than 2 1/2 feet above the groundline at the centerline of the adjacent street is an obstruction to the view of the motorist; except where the natural groundline on the property exceeds the aforesaid 2 1/2 feet, the natural groundline on the property shall not be considered to be an obstruction, but

any plantings or structure of any kind in this area shall be prohibited. Trees, whose branches extend into the aforesaid restricted area shall be pruned so that all limbs and foliage shall provide an aboveground clearance of at least 6 feet during adverse weather conditions. Utility poles and other necessary posts shall not constitute such an obstruction.

§ 4602. Inspections

The department of public works shall have the right and responsibility to enter upon private property to inspect trees or shrubbery where it is reasonable to expect that these plantings, either on account of condition or location may be hazardous to traffic (either vehicular or pedestrian) traveling along public streets, municipally controlled tracts or public right-of-way.

§ 4603. Responsibility for trimming or pruning

(a) The owner of the abutting property shall be responsible for trimming or pruning all trees and/or shrubbery on private property to provide the required horizontal and vertical clearance to sidewalks and to remove actual or potential hazards to traffic along streets or other public rights-of-way.

(b) The department of public works shall arrange for the correction of all irregularities noted on inspections or reported to the department.

(c) The City of Rutland shall be responsible for removing dead trees, removing defective portions of trees and trimming all trees as required to provide specified clearance aboveground for trees on public rights-of-way and also for trimming trees or defective portions thereof without regard to location to provide satisfactory aboveground clearances at curb lines and at the traveled traffic lanes, but only where there is immediate danger to the public on sidewalks or streets. If the tree is on private premises, the owner will be billed for the cost of removal and the charge for removal shall remain a lien upon the property until paid.

§ 4604. Inspections; notifications regarding irregularities found on inspections

(a) The department of public works shall make sufficient inspections to make certain that specified clearances are being maintained and that all potential and actual hazards (due to defects in trees) are located.

(b) When violations are noted, appropriate notification shall be furnished as follows:

(1) Defects in area under municipal control shall be furnished to the department of public works.

(2) Defects in area under private ownership, the notice shall be sent to the property owner. This notice shall be written and sent by United States Postal Service, certified mail, return receipt requested. The notice shall contain information as follows:

Information as to the location of the property affected using such terms as:

Property known and numbered as No. \_\_\_\_ on \_\_\_\_\_ (name of street).

Vacant lot between properties known and numbered as \_\_\_\_ and \_\_\_\_ (name of street)

Improved lot (house does not bear a number) at the southeast corner of \_\_\_\_\_ and \_\_\_\_\_ streets.

Nature of violation describing the conditions thus:

Shrubbery encroachments upon sidewalk.

Inadequate clearance over sidewalk.

Defective limbs in a tree can fall into the street.

(c) Appeals: The person so notified shall have 30 days in which to appeal to the board of aldermen, the determination by the department of public works of a violation. Said appeal shall be in writing and be directed to the city clerk. The board of aldermen shall set the matter for hearing.

§ 4605. Entry upon land and carrying out of work by city

Except where there is an immediate danger to the public on sidewalks or streets, as provided in section 4603(c), the city, after giving the notice called for in section 4604, and the passage of 30 days for the appeal period as aforesaid, and where the situation has not been corrected, shall seek voluntary permission to enter upon the property and carry out the work called for in said notice. If the property owner or his agent

or duly authorized representative refuses permission for entry, said person or persons shall be in violation of the provisions of this chapter and shall be subject to a civil penalty of not less than \$50 nor more than \$500 for each offense. Each day of such violation of such provisions or neglect or refusal to conform to any directions 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 offense.

## CHAPTER 9

### Safe Schools

#### Section

- 4610. Statement of legislative findings and purpose
- 4611. Prohibited conduct
- 4612. Definitions
- 4613. Penalties
- 4614. Severability

#### § 4610. Statement of legislative findings and purpose

The people of the City of Rutland find it necessary to prevent disruption of the educational process by prohibiting individuals who have no educational purpose and who disrupt or may disrupt the educational process from entering or remaining upon school premises during school hours and to protect the safety and welfare of the public within school premises. To this end, every school in the City of Rutland will be free of drugs, violence and the unauthorized use of firearms and alcohol and will offer a disciplined environment conducive to learning.

#### § 4611. Prohibited conduct

##### (a) No person shall do any of the following on school property:

(1) Enter upon school property unless that person is engaged in school business. This subsection is not intended to prohibit the orderly flow of vehicular and pedestrian traffic on public streets and sidewalks or use of recreational facilities.

(2) Possess upon school property any firearm or potentially dangerous weapon or prepare or use rockets, missiles or fireworks. Nothing in this section shall prohibit the possession of a firearm by a law enforcement officer authorized to possess a firearm. The board of school commissioners may authorize the possession and use of firearms or other weapons for specific occasions or for instructional purposes when facilities for such instruction are available.

##### (b) No person shall do any of the following on any school premises or property:

(1) Demand money from any person using an express or implied threat.

(2) Act in a manner that disturbs any class or that is reasonably likely to frighten or disturb any student or other person present.

(3) Disrupts, hinders or impedes the education of students.

(4) Remain on the school premises after having been directed to leave by a member of the faculty, administration, police or security personnel. This paragraph (4) shall not apply to a student enrolled at the school unless the student has been expelled or suspended by a member of the administration having authority to do so. This paragraph (4) shall not apply to any person employed at the school, unless such person has been suspended, discharged or transferred by a member of the school administration having authority to do so.

(5) Obstruct, hinder or impede students, family members, faculty or staff from travelling safely to or from the school premises.

(6) Enter upon, be upon or remain upon school premises when under the influence of alcohol or drugs.

(7) Willfully damage public or private property on school premises. Damage shall include the application of graffiti, defacing, or the unauthorized application of any substance to walls, windows, floors or other parts of the school property.

(8) Possess any contraband.

(9) Unlawfully possess or consume alcoholic beverages.

(10) No person properly noticed by any law officer or member of the school administration shall ride the same bus, leave at the same bus stop, or place themselves immediately adjacent to another student upon school premises if noticed not to do so.

- (11) acts in a disorderly manner by engaging in fighting or in violent, tumultuous or threatening behavior.
- (12) uses abusive or obscene language

§ 4612. Definitions

As used in this section, the following definitions shall apply:

(a) "School premises" means any building private or public which is used primarily for educational purposes, the land upon which it is situated, and any property within 500 feet of the land upon which the building is situated. This definition shall apply to any public or private elementary, junior high, high or vocational school. Private non-school property is excluded from this section for legal activities of the owner, lessee or other authorized person. School premises also includes any school buses or other transportation vehicles utilized for school purposes.

(b) "School property" means any property owned, leased or rented and used for educational purposes by any public or private elementary, junior high, high or vocational school including buses and other transportation vehicles utilized for school purposes.

(c) A person is "engaged in school business" when that person's conduct, while on school premises during school hours, is directly connected to the school's educational purpose. A person shall be presumed to be "engaged in school business" who is:

- (1) a duly enrolled student at that school;
- (2) a current member of the school's faculty, staff or school board;
- (3) a parent, legal guardian or family member of a duly enrolled student at that school

who enters upon school premises.

(d) Under the influence means any person who is presently impaired physically, mentally or emotionally as a result of the presence of alcohol or drugs in the person's body as determined by observation of physical manifestations.

(e) Contraband means any item, property, object, or substance which is not legally obtained or possessed by the person.

§ 4613. Penalties

(a) Nothing in this section is intended to supplant or supersede any law, rule, regulation or established school policy governing discipline of students.

(b) A violation of this section is punishable by a civil penalty of not more than \$500.00. A second violation within the school year of this ordinance will result in the imposition of a penalty of one and one half times the minimum penalty for the second offense except that a second offense for the same subsection will result in a doubling of the penalty. A violation which is a third offense within the school year will result in a penalty of \$500.00.

§ 4614. Severability

The provisions of this ordinance are severable. If any provision of this ordinance is invalid or if any application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application. The provisions and enforcement of this ordinance is intended to be in addition to any and all legal remedies or enforcement available at law and is not intended to supplant, replace or prevent the enforcement of any civil or criminal law of the State of Vermont.

Minimum fines and waiver fines are established by schedule attached hereto and incorporated herein as part of this ordinance.

SCHEDULES OF FINES FOR VIOLATIONS  
OF 25 ROR §4610-4614

SECTION	WAIVER FINE	MINIMUM FINE
4611(a)(1)	\$ 150.00	\$ 175.00
4611(a)(2)	150.00	175.00
4611(b)(1)	150.00	175.00
4611(b)(2)	150.00	175.00
4611(b)(3)	150.00	175.00
4611(b)(4)	150.00	175.00
4611(b)(5)	150.00	175.00
4611(b)(6)	150.00	175.00
4611(b)(7)	150.00	175.00
4611(b)(8)	150.00	175.00
4611(b)(9)	150.00	175.00
4611(b)(10)	150.00	175.00
4611(b)(11)	150.00	175.00
4611(b)(12)	150.00	175.00

## TITLE 27

### VEHICLES, PARKING AND TRAFFIC

#### Chapter

1. Regulated Parking Ordinance
2. Immobilization and Impoundment of Motor Vehicles
3. Traffic Ordinance (Amended 3-10-2017)
4. Rutland Traffic Court
5. Motorcycles, Minibikes, etc., on Private and Public Property
6. Removal of Vehicles Parked Without Authorization

#### CHAPTER 1

#### Regulated Parking Ordinance

#### Section

4701. Short title
4702. Construction of chapter as exercise of police power
4703. Reservation of powers
4704. Definitions
4705. Regulated Parking zone
4706. Designation of parking spaces
4707. Installation of parking meters; coupon dispensing machines
4708. Operation of meters; coupon dispensing machines
4709. Parking time limits; holidays defined
4710. Violations
4711. Penalties
4712. Enforcement
4713. Collections
4714. Use of funds in parking meter account

§ 4701. Short title  
This chapter may be known and cited as the "Regulated Parking Ordinance".

§ 4702. Construction of chapter as exercise of police power  
This chapter shall be deemed and construed to be an exercise of the police power of the City of Rutland in the State of Vermont for the preservation and protection of public safety, and all of its provisions shall be liberally construed with a view to the effectuation of such purpose.

§ 4703. Reservation of powers  
Nothing in this chapter shall be construed as prohibiting the City of Rutland from providing for bus stops, for taxicab stands and other matters of similar nature, including the loading or unloading of trucks, vans, or other commercial vehicles.

§ 4704. Definitions  
For the purpose of this chapter, the following definitions shall be applicable:  
"Coupon parking" shall mean parking for a period of time not to exceed twenty-four (24) hours within a parking lot where admission is controlled by purchase of a coupon from a machine at the entrance to the parking lot.  
"Operator" shall mean and include every individual who shall operate a vehicle as the owner thereof, or as the agent, employee or permittee of the owner, or is in actual physical control of a vehicle.

"Park" or "parking" shall mean the standing of a vehicle, whether occupied or not, upon a street or in a parking lot otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

"Parking lot" shall mean such areas designated, posted and used by the City of Rutland for public off-street parking.

"Parking meter" shall mean and include any mechanical device or meter not inconsistent with this chapter placed or erected for the regulation of parking by authority of this chapter. Each parking meter installed shall indicate by proper legend the legal parking time established by the city and when operated shall at all times indicate the balance of legal parking time, and at the expiration of such period shall indicate illegal or overtime parking.

"Parking meter space" shall mean any space within a regulated parking zone, adjacent to a parking meter and which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meters.

"Regulated Parking zone" shall mean and include any restricted street, parking lot or coupon parking lot upon which parking meters or coupon dispensing machines are installed and in operation.

"Person" shall mean and include any individual, firm, co-partnership, association or corporation.

"Street" shall mean any public street, avenue, road, alley, highway, lane, path, or other public place located in the City of Rutland and established for the use of vehicles.

"Vehicle" shall mean any device in, upon or by which any person or property is or may be transported upon a highway, except a device which is operated by human power or upon rails or tracks.

§ 4705. Regulated Parking zone

(a) The following names and described areas, streets, or portions of streets, and such other areas, streets or portions of streets as may hereafter be included in this section by amendment hereto, lying within the corporate limits of the City of Rutland, shall constitute a regulated parking zone, namely: the downtown redevelopment area as established by the voters of the City of Rutland and an additional 350 feet outside of the boundaries of that as may be determined by the chief of police.

(b) All frontages in said squares, streets, or avenues defining said zones to be included therein.

§ 4706. Designation of parking spaces

The chief of police is hereby directed and authorized to mark off individual parking spaces in the regulated parking zones designated and described in section 4705 of this chapter and in such other zones as may hereafter be established, said parking spaces to be designated by lines painted or durably marked on the curbing or surface of the street or parking lot. At each space so marked off it shall be unlawful to park any vehicle in such a way that said vehicle shall not be entirely within the limits of the space so designated.

§ 4707. Installation of parking meters; coupon dispensing machines

(a) In said regulated parking zones the chief of police shall cause parking meters to be installed upon the curb or sidewalk immediately adjacent to the parking spaces provided in section 4706 of this chapter, said installation to be placed not more than 2 feet from the curb nor more than 4 feet from the front line of the parking space as indicated, and the chief of police shall be responsible for the regulation, control, operation, maintenance and use of such parking meters. Each device shall be so set as to display a signal showing legal parking upon the deposit of the appropriate coin or coins, lawful money of the United States of America, for the period of time prescribed by this chapter. Each device shall be so arranged that upon the expiration of the lawful time limit it will indicate by a proper visible signal that the lawful parking period has expired and in such cases the right of such vehicle to occupy such space shall cease and the operator, owner, possessor or manager thereof shall be subject to the penalties hereinafter provided.

(b) In said regulated parking zone the chief of police shall cause to be installed for parking control coupon dispensing machines to control coupon parking lots as designated by the board of aldermen pursuant to §4709(a). Said coupon dispensing machines shall be placed at the entrance to coupon parking

lots in such a way to allow motor vehicle operators to insert coins and obtain coupons for parking within the coupon parking lot.

§ 4708. Operation of meters; coupon dispensing machines

Except in a period of emergency determined by an officer of the fire or police department, or in compliance with the directions of a police officer or traffic control sign or signal, when any vehicle shall be parked in any parking space alongside or next to which a parking meter is located, the operator of such vehicle shall, upon entering the said parking meter space, immediately deposit or cause to be deposited in said meter such proper coin of the United States as is required for such parking meter and as is designated by proper directions on the meter, and when required by the directions of the meter, the operator of such vehicle, after the deposit of the proper coin or coins shall also set in operation the timing mechanism on such meter in accordance with directions properly appearing thereon, and failure to deposit such coin, and to set the timing mechanism in operation when so required, shall constitute a violation of this chapter. Upon the deposit of such coin (and the setting of the time mechanism in operation when so required) the parking space may be lawfully occupied by such vehicle during the period of time which has been prescribed for the part of the street in which said parking space is located, provided that any person placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by the previous occupant of the space shall not be required to deposit a coin so long as his occupancy of said space does not exceed the indicated unused parking time. If said vehicle shall remain parked in any such parking space beyond the parking time limit set for such parking space, such vehicle shall be considered as parking overtime and beyond the period of legal parking time, and such parking shall be deemed a violation of this chapter.

§ 4709. Parking time limits; holidays defined

(a) Parking or standing a vehicle in a parking meter space, parking lot, coupon parking lot and/or street shall be lawful pursuant to such rates, times and schedules as the board of aldermen shall establish, and from time to time amend, which rates, times and schedules shall be on file in the Rutland City clerk's office.

(b) The board of aldermen of the City of Rutland are empowered hereby to accept in lieu of U.S. currency such tokens as said board of aldermen may establish as being acceptable for payment in parking meters or coupon dispensers pursuant to this chapter. The acceptance of such tokens shall be established or cancelled from time to time as the Rutland city board of aldermen may deem appropriate by regular action of said board of aldermen.

§ 4710. Violations

(a) It shall be unlawful and a violation of the provisions of this chapter for any person:

(1) To cause, allow, permit or suffer any vehicle registered in the name of, or operated by such person to be parked overtime, or beyond the period of legal parking time established for any regulated parking zone as herein described, or to deposit in any parking meter or coupon dispenser machine any coin for the purpose of parking beyond the maximum legal parking time for the particular parking meter space or coupon parking lot;

(2) To permit any vehicle to remain or be placed in any parking space adjacent to any parking meter while said meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking space;

(3) To permit any vehicle to remain in a coupon parking lot without obtaining and properly displaying a valid coupon containing the date that the vehicle is placed in the lot. Coupon parking lots shall be open for use during times established by the board of aldermen pursuant to §4709(a). It shall be unlawful for any vehicle to remain so parked other than those hours.

(4) To park any vehicle across any line or marking of a parking meter space or designated space in any parking lot or coupon parking lot or in such position that the vehicle shall not be entirely within the area designated by such lines or markings;

(5) To deface, injure, tamper with, open or wilfully break, destroy, or impair the usefulness of any parking meter or coupon dispensing machine installed under the provisions of this chapter;

(6) To deposit or cause to be deposited in any parking meter or coupon dispensing machine any slugs, device or metal substance, or other substitute for lawful coins, except as provided in §4909(b).

(7) To cause, allow, permit or suffer any motor vehicle registered in the name of or operated by such person to be parked or to remain parked in any parking meter, parking lot or coupon parking lot space unless such motor vehicle has affixed thereto a valid number plate or plates issued for such vehicle by the commissioner of motor vehicles of the State of Vermont or any other state.

(b) In any proceedings for the violation of this chapter or any amendment thereto, the registration plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such motor vehicle was the person who parked or allowed such motor vehicle to be parked at the point where such violation occurred.

(c) It shall further be unlawful and a violation of the provisions of this chapter for any person to cause, allow, permit, or suffer a vehicle registered in the name of or operated by such person, already ticketed pursuant to subsection (a)(1) or (a)(2) of this section to remain in violation. A separate offense shall be committed each and every time that the maximum time period for the occupied space, whether said space is metered or regulated, elapses.

(d) The provisions of subsections (a)(2) and (a)(3) of this section shall not apply to vehicles exhibiting state issued license plates indicating that the operator or owner of said vehicle is a recipient of a purple heart or has been a prisoner of war. No person exhibiting said license plates shall be obligated to pay for parking within the parking lots or metered areas of the City of Rutland.

§ 4711. Penalties

Any person who shall violate or fail to comply with any of the provisions of this chapter, or who shall counsel, aid or abet any such violation or failure to comply, shall be deemed guilty of a civil offense and shall be subject to a penalty of not to exceed \$500 for each violation.

§ 4712. Enforcement

It shall be the duty of the chief of police to enforce the provisions of this chapter.

§ 4713. Collections

It shall be the duty of the chief of police to designate some member or members of the police department to make regular collections of the money deposited in said meters and coupon dispensing machines and it shall be the duty of such persons so designated to remove from the parking meters and coupon dispensing machines the containers therein containing the coins so deposited in said meters and coupon dispensing machines and to deliver such containers to the city treasurer of the City of Rutland, who shall have an accurate count made of such money, and shall deposit such funds in an account to be known as the parking meter account.

§ 4714. Use of funds in parking meter account

The funds in the parking meter account, created under the provisions of section 4713 of this chapter, shall be appropriated as follows: First, to cover the cost of purchasing, installing, protecting, repairing, replacing, maintaining, inspecting, supervising and controlling parking meters and coupon dispensing machines; Second, to cover the cost of paying, equipping and training the personnel designated by the chief of police to make the collections required by section 4713 of this chapter, and to install, supervise, protect, inspect, maintain, repair and control the parking meters and coupon dispensing machines; Third, to cover the cost of purchasing, leasing, grading, surfacing, marking, maintaining, repairing and clearing of buildings, snow, ice and rubbish, parcels of land for the use or parking of vehicles; and Fourth, to pay the cost of proper regulations of traffic upon the streets of the City of Rutland.

## CHAPTER 2

### Immobilization and Impoundment of Motor Vehicles

#### Section

- 4741. Short title
- 4741A. Purpose
- 4742. Immobilization of vehicle (Amended 5-22-2014)
- 4743. Notice to owner
- 4744. Release of vehicle
- 4745. Towing of vehicle
- 4746. Post seizure hearings for immobilized or impounded vehicles
- 4747. Conduct of hearing
- 4748. Decisions of the traffic court judge and their effect
- 4749. Disposal of unclaimed vehicles
- 4750. Collection of Ticket Fines
- 4751. Contesting of Tickets

§ 4741. Short title  
This chapter shall be referred to by the short title of "Booting Ordinance".

§ 4741A. Purpose  
This chapter is enacted as an enforcement for protection of the public peace, safety and welfare, and the safeguarding of property, and to provide for additional penalties for scofflaws who habitually violate the parking regulations of the City of Rutland.

§ 4742. Immobilization of vehicle  
Any unattended motor vehicle found parking at any time upon any public highway or parking lot of the City of Rutland, the owner of which has ~~four (4)~~ two (2) or more unpaid parking violations may be immobilized by an officer or member of the Rutland police department in such manner as to prevent its operation, providing notice that the vehicle in question is subject to impoundment is sent to the offender by first class mail at least fifteen (15) days prior to impoundment. No such vehicle shall be immobilized by any means other than by the use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place. At the time of adoption of this ordinance, the number of outstanding parking tickets held by any individual prior to the enactment of this ordinance will be considered in determining the number of tickets necessary to bring about application of the immobilization device.

§ 4743. Notice to owner  
At the time of immobilization, the officer or members shall cause to be placed on such vehicle, in a conspicuous manner, notice sufficient to warn any individual to the effect that such vehicle has been immobilized and that any attempt to move such vehicle might result in damage to such vehicle. The City of Rutland will not be liable for any damage to any vehicle as a result of any attempts to tamper with, damage, remove or move the vehicle which has been booted. Additionally, the owner of the vehicle will indemnify the city from the claims for such damage, or damage to any other property including the immobilization device. Such indemnity can include any costs or attorney's fees.

§ 4744. Release of vehicle

The owner of such immobilized vehicle, or other duly authorized person, shall be permitted to secure the release of the vehicle upon:

- (a) (1) The payment of all outstanding fines; or
- (2) The depositing of the amount of the potential fines to be assessed by the Rutland Traffic Court with the city treasurer; and
- (b) A booting fee of fifty dollars (%50.00) for such immobilization.

§ 4745. Towing of vehicle

In the event the owner of the immobilized vehicle fails to make the payments required in section 4744 above within a period of twenty-four (24) hours from the time of such immobilization, the police department shall cause said vehicle to be towed away as provided for in section 5310 - 5320 at the owner's expense with storage charges to be assessed to the owner.

§ 4746. Post seizure hearings for immobilized or impounded vehicles

As to any vehicle immobilized or impounded pursuant to this chapter by or at the request of the City of Rutland, its agents or employees, a person who has a legal entitlement to possession of the vehicle has a right to a seizure administrative hearing to determine whether there was probable cause to immobilize or impound the vehicle if such person files a written demand, on forms so provided for such a hearing, with the City of Rutland within ten (10) days after such person has learned such vehicle has been immobilized or impounded.

§ 4747. Conduct of hearing.

(a) A hearing shall be conducted before the city attorney sitting as traffic court judge within forty-eight (48) hours of receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays and city holidays are to be excluded from the calculation of the forty-eight hour period. The sole issue before the traffic court judge shall be whether there was probable cause to immobilize or impound the vehicle in question.

(b) "Probable cause to immobilize or impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grand legal authority for the immobilization or impoundment of the vehicle.

(c) The traffic court judge shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right of possession of the vehicle. The police department shall carry the burden of establishing that there was probable cause to immobilize or impound the vehicle in question. At the conclusion of the hearing, the traffic court judge shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The traffic court judge's decision in no way affects any proceeding in connection with the immobilization or impoundment in question. The decision of the traffic court judge is final. Failure of the registered to legal owner, or his agent, to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

§ 4748. Decisions of the traffic court judge and their effect

The traffic court judge shall only determine that as to the vehicle in question either there was probable cause to immobilize or impound the vehicle or there was not such probably cause. In the event

that the traffic court judge determines that there was no probable cause, the traffic court judge shall prepare and date a certificate of no probable cause, copies of which shall be given to the possessor of the vehicle and the police department. Upon receipt of the possessor's copy of such certificate, the official police garage having custody of the vehicle shall release the vehicle to its possessor. Upon a finding of no probable cause, immobilization, towing and storage fees shall be paid by the city in accordance with arrangements made between the city and the official police garage. If the possessor fails to present such certificate to the official police garage having custody of the vehicle within twenty-four (24) hours of its receipt, excluding such days when the official police garage is not open for business, the possessor shall assume liability for all subsequent storage charges. Such certificate shall advise the possessor of such requirement.

§ 4749 Disposal of unclaimed vehicles

(a) Whenever any vehicle so impounded shall remain unclaimed by the owner or other person legally entitled to possession thereof for a period of sixty (60) days from the day notice to owner was mailed, it shall be the duty of the police department to sell such vehicle at public auction to the highest bidder for cash, the time and place of such sale to be published at least once in a newspaper of general circulation in the city not less than ten (10) nor more than fifteen (15) days from expiration of said sixty (60) days. Said notice shall contain a full description of the vehicle to be sold and the time and place of sale; provided, that any such vehicle not sold at the first sale may be offered for sale and sold at any subsequent sale without further notice of publication. The proceeds of such sale after paying all liens and deducting all reasonable charges and expenses incurred by the impoundment of said vehicle, including the fees and charges herein specified, in booting, towing, keeping, preparing and giving notices, advertising for sale or selling or otherwise disposing of such vehicle shall be paid to the city treasurer.

(b) Whenever any such vehicle shall remain unsold for a period of one hundred twenty (120) days from the day notice to owner was mailed, then such vehicle may be given to the use of any department of the city or other governmental agency desiring the same, or disposed of as scrap metal.

(c) No member of the police department, nor any other employee of the city, directly or indirectly, shall purchase or participate in the bidding for, or purchase of, any vehicle offered for sale.

(d) If the vehicle shall be deemed by the chief of police to be of no value or of insufficient value to warrant storage and sale, and if no owner shall appear to redeem such valueless vehicle within sixty (60) days after the mailing of notice of its removal, which notice shall contain a statement that the vehicle is deemed to be of no value or of insufficient value to warrant storage and sale, and that it is the intention to dispose or destroy such vehicle, to any owner whose name and address can be ascertained with reasonable diligence, or by publishing such notice in the official newspaper once, at least five (5) days before its destruction or other disposition. Such vehicle as above provided shall be conclusively deemed of no value and to be abandoned property, and there shall be no claim against the city, the chief of police, the police department, nor any of their agents or employees by reason of any such destruction or disposition.

§ 4750 Collection of Ticket Fines

The full amount due must be paid when the registered owner is on the "Boot List". Partial payments will be returned and the registered owner will remain on the "Boot List".

§ 4751 Contesting of Tickets

Contesting of tickets is not allowed unless the ticket meets the criteria of Title 27, Chapter 4, Section 5201 Part C: "A violator may request a hearing within seven days of the issuance...".

## CHAPTER 3

### Traffic Ordinance

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Subchapter 1. General Provisions

§

- 4771. Short Title  
This chapter may be known and cited as the "Traffic Ordinance"

§

- 4772. Definitions of words and phrases

The following words and phrases when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them in this section.

Authorized emergency vehicle. Vehicles of the fire department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the chief of police of this city.

Bicycle. Every device propelled by human power upon which any person may ride, having 2 tandem wheels either of which is over 20 inches in diameter.

Central business district. All streets and portions of streets within the area bounded as follows: Beginning at a point where the south line of River Street is directly over the east line of the right of way of the Rutland Railroad; thence running along said south line of River Street and along the south line of River Street extended, to the east line of Strongs Avenue; thence along the east line of Strongs Avenue and along the east line of Wales Street to the south line of Center Street; thence along the south line of Center Street to the east line of Court Street; then along the east line of Court Street and along the east line of Court Street extended, to the north line of West Street; thence along the north line of West Street to the east line of

Church Street; thence along the east line of Church Street to the north line of Library Avenue; thence along the north line of Library Avenue to the west line of Pine Street; thence along the west line of Pine Street to the north line of West Street; thence along the north line of West Street to the east line of the right of way of the Rutland Railroad; thence along the east line of said right of way to the point of beginning.

Commercial vehicle. Every vehicle designed, maintained, or used primarily for the transportation of property.

Controlled-access highway. Every highway, street, or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

Crosswalk.

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb loading zone. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Driver. Every person who drives or is in actual physical control of a vehicle.

Freight curb loading zone. A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

Intersection.

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of the 2 highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes 2 roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes 2 roadways 30 feet or more apart, then every crossing of 2 roadways of such highways shall be regarded as a separate intersection.

Laned Roadway. A roadway which is divided into 2 or more clearly marked lanes for vehicular traffic.

Mo-ped. A motor-driven cycle equipped with two or three wheels; foot pedals to permit muscular propulsion; a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle unassisted at a speed not to exceed 30 miles per hour on a level road surface; and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

Motorcycle. Any motor driven vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; but excluding mo-peds, golf carts, track driven vehicles, tractors and vehicles on which the operator and passenger ride within an enclosed cab.

Motor vehicle. Every vehicle which is self-propelled.

Official time standard. Whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in this city.

Official traffic-control devices. All signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

Park. When prohibited means the standing of vehicle whether occupied or not.

Passenger curb loading zone. A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Pedestrian. Any person afoot.

Person. Every natural person, firm, co-partnership, association, or corporation.

Police officer. Every officer of the municipal police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Railroad. A carrier of persons or property upon cars operated upon stationary rails.

Railroad train. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

Right of way. The privilege of the immediate use of the roadway.

Roadway. That portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Safety zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Stop. When required means complete cessation of movement.

Stop, stopping, or standing. When prohibited means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

Street or highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Through highway. Every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop or yield before entering or crossing the same and when stop or yield signs are erected as provided in this chapter.

Traffic. Pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any street for purposes of travel.

Traffic-control signal. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Traffic division. The traffic division of the police department of this city, or in the event a traffic division is not established, then said term whenever used herein shall be deemed to refer to the police department of this city.

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

## Subchapter 2. Enforcement of and Obedience to Traffic Regulations

§ 4791. Authority of police and fire department officers; chief of police to enforce chapter

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this city and all of the state vehicle laws applicable to street traffic in this city.

(b) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(d) It shall be the duty of the chief of police to enforce the provisions of this chapter.

§ 4792. Required obedience to traffic ordinance; violation as misdemeanor  
It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

§ 4793. Obedience to police and fire department officers.  
No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

§ 4794. Persons propelling push carts or riding animals to obey traffic regulations  
Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

§ 4795. Use of coasters, roller skates and similar devices restricted  
No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of this city.

§ 4796. Public employees to obey traffic regulations  
The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this state, county or city, and it shall be unlawful for any said driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute.

§ 4797. Authorized emergency vehicles

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

- (1) Park or stand, irrespective of the provisions of this chapter;
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the prima facie speed limits so long as he does not endanger life or property;
- (4) Disregard regulations governing direction of movement or turning in specified directions.

(c) Exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle has in operation such sound and light equipment as required by the Vermont Commissioner of Motor Vehicles, as set forth in Title 23, chapter 13, article 2 Motor Vehicles Generally, and the rules and regulations promulgated therein governing the issuance of permits and the use of sirens or colored lamps or both.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

§ 4798. Operation of vehicles on approach of authorized emergency vehicles

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals as set forth in 23 V.S.A. § 1033 as amended, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

### Subchapter 3. Accidents

§ 4811. Repealed No. 227

### Subchapter 4. Traffic-Control Devices

§ 4821. Authority to install traffic-control devices

The chief of police shall place and maintain traffic-control signs, signals, and devices when and as required under the traffic ordinances of this city to make effective the provisions of said ordinances, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under the traffic ordinances of this city or under state law, or to guide or warn traffic.

§ 4822. Specifications for traffic-control devices

All traffic-control signs, signals, and devices required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic-control devices.

§ 4823. Obedience to traffic-control devices

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic ordinances of this city, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle of this chapter.

§ 4824. When traffic devices required for enforcement purposes

No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

§ 4825. Traffic-control signal legend

Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution," "Stop," or "Yield," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said terms and light shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone or "Go."

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow or "Caution" when shown following the green or "Go" signal.

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right of way to all vehicles.

(3) Steady red alone.

(2) Vehicular traffic facing a steady red alone signal shall stop at a clearly marked stop line or, if none, shall stop before entering the crosswalk on the near side of the intersection and shall remain standing until green alone or "go" is shown, subject to subdivision (b) of this section.

(b) Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red alone signal may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, after stopping as required by subdivision (a) of this section. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) No pedestrian facing such steady red alone signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(4) Red with green arrow.

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(5) "Yield" or "Yield Right of Way."

Vehicular traffic, upon entering the limits of a through way, designated as a "yield right of way" intersection, shall not exceed 15 miles per hour and shall yield the right of way to all vehicles or pedestrians approaching from either direction.

(6) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

#### § 4826. Pedestrian-control signals

Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place such signals shall indicate as follows:

(1) Walk. Pedestrians facing such signal may proceed across the road-way in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

#### § 4827. Flashing signals

(a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in section 4918 of this chapter.

#### § 4828. Display of unauthorized signs, signals or markings

(a) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is in imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(d) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

§ 4829. Interference with official traffic-control devices or railroad signs or signals

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

§ 4830. Special use streets--authority to designate

The chief of police shall have authority to declare any street or part thereof a special use street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

§ 4831. --Restrictions on use

Whenever authorized signs are erected indicating any street or part thereof as a special use street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

§ 4832. Chief of police to designate crosswalks, safety zones, and traffic lanes

The chief of police is hereby authorized:

(1) To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary;

(2) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians;

(3) To mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

§ 4833. Restrictions upon truck traffic

(a) The chief of police is hereby authorized to determine and designate those streets upon which shall be prohibited the use of the roadway by all trucks with a manufacturers designated gross weight exceeding 24,000 lbs., except for deliveries and pickups upon said streets, and he shall erect appropriate signs giving notice thereof.

(b) When signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

#### Subchapter 5. Speed Regulations

§ 4851. Maximum speed limit

(a) It shall be prima facie unlawful for any person to drive a vehicle at a speed in excess of 30 miles per hour on any street in the City of Rutland, unless otherwise posted.

(b) The chief of police is authorized to designate school speed zones wherein it shall be prima facie unlawful for any person to drive a vehicle at a speed in excess of 25 miles per hour when flashing beacons are operational. Suitable speed limit signs shall be posted on all major streets entering the school speed zones.

(c) Whenever the board of aldermen determines, on the basis of an engineering and traffic investigation, that a maximum speed permitted under this subchapter is greater or less than is reasonable and safe under conditions found to exist upon all or part of any city street or highway within its jurisdiction, it may determine and declare as a special regulation a reasonable and safe maximum any provision of the city charter or ordinance to the contrary notwithstanding which:

- (1) Increases the limit, but not to more than fifty miles per hour; or
- (2) Decreases the limit, but not to less than twenty-five miles per hour.

(d) Whenever the board of aldermen, determines, on the basis of an engineering and traffic investigation, that a maximum speed permitted under this subchapter is greater or less than is reasonable and safe under conditions found to exist upon all or part of any state highway, other than a limited access highway, within its jurisdiction, it may, subject to review by and final decision of the state traffic committee established under 24 V.S.A. § 1003, determine and declare as a special regulation a reasonable and safe maximum limit, any provision of the city charter or ordinance to the contrary notwithstanding, which:

- (1) Increases the limit, but not to more than fifty miles per hours; or
- (2) Decreases the limit, but not to less than twenty-five miles per hour.

§ 4852. Regulation of speed by traffic signals

The chief of police is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.

Subchapter 6. Turning Movements

§ 4871. Required position and method of turning at intersections

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.

(2) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-way roadways. At any intersection where traffic is restrict to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

§ 4872. Authority to place turning markers; obedience to

(a) The chief of police is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

(b) When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

§ 4873. Authority to place restricted turn signs

The chief of police is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left, or U turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

§ 4874. Obedience to no-turn signs

Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

§ 4875. Limitations on turning around

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction within the following areas in the City of Rutland:

- (1) Central Business District;
- (2) U.S. Highway Route 7;
- (3) U.S. Highway Route 4.

Subchapter 7. One-Way Streets and Alleys

§ 4891. Authority to designate one-way streets and alleys and erect appropriate signs

(a) The chief of police is hereby authorized to determine and designate the appropriate direction of travel upon all city streets and alleys.

(b) The chief of police shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

§ 4892. Authority to restrict direction of movement on streets during certain periods

(a) The chief of police is hereby authorized to determine and designate streets, parts of streets, or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The chief of police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

(b) It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers, or other devices so placed in accordance with this section.

Subchapter 8. Special Stops Required

§ 4911. Through streets designated

(a) When properly signposted, drivers of vehicles shall stop or yield at every intersection before entering any of the following streets or parts of streets: All those streets that comprise U.S. route #4 and #7 in the City of Rutland.

(b) The foregoing streets are listed as through streets in Schedule II maintained on file in the office of the city clerk and available for inspection during business hours. Additions, changes or deletions may be made by the chief of police from time to time in Schedule II and when properly signposted, shall have the same force and effect as if set forth in subsection (a) hereof.

§ 4912. Authority to erect stop or yield signs

Whenever any ordinance of this city designates and describes a through street it shall be the duty of the chief of police to place and maintain a stop or yield sign on each and every street intersecting such through street or intersecting that portion thereof described and designated as such by any ordinance of this city unless traffic at any such intersection is controlled at all times by traffic-control signals; provided, however that at the intersection of two such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop or yield signs shall be erected at the approaches of either of said streets as may be determined by the chief of police upon the basis of a traffic study.

§ 4913. Intersections where stop or yield required

The chief of police is hereby authorized to determine and designate intersections where any particular hazard or hazards exist upon other than through streets and to determine whether vehicles shall stop or yield at one or more entrances to any such intersection, and shall erect a stop or yield sign at every such place required.

§ 4914 Signs to bear the word "stop" or "yield"

Every sign erected pursuant to this subchapter shall bear the word "Stop" or "Yield" in letters not less than 8 inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination or by efficient reflecting elements on the face of the sign. Every stop sign shall be located as near as practicable at the nearest line of the crosswalk on the near side of the intersection or, if none, at the nearest line of the roadway.

§ 4915. Stop or yield intersections

(a) Preferential right of way at an intersection may be indicated by "Stop" signs or "Yield" signs.

(b) Except when directed to proceed by an enforcement officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right of way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(c) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. Provided, however, that if such a driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right of way.

§ 4916. Emerging from alley, driveway or building

The driver of a vehicle within a business or residence district emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, yielding the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

§ 4917. Stop where traffic obstructed

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

§ 4918. Obedience to signal indicating approach of railroad train.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(3) A railroad train approaching within approximately 1500 feet or the highway emits a signal audible from such distance as such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

#### Subchapter 9. Miscellaneous Rules

§ 4931. Following fire apparatus prohibited

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

§ 4932. Crossing fire hose

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, or private driveway, to be used at any fire or alarm of fire, without consent of the fire department official in command.

§ 4933. Driving through funeral or other procession

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

§ 4934. Drivers in a procession

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

§ 4935. Funeral processions to be identified

A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the chief of police.

§ 4936. When permits required for parades and other processions

No funeral, procession, or parade containing 200 or more persons or 50 or more vehicles, excepting the Armed Forces of the United States, the military forces of this state, and the forces of the police and fire departments, shall occupy, march, or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

§ 4937. Driving on or obstructing sidewalk

(a) The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(b) No person shall ride, drive, wheel, propel, or draw any coach, cart, wheelbarrow or other vehicle of burden or pleasure (except children's carriages drawn by hand), or permit any horse or other animal under his care to go or be upon any sidewalk in the city, or otherwise unnecessarily occupy, obstruct or encumber any such sidewalk so as to interfere with the convenient use thereof by pedestrians.

§ 4938. Limitations on backing

The driver of a vehicle shall not back such vehicle unless such movement can be made with reasonable safety and without interfering with other traffic.

§ 4939. Riding on motorcycles or mo-ped

A person operating a motorcycle or mo-ped shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle or mo-ped unless such motorcycle or mo-ped is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for 2 persons, or upon another seat firmly attached to the rear or side of the operator.

§ 4940. Clinging to vehicles

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

§ 4941. Controlled access

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

§ 4942. Boarding or alighting from vehicles in motion

No person shall board or alight from any vehicle while such vehicle is in motion.

§ 4943. Unlawful riding; nonpassenger vehicles

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

§ 4944. Railroad trains not to block streets

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such manner as to prevent the use of any street for purposes of travel for a period of time longer than 5 minutes, except that this provision shall not apply to trains or cars in motion other than those engaged in switching.

§ 4945. Unnecessary noise

No owner or driver of a motor vehicle shall operate it or permit it to be operated in such manner as to cause unnecessary or unreasonable noise; and the word "operate" as used in this section shall include any act taken or attempt made concerning such vehicle, whether it be in motion or at rest.

§ **4946. Avoiding Intersection or Traffic Control Device Prohibited** (Added 3-10-2017)

**(a) Authority. This ordinance is adopted pursuant to § 3.1(11) of the Rutland City Charter and 23 V.S.A. §1008.**

**(b) Prohibition. No person shall drive across or upon a sidewalk, driveway, parking lot or private property, or otherwise drive off a roadway, in order to avoid an intersection with a traffic control device or stop sign.**

**(c) Penalty. Any other penalty for a violation of this title notwithstanding, a violation of this section shall result in a fine of not less than \$100 nor more than \$500 and any other additional penalty as may be provided by state law.**

**(d) Waiver Fines. The waiver fines for violations of this section shall be as follows:**

**i. First Offense: \$ 50.00**

- ii. **Second Offense: \$100.00**
- iii. **Third and Subsequent Offense: \$250.00**

#### Subchapter 10. Pedestrians' Rights and Duties

§ 4961. Pedestrians subject to traffic-control signals

Pedestrians shall be subject to traffic-control signals as heretofore declared in sections 4815 and 4826 of this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this subchapter.

§ 4962. Pedestrians' right of way in crosswalk

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right of way to a pedestrian crossing the roadway within a crosswalk. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle. A pedestrian's right of way in a crosswalk is modified by paragraph (b) of section 4965 of this subchapter.

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

§ 4963. Pedestrians to use right half of crosswalk

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

§ 4964. Crossing at right angles

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.

§ 4965. When pedestrians shall yield

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

§ 4966. Obedience of pedestrians to railroad signals

No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

§ 4967. Pedestrians walking along roadways

(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

§ 4968. Drivers to exercise due care

Notwithstanding the foregoing provisions of this subchapter every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

§ 4968A. Inattentive Operation

No person shall operate a vehicle upon any street in the City of Rutland in a careless or inattentive manner. Inattentive operation shall include, but not be limited to, temporary distraction of operator's

attention from traffic conditions, and operation in a manner not reasonable and prudent with respect to the actual and potential hazards then existing.

#### Subchapter 11. Licensing and Regulating Bicycles

§ 4981. Repealed No. 197

§ 4982. Repealed No. 197

§ 4983. Repealed No. 197

§ 4984. Repealed No. 197

§ 4985. Repealed No. 197

§ 4986. Repealed No. 129

§ 4987. Repealed No. 197

§ 4988. Repealed No. 197

§ 4989. Repealed No. 197

§ 4990. Traffic laws apply to bicycle riders

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinance of this city applicable to the driver of a vehicle, except as to special regulations in this subchapter and except as to those provisions of laws and ordinances which by their nature can have no application.

§ 4991. Obedience to traffic-control devices

(a) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no persons operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

§ 4992. Riding on bicycles

(a) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

§ 4993. Riding on roadways and bicycle paths

(a) Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall not ride more than 2 abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) Whenever a usable path for bicycles has been provided adjacent to a roadway bicycle riders shall use such path and shall not use the roadway.

"The chief of police may designate a sidewalk as a usable path. A sidewalk so designated shall be suitably marked for the safety and convenience of pedestrians."

§ 4994. Speed

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

§ 4995. Emerging from alley or driveway

The operator of a bicycle emerging from an alley or driveway or building, shall upon approaching a sidewalk or the sidewalk area extending across an alleyway, yield the right of way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

§ 4996. Clinging to vehicles

No person riding upon any bicycle shall attach the same or himself to any vehicle upon a roadway.

§ 4997. Carrying articles

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

§ 4998. Parking

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

§ 4999. Riding bicycles on sidewalks

(a) No person shall ride a bicycle upon the sidewalks located within the business district of the City of Rutland as defined by the ordinances of the city as posted by said city.

(b) No person shall ride a bicycle in a residential district except juveniles under the age of twelve (12) years, exercising due care may ride upon a sidewalk, but they shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing said pedestrian.

No person shall ride a bicycle upon a sidewalk except where a sidewalk has been designated a bicycle path as provided in § 4993(c).

§ 5000. Lamps and other equipment on bicycles

(a) Every bicycle shall be equipped with a lamp on the front, or with a device to hold a lamp or flashlight which shall meet with the approval of the chief of police. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any persons use upon a bicycle any siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

§ 5001. Powers of chief

The chief of police may make further rules and regulations in regard to bicycles as he may deem necessary for the safety of the public.

§ 5002. Penalties

(1) A person 16 years of age or older who does any act forbidden or fails to perform any act required in this subchapter shall be fined not more than \$25.00 for each offense.

§ 5003. Revocation and suspension of registration; appeals therefrom

The chief of police may revoke or suspend any registration for just cause. An appeal to the Juvenile District Court may be had by any person so penalized under this subchapter. It shall be unlawful for any person to operate a bicycle while the registration thereof is revoked or suspended. By the adoption of this ordinance, it is not intended that this penalty is the exclusive one but should be construed with other state statutes governing the use of vehicles on highways.

§ 5004. Savings clause

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application and to this end the provisions of this ordinance are declared to be severable.

### Subchapter 12. Method of Parking

§ 5021. Standing or parking close to curb

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the righthand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as otherwise provided in this subchapter.

§ 5022. Signs or markings indicating angle parking

(a) The chief of police shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets but such angle parking shall not be indicated upon any federal-aid or state highway within this city unless the state highway board has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.

§ 5023. Obedience to angle parking signs or markings

Upon those streets which have been signed or marked by the chief of police for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

§ 5024. Permit for loading or unloading at an angle

(a) The chief of police is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property.

(b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

§ 5025. Lights on parked vehicles

(a) Whenever a vehicle is lawfully parked at nighttime upon any street within a business or residence district no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked upon a street or highway outside of a business or residence district during the hours between 1/2 hour after sunset and 1/2 hour before sunrise, such vehicle shall be equipped with one or more lamps which shall exhibit a white light on the roadway side visible from a distance of 500 feet to the front of the vehicle and a red light visible from a distance of 500 feet to the rear.

(c) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

Subchapter 13.  
Stopping, Standing or Parking Prohibited in Specified Places

§ 5041. Stopping, standing or parking prohibited; no signs required.

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 6 feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 12 feet of a crosswalk at an intersection, except as otherwise designated by markings;
- (7) Within 20 feet upon the approach of any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
- (8) Between a safety zone and the adjacent curb or within 20 feet of points on the curb immediately opposite the ends of a safety zone, unless the chief of police has indicated a different length by signs or markings.
- (9) Within 50 feet of the nearest rail of a railroad crossing;
- (10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance.
- (11) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
- (12) On a roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (14) At any place where official signs prohibit stopping;
- (15) Between the sidewalk and the traveled portion of the highway on both sides of North Main Street, South Main Street and Woodstock Avenue, provided however, that when adverse weather conditions necessitate during the period from the first day of December to the thirty-first day of March persons may stop, stand or park vehicles in said area with the written permission of the chief of police.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

§ 5042. Parking not to obstruct traffic

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic.

§ 5043. Parking in alleys

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley, in such position as to block the driveway entrance to any abutting property.

§ 5044. All-night parking prohibited

(a) No person owning, operating or controlling a motor vehicle shall park, or cause to be parked said motor vehicle on any street or highway within the central business district of the City of Rutland from 3:00 a.m. to 6:00 a.m., inclusive.

(b) No person owning, operating or controlling a motor vehicle shall park, or cause to be parked said motor vehicle on any street or highway within the City of Rutland from 12:00 a.m. to 6:00 a.m. inclusive from December 1 through March 31 inclusive.

(c) Excepting herefrom, however, all motor vehicles owned, operated or controlled by persons attending the critically ill on emergency calls and motor vehicles of persons attending church services.

(d) Vehicles parked in violation of subsections (a) or (b) herein during times of snow removal may be moved or removed to another location so as to allow snow removal. The owner or operator of a vehicle so removed shall, notwithstanding any other penalty provided herein, be subject to a civil penalty of not less than \$75.00 and any and all costs, charges and towing, including but not limited to storage incurred as a result of a violation. A lien in favor of the City of Rutland is hereby imposed against any such vehicle for the collection of any sums due.

(e) Motor vehicles so parked or standing on the street or highways may be removed or caused to be removed from the street or highway as a vehicle parked without authorization pursuant to 27 R.O.R. §5310 - 5320.

(f) Police officers and members of the department of public works shall be exempt from damages incurred to motor vehicles removed under this section and those persons other than police officers and members of the department of public works shall be insured and are deemed to be self-insured for liability for any damages incurred to motor vehicles which they remove under this section.

(g) A person who violates a provision of this subchapter shall be subject to a civil penalty of not less than \$50 nor more than \$500. If the offender chooses to pay by waiver, the waiver fine shall be in an amount as set by the Board of Aldermen

§ 5045. Parking for certain purposes prohibited

No person shall park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying such vehicle for sale.
- (2) Washing, greasing, or repairing such vehicle except repairs necessitated by an emergency.

§ 5046. Parking adjacent to schools

(a) The chief of police is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

(b) When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place.

§ 5047. Parking prohibited on narrow streets

(a) The chief of police is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

(b) When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

§ 5048. Standing or parking on one-way streets

The chief of police is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign.

§ 5049. Standing or parking on one-way roadways

In the event a highway includes two or more separate roadways, and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. The chief of police is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

§ 5050. No stopping, standing or parking near hazardous or congested places  
(a) The chief of police is hereby authorized to determine and designate by proper signs places not exceeding 100 feet in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand or park a vehicle in any such designated place.

§ 5051. Duty to move standing vehicle when directed by officer  
No person shall leave any vehicle standing in any public highway or common, to the danger or inconvenience of any person, after being directed to remove it by a police officer.

§ 5052. Registration plate displayed constitutes a prima facie presumption  
In any prosecution for the violation of this subchapter of any amendment thereto, the registration plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such motor vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred.

§ 5053. Parking regulation in public parking areas  
(a) *Authority.* The chief of police is hereby authorized to erect signs indicating prohibiting or restricting of parking privileges within areas reserved for public parking, owned or leased to or by the city, or where the city has been granted the privilege or right to control or restrict parking within an area by the owner or lessee of said land, or by their duly authorized agent or agents.

(b) *Control.* The chief of police is hereby delegated the authority to control the method and duration of parking within the areas set forth in subsection (a) of this section by whatever means he deems reasonably necessary.

(c) *Violation.* When signs prohibiting or restricting parking are erected upon said public parking area or areas, as authorized herein, no person owning, operating or controlling a motor vehicle shall park or cause to be parked a vehicle within said area or areas in violation of any sign. A violation shall be subject to having said vehicle posted with a parking ticket, or said vehicle may be removed at the cost of the violator, all as provided in the charter and ordinance of the City of Rutland and the provisions of the existing traffic ordinances.

(d) *Handicap parking spaces.* The chief of police may designate certain individual parking spaces for handicapped parking only. Such spaces shall be designated by the international symbol of access and the words, "handicapped parking - violators will be ticketed". These spaces will be reserved for the use of handicapped persons or vehicles transporting handicapped passengers.

#### Subchapter 14. Stopping for Loading or Unloading Only

§ 5071. Chief of police to designate curb loading zones  
The chief of police is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

§ 5072. Standing in passenger curb loading zone  
No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed 3 minutes.

§ 5073. Standing in freight curb loading zone.  
No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb

loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

§ 5074. Chief of police to designate public carrier stops and stands

The chief of police is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand, or other stand shall be designated by appropriate signs.

§ 5075. Stopping, standing and parking of busses and taxicabs regulated

(a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than at a bus stand so designated as provided herein.

(b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand, or passenger loading zone so designated as provided herein, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand, or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not farther than 18 inches from the curb and the bus approximately parallel to the curb, so as not to unduly impede the movement of the other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading and unloading of passengers.

§ 5076. Restricted use of bus and taxicab stands

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

Subchapter 15. Stopping, Standing or Parking  
Restricted or Prohibited on Certain Streets

§ 5091. Application of subchapter

The provisions of this subchapter prohibiting the standing or parking of a vehicle shall apply at all times or at those time herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

§ 5092. Regulations not exclusive

The provisions of this subchapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

§ 5093. Parking prohibited at all times on certain streets

When properly signposted, no person shall at any time park a vehicle upon any of the streets described in Schedule III as maintained on file in the office of the city clerk and available for inspection during business hours. Additions, changes, or deletions may be made by the chief of police from time to time in Schedule III and when properly signposted shall have the same force and effect as if set forth herein.

§ 5094. Parking prohibited during certain hours on certain streets

When properly signposted no person shall park a vehicle between the hours specified on any day except Sunday and public holidays on any of the streets or parts of streets, all as described in Schedule IV, maintained on file in the office of the city clerk and available for inspection during business hours. Additions, changes or deletions may be made by the chief of police from time to time in Schedule IV and when properly signposted shall have the same force and effect as if set forth herein.

§ 5095. Stopping, standing or parking, during certain hours on certain streets

When properly signposted no person shall stop, stand or park a vehicle between the hours specified on any day except Sundays and public holidays on any of the streets or parts of streets, all as described in Schedule V, maintained on file in the office of the city clerk and available for inspection during business hours. Additions, changes or deletions may be made by the chief of police from time to time in Schedule V and when properly signposted shall have the same force and effect as if set forth herein.

§ 5096. Parking time limited on certain streets

When properly signposted no person shall park a vehicle for a period of time longer than 2 hours at any time between the hours of 9:30 a.m. and 9:00 p.m. on Fridays and between the hours of 9:30 a.m. and 5:30 p.m. on any other day except Sundays and public holidays on any of the streets or parts of streets, all as described in Schedule VI, maintained on file in the office of the city clerk and available for inspection during business hours. Additions, changes or deletions may be made by the chief of police from time to time in Schedule VI and when properly signposted shall have the same force and effect as if set forth herein.

§ 5097. Parking signs required

Whenever by this chapter or any other ordinance of this city any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the chief of police to erect appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense. Such signs shall be erected at intervals of no more than 300 feet and at least one in each block. The provisions of this section shall not apply to section 5044 of this chapter.

§ 5098. Registration plate displayed constitutes a prima facie presumption

In any prosecution for the violation of this subchapter or any amendment thereto, the registration plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such motor vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred.

#### Subchapter 16. Impounding Vehicles

§ 5111. Authority to impound vehicles; notice to owners

(a) In addition to their authorization under section 5044 of this chapter, members of the police department are hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by this city under the circumstances hereinafter enumerated:

(1) When any vehicle is left unattended upon any bridge, viaduct, or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;

(2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal;

(3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(b) Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed.

In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

(c) Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of 15 days, then and in that event the officer shall immediately send or cause to be sent written report of such removal by mail to the state department whose duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time, and place from which removed, the reasons for such removal, and name of the garage or place where the vehicle is stored.

#### Subchapter 17. Penalties

##### § 5121. Penalties

Unless another penalty is expressly provided by law, every person who violates any provision of this chapter shall be subject to penalty as provided for motor vehicle offenses which are violations of state statute.

#### Subchapter 18. Truck Weight and Routes

##### § 5130. Truck weight restriction

(a) A motor truck, tractor, trailer or other vehicle, machine or attachments shall not be operated or moved upon any highway except upon highways established for such purpose by regulations duly adopted by the board of highway commissioners that gross weight exceeds 18,000 lbs. Such gross weight shall be determined by the total registered weight of each vehicle as required by Title 23, chapter 7 of the Vermont Statutes Annotated and the declared registered capacity thereof as required by Title 23, chapter 7 of the Vermont Statutes Annotated, provided however, that in the event the owner or lessee of such vehicle is a nonresident, then the provisions of this section shall be applied to the person who moves or operates such vehicle.

(b) The board of highway commissioners shall hold at least one public hearing prior to the establishment of any truck route regulations and amendment thereto. The board of highway commissioners shall publish the proposed truck route regulations at least 15 days prior to said public hearing including the date, place and time of the public hearing.

(c) This section shall not apply to the operation of a motor truck, tractor, trailer or other vehicle, machine or attachment while making local deliveries on or to such street.

(d) Any person aggrieved of the action of the board of highway commissioners, may appeal to the board of aldermen in writing for reconsideration within 15 days of the date of the decision of the board of highway commissioners establishing said routes.

##### § 5131. Truck regulations

Motor truck, tractor, trailer or other vehicle, machine or attachments operating within the limits of the City of Rutland shall be regulated by the board of highway commissioners which shall have the power to establish the routes of travel of said motor truck, tractor, trailer or other vehicle, machine or attachment and such other regulations as said board shall promulgate for the orderly provision of such truck traffic.

##### § 5132. Violations/penalties

Any person violating any provision of this ordinance or the regulations enacted hereunder shall be fined not less than \$250.00 and not more than \$500.00 for each offense.

##### § 5133. Inconsistent repeal

All ordinances or parts of ordinances, resolutions, regulations or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extend of such inconsistency.

§ 5134. 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.

§ 5135. Effective date

This ordinance shall take effect in accordance with the charter of the City of Rutland.

§ 5136. Purpose

The purposes of this chapter are to promote the health, safety and the general welfare of all the inhabitants of the City of Rutland, to protect and conserve the value of property and to secure safety from congestion and confusion; and, to minimize damage to streets and roadways.

CHAPTER 4

Rutland Traffic Court

Section

- 5200. Authority--Title
- 5201. Penalties and fines

§ 5200. Authority--Title

This chapter is adopted pursuant to authorization granted in a City of Rutland, Vermont Revised Charter (1974), chapter 35, Traffic Court, the provisions of which are specifically incorporated by reference as if fully set forth herein. The title of this chapter shall be the Rutland Traffic Court.

§ **5201. Penalties and fines (Updated 2-2-2012)**

(a) The following shall be the fines adopted as penalties for the offenses listed below in the Rutland Traffic Court:

Parking in a designated disability zone by someone other than a disabled person or passenger	\$50.00
Parking too near or at a fire hydrant	50.00
Parking on a sidewalk	50.00
Parking on a crosswalk	50.00
Winter Parking Ban	50.00
Overparked at a parking meter	<b>15.00</b>
Second offense	<b>37.50</b>
Third offense and each offense thereafter	<b>50.00</b>
(A second and third offense shall occur when a vehicle remains at an expired meter space for each successive period equivalent to the maximum time allowed at that particular metered space.)	
Overparked at a designated time zone	<b>15.00</b>
Second offense	<b>25.00</b>
Third offense	<b>37.50</b>
(A second and third offense shall occur when a vehicle remains at a designated parking area for each successive period equivalent to the maximum time allowed at that particular time restricted space.)	
<b>Parked in designated "Amtrak Lot" by someone other than an Amtrak passenger or employee</b>	<b>50.00</b>
All other parking violations	10.00

(b) The above listed fines shall double for each violation if the fine is not paid within seven (7) calendars days from the date of issuance. If the fine as doubled is not paid within 21 days after the time to request a hearing expires pursuant to (c) below, said fine shall be doubled again.

(c) A violator may request in writing a hearing within seven days of the issuance of the violation at the Rutland City Traffic Court for the purpose of determining whether said charged violation is well founded pursuant to chapter 35 of the Rutland City Charter.

(d) Any and all fines and penalties collected pursuant to this chapter shall be deposited by the person responsible to collect such funds in the parking meter account.

(e) Such enforcement of parking violations specified above shall be in addition to any other penalties and fines as may be prescribed by law.

## CHAPTER 5

### Motorcycles, Minibikes, etc. on Private and Public Property

#### Section

- 5300. Operation on private property
- 5301. Enforcement
- 5302. Registration and licensing
- 5303. Seizure
- 5304. Exceptions

#### § 5300. Operation on private property

It shall be unlawful for any person to operate or permit to be operated any motorcycle, minibike, trail bike, motor scooter, or other form of two or more wheeled transportation propelled by an internal combustion engine, upon the private property of another unless authorized by the property owner or his agent.

#### § 5301. Enforcement

The owner of any privately owned property desiring enforcement upon his property of any section of this ordinance shall notify the chief of police, or his authorized designee, and the owner or his agent shall post notices on his property adequate to inform the public that operation of such vehicles upon that property is unlawful.

#### § 5302. Registration and licensing

It shall be unlawful for any person to operate any motorcycle, minibike, trail bike, motor scooter or other form of two or more wheeled transportation propelled by an internal combustion engine, upon the private property of another unless authorized by the property owner or his agent. Violation of the provisions of this chapter shall be punishable as would violations of the motor vehicle laws of the State of Vermont.

#### § 5303. Seizure

When any police officer arrests a person and charges him with violation of section 5302, such officer may seize the motorcycle and deliver the same to the chief of police or his authorized designee, and the vehicle shall be held until the charge is disposed of by the court having jurisdiction, provided seizure shall not be made of any motorcycle operated on private property unless the owner of such property complies with the requirements of section 5301.

In disposing of the charge, the court shall order the vehicle returned to its owner, except, however, when any person has been convicted of a second or subsequent violation of this ordinance, the judge may order such vehicle held by the chief of police or his authorized designee for a period not to exceed 90 days.

#### § 5304. Exceptions

The provisions of this chapter shall not apply to emergency vehicles, government vehicles, or to persons driving upon such property with the written consent of the owner or person in lawful possession of such real property, or to the owner, his family, employees, agents or lessees.

## CHAPTER 6

### Removal of Vehicles Parked Without Authorization

#### Section

- 5310. Removal of motor vehicles parked without authorization
- 5311. Definitions
- 5312. Removal of vehicle
- 5313. Posting of parking lots
- 5314. Request for removal of vehicle
- 5315. Registration of towing services
- 5316. Selection of towing operator
- 5317. Notification to police department
- 5318. Towing and storage charges
- 5319. Disabled vehicles
- 5320. Penalty

#### § 5310. Removal of motor vehicles parked without authorization

Pursuant to authority granted in 23 VSA Chapter 19, City of Rutland enacts this ordinance to authorize the removal of motor vehicles parked without authorization on publicly or privately owned land and to provide for payment of towing and storage charges and a lien against the motor vehicle and its owner for payment of towing and storage charges.

#### § 5311. Definitions

(a) "Privately owned land" shall mean any land in private ownership including parking lots, driveways and other lands normally open to vehicular traffic and free ingress and egress by the public and lands not normally utilized for vehicular traffic.

(b) "Publicly owned land" shall mean publicly owned parking lots, rights-of-way, streets, and public lands utilized for non-vehicular purposes. This does include lands normally open to the ingress and egress and flow of vehicular traffic including the paved and unpaved portions of streets.

(c) "Owner" shall mean the owner of the motor vehicle as shown through the registration of the vehicle as provided through the records of the motor vehicle department of the State of Vermont or the applicable records of the state of registration of the motor vehicle as well as any operator who operated or placed the vehicle.

(d) "Parked" shall mean parking, stopping or standing of a motor vehicle upon public or private land without authorization.

(e) "Without authorization" shall be when the person operating or placing the vehicle or allowing it to remain knows or should have knowledge that said placement is done without authorization of the owner or agent of the owner of the lands. In the case of vehicles left on the public streets or upon public rights of way, unauthorized placement can include parking in violation of posted parking regulations, parking in violation of terms of metered parking, parking in violation of the terms of public parking lots, parking conditions, and the leaving of a motor vehicle which is inoperable, unregistered, uninspected or uninsured.

(f) "Towing operator" shall mean any person employed by the City of Rutland to tow, remove and impound motor vehicles pursuant to this ordinance.

#### § 5312. Removal of vehicle

The owner or authorized agent of an owner of private lands or publicly owned lands may cause the removal of any vehicle parked upon said lands without authorization.

§ 5313. Posting of parking lots

In regard to parking lots normally open to ingress and egress of vehicular traffic for use of the public, it shall be a requirement that there be proper posting by signs permanently erected notifying operators of vehicles of any restrictions for the parking of motor vehicles and that a violation of those restrictions can result in towing and can result in the imposition of towing fees and storage charges upon the owner.

§ 5314. Request for removal of vehicle

Any person requesting the removal of a motor vehicle must first contact the Rutland City police department and provide the police department with the registration plate number or vehicle identification number of said motor vehicle.

§ 5315. Registration of towing services

Before providing towing services, the towing operator must be registered with the police department of the City of Rutland, have provided City of Rutland with proof of adequate insurance in case of liability for damage or improper removal including providing that the city shall be an additional names insured on said insurance.

§ 5316. Selection of towing operator

The person requesting removal of the vehicle shall request from the police department of the City of Rutland the list of authorized towing operators. The person requesting removal of the vehicle shall select an authorized towing operator and make provision with that person for the removal and impoundment of the vehicle in question.

§ 5317. Notification to police department

After the removal and impoundment of any vehicle, the person requesting removal and/or towing operator shall notify the Rutland City police department that the vehicle was removed, and the location of the vehicle and the hours in which recovery of the vehicle may occur

§ 5318. Towing and storage charges

Towing and storage charges payable to the city shall be as determined by the board of aldermen. If the vehicle is recovered by the owner on the day that it was towed, there shall be no storage charges imposed. As a condition of employment on behalf of a municipality said towing operator is required to accept cash or a certified or bank check for payment of towing and storage charges and must also recognize at least two (2) national bank credit cards any of which may be used as payment for towing and storage charges. Said towing operator may accept personal checks for payment of towing and storage charges within his/her discretion.

§ 5319. Disabled vehicles

If adequate notice of a disabled vehicle has been provided to the police department of the City of Rutland together with provisions for prompt removal, said vehicle may be allowed to remain for a time specified by the police department.

§ 5320. Penalty

In addition to any other payment of expenses authorized under these sections of ordinance, the owner of a vehicle parked without authorization shall pay civil penalty in an amount not less than \$50 nor more than \$500. If the offender chooses to pay by waiver, the waiver fine shall be in an amount as set by the Board of Aldermen.

## TITLE 29

### WATER RESOURCES

#### Chapter

1. City Water Department
2. Watershed Regulations

#### CHAPTER 1

#### City Water Department

#### Section

5321. Superintendent of water works; maps, plans and records
5322. Inspection of plumbing fixtures, etc; duty of consumer
5323. Establishment of water rates; publication of notice
5324. Service payment; penalties (Amended 12/6/2010 #262)
5325. Meter service payments; penalties (Amended 9/15/2008 #254 7/5/2011 #267)
5326. Special service rates; payments
5327. Responsibility of owners for tenants
5328. Collection of Charges; Delinquent Charges (Amended by BOA 2/2/2008; #251)
5329. Pipe tapping or altering
5330. Mains and lateral line; duty of city and consumers
5331. Street and lawn sprinklers
5332. Use of water for unauthorized purpose
5333. Use of water after shut-off for cause
5334. Unauthorized practices
5335. Reports required of plumbers
5336. Shut-offs for repairs or droughts; notice to users
5337. Inspection and maintenance of hydrants and fire plugs
5338. Notice to fire department of shut-offs
5339. Permission to draw water from hydrants
5340. Privately-owned fire hydrants
5341. Tampering, etc., with gear belonging to water department
5342. Pollution of water supply
5343. Revenue, records and disposition of
5344. Penalties

- § 5321. Superintendent of water works; maps, plans and records

The commissioner of public works shall have the immediate supervision of the city water works and all city property pertaining thereto, subject to the orders and ordinances of the board of aldermen. He shall prepare and keep on file in his office, subject at all times to the inspection of any member of the board of aldermen, such maps, plans and records as may be necessary to fully and properly show the location of all

reservoirs, mains, service pipes, valves, cocks and other fixtures in use by this department, and shall turn them over to his successor in office.

§ 5322. Inspection of plumbing fixtures, etc.; duty of consumer

Any duly authorized officer or agent of the water department may enter the premises of any person supplied with water to inspect the pipes, fixtures, etc., which are used in connection with the water supplied, and it shall be the duty of every person supplied, to answer at all reasonable times all proper inquiries made by the department or their agents in regard to the quantity, purposes and manner in which the water is used on the premises.

§ 5323. Establishment of water rates; publication of notice

The board of aldermen shall establish all regular service, meter service and special service water rates. The city treasurer shall cause to be published in one or more newspapers printed in the city, advertisements stating when and where such service rates will become payable. Such advertisements shall be published simultaneously with each billing procedure, and shall specify the penalties and fees that will accrue if prompt payment is not made.

§ 5324. Service payment; penalties

**(a) The service rates for water shall be set by the Board of Aldermen by December 31<sup>st</sup> of each year. Such rates shall then be applied to the billing cycle corresponding with the bill sent out by the city treasurer as close as is practicable to the close of the quarterly period ending on the 20<sup>th</sup> day of June in the year following.** Said bill shall be paid in quarterly installments payable to and collected by the city treasurer per section 5325 of this chapter.

(b) If such premises obtains a meter during any quarter, said quarter is payable at the regular service rate and subject to all penalties called for. Premise reverts to meter service in the subsequent quarter and becomes subject to all of section 5325 of this chapter

§ 5325. Meter service payments; penalties

**(a) The meter service rates for water shall be payable to and collected by the city treasurer at his office quarterly. The bills for meter service shall be sent out by the city treasurer as close as is practicable to the close of each quarterly period ending on the 20th day of December, March, June and September. If bills are not paid by the 1st day of February, May, August and November, respectively, a penalty of 5 percent shall be added thereto and become an integral part thereof.**

(b) If such augmented bill is not paid by the 1st day of March, June, September and December, respectively, it shall be turned over to the Office of the City Treasurer, which shall add 8 percent to such augmented bill.

(c) In addition to the assessment of fees set forth above, the City may proceed to disconnect the water service in accordance with 24 V.S.A Chapter 129. (Amended February 10, 2009)

**(d) Subsection (c) immediately above notwithstanding, when any parent or legal guardian occupant satisfies the City of Rutland Credit Supervisor within 7 days of notice of termination that an affected dwelling is occupied by someone less than 13 years of age, the water service at the subject property shall not be terminated until 30 days subsequent to the termination date specified in the first notice of termination. (Amended 7/14/2011 #267)**

§ 5326. Special service rates; payments

The special service rates for water shall be payable to and collected by the city treasurer at his office, in advance.

§ 5327. Responsibility of owners for tenants

Owners shall be so far responsible for the service rates of tenants as that new tenants will not be entitled to a supply until all arrearage are paid. When water is supplied to more than one party through a single tap, the water may be shut off in case of nonpayment of either party, notwithstanding that one or more parties may have paid their proportion of the amount due.

§ **5328. Collection of charges; delinquent charges** (amended 2/2/2008; effective 4/2/2008)

**Service rates shall be a fee for utilities and may be collected by all means permitted by law, including but not limited to those collection mechanisms provided for in Title 24 of the Vermont Statutes Annotated.**

§ 5329. Pipe tapping or altering

No person shall use the water supplied by the city water works, tap the mains, or any pipe leading there from or attach any pipe thereto, or make any extensions or alterations of or additions to the service pipe upon his premises without first applying to the superintendent of the city water works at his office. All connections shall be made under the direction and to the specifications of the superintendent, and no work shall be started until the application has been approved.

§ 5330. Mains and lateral line; duty of city and consumers

The mains shall be tapped and all lateral pipes laid by the city or its designee as authorized by the commissioner of public works to the line of the street, the city furnishing the stopcock and box and keeping them at all times in repair, extraordinary exceptions, all costs to be borne by the petitioner, but the city will not be accountable for obstructions by frost or otherwise, or for leakage of hydrants or pipes, and damages thereby, upon the premises of individuals. All parties taking water shall keep the pipes and fixtures within their premises in good repair and protected from frost at their own expense, and they shall be held liable for all damages which may result from their failure to do so.

§ 5331. Street and lawn sprinklers

Street or lawn sprinklers shall not be converted into fountains or jets, or be allowed to run to waste in the gutters or upon the laws, but must be kept closed, except when in use for sprinkling, as intended. The city shall have the right to apply a meter to any service pipe, and to charge meter rates therefor.

§ 5332. Use of water for unauthorized purpose

No person shall give away or use any water from the city water works on any premises, for any other purpose than that for which payment has been made; nor allow the water to be wasted from fixtures out of repair or otherwise. The superintendent of the city water works, or his authorized agents, may cut off the water from the premises of any person who shall violate any of the provisions of this section, and such offender shall be deprived of the use of the water until he shall have paid to the city treasurer, for the use of the city, the sum of \$1 for cutting off and turning on the water, and shall have made all necessary repairs.

§ 5333. Use of water after shut-off for cause

No person upon any premises where a regular service rate is established, or who shall take water by special or meter service rates, after the water shall have been shut off for cause, as is provided in this chapter, shall let on the water, or let the water run from the pipes on such premises, or authorize, cause or permit the water to be let on, or draw or use any water from the city water works, on the premises of any other person, with or without the permission of such person, unless the same be done by or under the written direction of the superintendent of the city water works and there shall be no concealment of the purposes for which water is used.

§ 5334. Unauthorized practices

It shall be unlawful for any plumber or any other person to attach any pipe or fixtures to any service pipe connected with the water works or to remove any meter or fixture or in any manner alter any service

pipe connected with the water works without first having a plumber's permit signed by the superintendent. It is to be understood that the rules and regulations governing plumbers or their agents are not to prevent them from rendering assistance in case of accident to the pipes occurring during the night or at hours when the office is closed.

§ 5335. Reports required of plumbers

Every plumber who shall set up any pipes or fixtures for the use of water from the city water works or shall make repairs upon, or additions to, pipes or fixtures already set up shall, within 3 days after such repairs or additions have been completed, fill out and return to the superintendent a report, describing all fixtures, both old and new, for the use of water on the premises, which report the superintendent shall immediately record and certify to the city treasurer. For any misrepresentation or omission in the statement of work done, or of work to which additions have been made, the plumber may be suspended, and if such error appears to be wilful, his permit will be revoked. Water will be supplied only to pipes and fixtures that have been set up and completed under the direction of a plumber having a permit from the superintendent, and which shall be fully enumerated and described in a report to the superintendent and approved by the inspector.

§ 5336. Shut-offs for repairs or droughts; notice to users

The water department or their authorized agents shall have the right to shut off water for the purpose of making extensions, alterations or repairs, or on account of any accident to the works, or in case of violation of the rules or neglect to pay the service rates when due, and in case of drought or threatened scarcity of water to diminish or stop the supply, without any claim for abatement or damage for loss of water. When the superintendent shall have cause to shut off the supply of water on any line for repairs, he shall immediately notify the water consumers on the line of pipe to be shut off, stating as nearly as possible the length of time such supply will be shut off; provided, however, in case of sudden bursts, the water may be shut off without notice.

§ 5337. Inspection and maintenance of hydrants and fire plugs

The superintendent shall have an examination made of the hydrants and fire plugs belonging to the city, from time to time, and keep them in working order at all times, except when shut off for repairs; and shall cause all defects therein to be repaired without delay.

§ 5338. Notice to fire department of shut-offs

The superintendent, whenever he shall cut off the supply of water from any of the hydrants in any part of the city, for repairs or other causes, shall immediately give notice thereof to the chief engineer of the fire department. He shall state in the notice particularly to what extent the hydrants are so rendered unavailable for fire service; and shall also notify the chief engineer when the said hydrants are again in working order.

§ 5339. Permission to draw water from hydrants

No person shall open any hydrant or draw water therefrom, except under the direction of the superintendent of the water department, the chief engineer of the fire department, or the commissioner of public works.

§ 5340. Privately-owned fire hydrants

Parties having private fire hydrants on pipes connected with the mains for fire protection will be governed in all cases by the foregoing regulation. Reasonable requests for testing private hydrants or pipes will be granted on application at the office of the superintendent. All such hydrants and appliances shall be open to the inspection of the agents of the city water works at all times, and may be opened by the insurance inspector to ascertain if the water is on and the hydrants or pipes are in working order, notice of such opening being given at the officer of the superintendent within 24 hours thereafter by such insurance inspector.

§ 5341. Tampering, etc., with gear belonging to water department

No person shall meddle with, disturb, remove, carry off, or in any way injure any hydrant, valve, valve box or cover, meter, stopcock, stop-box or cover, pipe, tool, apparatus, fixture, building, machinery or fence, belonging to the city water works, nor place anything in such manner as to obstruct or hinder free access to any hydrant or meter.

§ 5342. Pollution of water supply

No person shall throw, or place, or cause to be thrown, put or placed, in any public reservoir, or stream connected therewith, or waters in the city, any stone, dirt, ashes, shavings, sticks, garbage, rubbish or filth of any kind, nor shall wade, or bathe or fish in, or cause or permit a dog or animal to go into or swim in the water, nor skate on the ice of a public reservoir.

§ 5343. Revenue, records and disposition of

All moneys received in any way on account of the city water works shall be paid into the city treasury. The city treasurer shall keep accounts, showing fully all receipts had and payments made in any manner on account of the water works, separately from all other receipts and payments. The revenue derived from the water works shall be appropriated as follows: first, to pay the necessary expense of their maintenance; second, to pay interest on the indebtedness of the city incurred for their construction; third, to the sinking fund as provided for the payment of said indebtedness; fourth, necessary extensions of the water works; and fifth, to the general requirements of the city.

§ 5344. Penalties

Any person who shall violate any of the provisions of this chapter shall be subject to a civil penalty of not less than \$50, nor more than \$500 for each offense. Each day of said violation shall be considered a separate offense.

## CHAPTER 2 Watershed Rules and Regulations

Section

- 5345. Application
- 5346. Definitions
- 5347. Human excreta and sewage control
- 5348. Subsurface sewage disposal
- 5349. Existing sewage disposal systems plans
- 5350. Discharge of sewage or polluted liquid
- 5351. Prohibited activities and materials
- 5352. Pesticides
- 5353. Animal and animal waste control
- 5354. Land developments
- 5355. Inspections
- 5356. Penalties
- 5357. Severability

§ 5345. Application

The rules and regulations hereinafter given and duly made in accordance with the provisions of Vermont Statute Annotated, chapter 73, section 3315 and with the provisions of section 24-4 of the Charter of the City of Rutland, and shall apply to lands forming the watersheds from which the City of Rutland obtains any part of its water supply and to all water courses which now serve or which may be developed in the future to serve as sources of the public water supply of the City of Rutland, Rutland County, Vermont.

§ 5346. Definitions

- (1) *Herbicide* shall mean any substance used to destroy or inhibit plant growth.
- (2) *Human excreta* shall mean human feces and urine.
- (3) *Junk yard* shall mean an area where two or more unregistered, old or secondhand motor vehicles are being accumulated for purposes of disposal, resale of used parts, or reclaiming certain materials such as metal, glass, fabric, etc.
- (4) *Linear distance* shall mean the shortest horizontal distance from the nearest point of a structure or object to the high-water mark of a reservoir, or to the edge, margin or precipitous bank forming the average high water mark of a watercourse.
- (5) *Pesticide* shall mean any substance used to destroy pests such as rodents and insects.
- (6) *Radioactive material* shall mean any material in any form that emits radiation spontaneously.
- (7) *Refuse* shall mean all putrescible and nonputrescible solid waste including garbage, rubbish, ashes, incinerator residue, street cleanings, dead animals, offal and solid commercial and industrial waste.
- (8) *Refuse disposal area* shall mean land used for the depositing of refuse.
- (9) *Reservoir* shall mean any natural or artificial lake or pond which is tributary to or serves as a source of the Rutland City public water supply.
- (10) *Sewage* shall mean the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture or equipment or machine.
- (11) *Sewage disposal system* shall mean a system for disposing of sewage or other wastes, and including sewers and treatment works.
- (12) *Toxic chemical* shall mean any compound or substance which is or may endanger human health.
- (13) *Treatment works* shall mean any plant, disposal field, subsurface system pumping station, construction drainage ditch or surface water intercepting ditch, incinerator, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage or other wastes.
- (14) *Watercourse* shall mean every spring, stream, marsh, or channel of any kind, the waters of which flow or may flow into the Rutland City public water supply.
- (15) *Watershed* shall mean the entire drainage area contributing water to the Rutland City public water supply.
- (16) *Water supply* shall mean the public water supply of the City of Rutland.
- (17) *Commissioner* shall mean the commissioner of public works, City of Rutland, Vermont, or his authorized representative.
- (18) *Land Development* shall mean the division of a parcel into two or more parcels; or the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure; or the use of land for mining, excavation or land-fill; and any change in the use of any building or other structure, or land or extension of land.

§ 5347. Human excreta and sewage control

- (1) No human excreta shall be deposited or allowed to escape into any reservoir or watercourse on the watershed.
- (2) No human excreta shall be deposited or spread upon the surface of the ground at any point on the watershed.
- (3) No human excreta shall be buried in the soil on the watershed. All human excreta must be transported to an approved disposal system.
- (4) No privy or receptacle of any kind for the deposit or storage of human excreta and sewage shall be constructed, placed, or maintained on the watershed except:
  - (a) water-flushed toilets connected by a watertight pipe to a sewer disposal system that has been approved by the appropriate state agency having jurisdiction over such facilities and by the commissioner.

(b) A properly designed, constructed and operated treatment works that has been approved by the appropriate state agency having jurisdiction over such facility and by the commissioner. Disposal of sewage shall be done by connection to a subsurface sewage disposal system constructed in accordance with existing state regulations and guidelines or to an approved sewerage system.

§ 5348. Subsurface sewage disposal

(1) Plans for land development shall be prepared by a licensed professional engineer for the safe handling of sewage disposal by subsurface means either on an individual plat basis or on a development wide basis. Said plans shall indicate the flow of surface and ground waters.

(2) Permit Standards. Reference is hereby made to the following standards and permits for subsurface sewage disposal, which are incorporated herein by reference:

(a) U.S. Department of Health, Education and Welfare "Manual of Septic Tank Practice".

(b) State of Vermont, Department of Health Standards.

(c) City of Rutland, Private Sewage Disposal Construction Permit.

(3) Separation distance. No portion of the seepage unit (tile field, seepage pit or equivalent) of a subsurface sewage disposal system shall be constructed, placed or allowed to remain within a lineal distance of 200 feet of any reservoir or watercourse. Any limiting distance may be increased or decreased when in the opinion of the commissioner it is necessary and can be done without threat to the public health or welfare.

(4) Subsurface soil conditions. Seepage units shall not be constructed or located on steep slopes, or where bedrock or hardpan soil conditions prevail.

(5) Septic tanks - disposal of contents. All emptying, transporting and disposing of the contents of septic tanks, distribution boxes or other receptacles containing sewage, or in transferring their contents to a transportable receptacle, shall be accomplished by an operator approved by the State of Vermont and/or the commissioner, and all necessary care shall be exercised to prevent contamination of any reservoir or watercourse. All septic tanks shall be inspected annually by the commissioner. The maximum interval for pumping out septic tanks shall not exceed three (3) years and more frequently if necessary, in the opinion of the commissioner. All septic tanks shall have an indicator pipe visible for easy location by the inspector. All septic tanks shall have a manhole brought to surface. All transportable receptacles shall be provided with tightly fitting covers which are securely fastened when transporting waste to the place of ultimate disposal. The contents of the septic tanks, distribution boxes or other receptacles containing sewage shall be disposed of at a properly designed, constructed and operated sewage disposal system that has been approved by the appropriate state agency having jurisdiction over said facility.

§ 5349. Existing sewage disposal systems plans

Before any existing sewage disposal system is altered, either physically or by a change in contributory population and/or type of establishment, the plans in relation thereto shall have been first approved by the appropriate state agency having jurisdiction over such facility and/or by the commissioner. Standards for said plans shall be the same as set forth in section 5348(2). When an existing subsurface sewage disposal system fails, the entire system must be re-evaluated in accordance with 5347(4.b.).

§ 5350. Discharge of sewage or polluted liquid

No sewage or polluted liquid of any kind shall be discharged or allowed to flow into any reservoir or watercourse, or beneath the surface of the ground in the watershed, except into watertight receptacles or watertight pipes connected to a sewage disposal system, all approved in accordance with this chapter. The restrictions and limiting distances in this chapter shall not apply to sewage treatment works installed in accordance with plans which first have been submitted to and approved by the commissioner and by the appropriate state agency having jurisdiction over such facility.

§ 5351. Prohibited activities and materials

(1) Refuse disposal area. No refuse disposal area shall be located within the watershed, unless approved by the commissioner.

(2) Cemeteries. No interment of a human body shall be made within the watershed, except within existing bounds of existing cemeteries.

(3) Radioactive material. No radioactive material shall be disposed of on the watershed.

(4) Junk yards. No junk yard shall be permitted on the watershed. (5) Bathing, swimming and washing of animals, articles or persons are prohibited in any reservoir or watercourse within the watershed. Before draining private constructed swimming pools, the commissioner shall be notified so that effluent can be diverted from intake towards supply.

(6) Temporary shelters. No hut, tent, shelter or building of any kind, except a waterworks structure, shall be permitted on the water or ice of any reservoir or watercourse owned by the City of Rutland.

(7) Boating. No boating shall be allowed in or upon the waters of any reservoir or watercourse owned by the City of Rutland except by duly authorized employees of the City of Rutland in the performance of their duties of supervision and maintenance of the water supply.

(8) Fishing and trespassing. No fishing or trespassing shall be allowed within 1,000 feet of the water supply intake. Proper posting shall be carried out by the commissioner to give warning of this limitation.

§ 5352. Pesticides

Pesticides shall not be applied onto the land or into the waters in the watershed unless (a) a tolerance for such pesticide in drinking water has been established by the commissioner, and it has been shown that such application will not result in concentrations in such waters exceeding said tolerance; or (b) the pesticide is defined as a class "C" pesticide by the commissioner of agriculture; or (c) the commissioner of health has approved the use of a prohibited pesticide for a specific purpose, and only on a case by case basis.

§ 5353. Animal and animal waste control

The stabling or grazing of animals, including hogpens, and collections of manure piles or compost heaps shall not be maintained or allowed to remain within 300 feet of any reservoir or watercourse; and said activities in areas outside this limitation shall be maintained in a manner acceptable to the commissioner.

§ 5354. Land developments

All land development, including logging and subdivisions, shall be accomplished within the guidelines of the City of Rutland watershed management guidelines.

§ 5355. Inspections

Duly authorized representatives of the water works division of the department of public works, shall make regular inspections of the reservoir, watercourses and watershed to ascertain whether these rules and regulations are being complied with. It shall be the duty of the commissioner to cause copies of any rules and regulations violated to be served upon the persons violating the same, together with notices of such violation. If such persons do not immediately comply with the rules and regulations, it shall be the further duty of the aforesaid City of Rutland, through its commissioner of public works, to promptly notify the state commissioner of health of such violations. The commissioner shall report to the state commissioner of health annually, in writing, prior to the 30th of January, the results of the regular inspections made during the preceding year. The report shall state the number of notices served, the number of violations abated and the general condition of the watershed at the time of the last inspection.

§ 5356. Penalties

In addition to any other penalties as provided by law, a person who violates any section of this title shall be subject to a civil penalty of not less than \$200 nor more than \$500. Each day during which a violation occurs shall be considered a separate offense.

§ 5357. Severability

If any provision of any section of these regulations or the application thereof to any person or circumstance, shall be held invalid, such invalidity shall not affect the provisions or applications of these regulations which can be given effect without the invalid provisions of the application and to this end the provision of these regulations are declared to be severable

## TITLE 31 ZONING AND PLANNING

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City of Rutland, Vermont  
ZONING BYLAWS

ARTICLE I ENACTMENT AND INTENT

§ 31-101 Enactment

- (A) These zoning bylaws are enacted under the Vermont Municipal and Regional and Development Act, 24 V.S.A., chapter 117, as amended from time to time.
- (B) These zoning bylaws shall be known as the City of Rutland Zoning Bylaws.
- (C) The districts hereinafter described are depicted on the Rutland City Zoning Map approved simultaneously herewith and made a part hereof.

ARTICLE II ADMINISTRATION AND ENFORCEMENT

§ 31-201 Zoning Administrator

- (A) The zoning administrator of Rutland shall administer these bylaws literally, and shall have the power to permit any development which is in conformance with these bylaws.
- (B) If any uncertainty exists with respect to the boundary of any zoning district on the Rutland City Zoning Map, the presumption shall be that the zoning boundaries follow the property lot lines as depicted on the zoning map. The zoning administrator shall determine the exact location of the zoning boundary in question.

§ 31-202 Zoning Permit

- (A) No development shall commence without a zoning permit issued by the zoning administrator. No zoning permit may be issued by the zoning administrator except in conformance with these regulations. The applicant shall fully complete the "City of Rutland Application for Zoning Permit" with the required attachments and fee. The Application for Zoning Permit shall be signed by an owner of the property or a duly authorized agent of owner.
- (B) Any development or use not permitted in a zoning district by these bylaws shall be deemed prohibited.
- (C) Within 30 days after the submission of an application deemed completed by the zoning administrator, the zoning administrator shall issue a written denial or approval of the permit to the applicant.
- (D) A zoning permit shall specify the date of issuance and contain a statement of the time period within which an appeal may be filed. No zoning permit issued shall take effect until the time for appeal has passed, or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

§ 31-203 Exemptions

No zoning permit is required for the following, unless otherwise required by Rutland City Flood Hazard Area Regulations; [Amended September 10, 2008]

- (A) Fences ten feet or less in height or walls six feet or less in height.
- (B) Terraces and steps which are not covered.
- (C) Doghouses, swing sets, driveways, flagpoles and other such structures.
- (D) All signs
- (E) A detached structure of not more than sixty-four square feet with a longest dimension of no greater than sixteen feet and located five or more feet from the side or rear lot line. Said structure may be located on the boundary line of the immediately adjacent property owner if the adjacent affected owner agrees in writing, in advance. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner shall be filed with the zoning administrators office.
- (F) Landscaping/fill.
- (G) Minor structural modifications/repairs.
- (H) Any repair, structural alteration or alteration of any building or other structure which does not change the use or footprint or increase the square footage of said structure.
- (I) Fire escapes.
- (J) Utility boxes.
- (K) Demolition of a structure except as provided in § 31-210 herein.
- (L) Satellite dish up to five feet in diameter and antennas up to twenty feet beyond the height of the building.
- (M) Temporary structure if removed within 10 days after the primary project is to be completed.

§ 31-204 Fees

The Board of Aldermen shall establish all fees to be charged for the administration of these regulations. A fee schedule shall be maintained and available for public distribution at the zoning administrator's office.

§ 31-205 Fines and Penalties

Violations of any provisions of these by-laws shall be considered a civil penalty subject to fine and penalties as set by the Board of Aldermen (**On 5-20-2019, BOA confirmed fines consistent with 24 V.S.A. §4451 up to \$200 per day**). Each day that a violation continues shall be considered a separate offense and subject to daily fines.

§ 31-206 Appeals; Variances

All appeals and applications for variance shall be filed as prescribed by Vermont Statutes as amended from time to time

§ 31-207 Development Review Board

- (A) The Development Review Board for the City of Rutland shall consist of not more than 5 (five) members and 3 (three) alternates who shall be appointed by the Mayor and approved by the Board of Aldermen. The term for the members and alternates of the Development Review Board shall be three (3) years. The terms of the initial members of

the Board shall be: one (1) member for 1 (one) year, 2 (two) members for 2 (two) years and 2 (two) members for 3 (three) years. The terms of the initial alternates shall be: 1 (one) for 1 (one) year, 1 (one) for 2 (two) years and 1 (one) for 3 (three) years. The alternates shall serve when one or more members of the Development Review Board are unable to serve for whatever reason. Vacancies shall be filled by the same appointment process as for members, and the replacement shall serve the remainder of the term of the member replaced. Each member of the Development Review Board may be removed for cause by the Board of Aldermen upon written charges and after public hearing.

- (B) If a development requires more than one review, such as zoning review, site plan, design control, subdivision review or conditional use review, these reviews may be combined into a single hearing.

#### § 31-208 Conditional Uses

- (A) The applicant for a Conditional Use shall submit an application to the zoning administrator in a form acceptable to the zoning administrator. The zoning administrator shall set a hearing date and notify the applicant of the date. Notice shall be given pursuant to State law. The Application for a conditional use shall be signed by an owner of the property or an authorized agent of said owner.
- (B) The Development Review Board may approve a conditional use if it finds that the proposed use shall not substantially adversely affect:
  - 1. The capacity of existing or planned community facilities;
  - 2. The character of the area affected;
  - 3. Traffic on roads and highways in the vicinity;
  - 4. Bylaws then in effect, or
  - 5. Utilization of renewable energy resources;
  - 6. Any specific standards for a conditional use as provided for in a particular district.
- (C) The Development Review Board shall act to approve or disapprove a Conditional Use Application within forty-five (45) days of the final public hearing. Failure to act within forty-five (45) days shall be deemed approval of the application.
- (D) The conditional use permit becomes null and void if the use is discontinued for one (1) year.
- (E) In granting such conditional uses, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purposes of Title 24 Chapter 117 of the Vermont Statutes Annotated and these zoning bylaws.

#### § 31-209 Site Plan Requirements and Review:

- (A) A request for site plan review shall be submitted to the Development Review Board:
  - 1. If site plan review is required in these regulations.
  - 2. If the development is subject to review pursuant to the City of Rutland subdivision regulations.

The Zoning Administrator shall advise the applicant on the required documentation that shall be submitted with the "City of Rutland Application for Zoning Permit". The applicant shall provide notice to abutting land owners as required by State law.

- (B) The Applicant shall submit two sets of the site plans drawn to an appropriate scale and supporting data to the Development Review Board which shall include the following information unless deemed unnecessary by the Zoning Administrator.

Name and address of owners of record;

Name and address of applicant if different from owner;

3. Name and address of adjoining landowners;
4. Estimated time of completion;
5. Existing and proposed features clearly indicated;
6. Structures and other improvements;
7. Streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks, elevations, landscaping including grading, landscape design, screening and drainage, walls, retaining walls, etc.;
8. Soil erosion and sediment control plans;
9. Proposed utility plans including but not limited to drainage lines, catch basins, swales, sewer lines, water lines, utility lines, etc.

- (C) The Development Review Board shall review the zoning application, including site plan application, including but not limited to the maps, data and other information submitted by the applicant and may impose appropriate conditions and safeguards to ensure adequacy of:

1. Traffic access, circulation and parking;
2. Landscaping and screening;
- 3 The protection of the utilization of renewable energy resources; and,
2. Aesthetic relationship between proposed uses and existing surrounding uses.
3. Drainage.
6. Buffering
7. Exterior Lighting
8. Other matters specified in these bylaws

§ 31-210 Design Control Districts

- (A) The City of Rutland is establishing Design Control Districts within the City. These are as a result of a report on designation of A Design Control Districts@ prepared by the Rutland City Planning Commission. That report provides for the establishing of Design Control Districts that include the Downtown Business District, Courthouse District and Main Street Park District and all Gateway Business Districts. All exterior development, unless specifically excluded in these regulations, in the Downtown Business District, Courthouse District, Main Street Park District and all Gateway Business Districts shall be reviewed by the Development Review Board. The applicant shall provide notice to abutting land owners as required by State law.
- (B) Developments within the Downtown Business District have been controlled by the architectural and design guidelines in place since 1993. These are attached as Appendix A.

Any development in the Downtown Business District will continue to be reviewed pursuant to those guidelines by the Architectural Review Committee.

- (C) All demolition in the Courthouse District, Main Street Park District, all Gateway Business Districts and the Downtown Business District shall be reviewed by the Development Review Board except:
  - 1. Fences and walls
  - 2. Terraces and steps which are not covered
  - 3. Dog houses, swing sets, driveways, flagpoles and other such structures
- (D) Within the Courthouse District and Main Street Park District, all Gateway Business Districts and the Downtown Business District no structure may be erected, reconstructed, substantially altered, moved or demolished without review and approval of the plans by the Development Review Board. There will be review by the Architectural Review Committee which shall make report to the Development Review Board.
- (E) Any other zoning permits issued within the Courthouse District and Main Street Park District, all Gateway Business Districts and the Downtown Business District not required to be reviewed pursuant to subsection D above will be reviewed by the Zoning Administrator. The Zoning Administrator may approve the zoning permit. However, if in the opinion of the Zoning Administrator, minor exterior modifications are being made which will change the facade, roof line, window patterns and other exterior modifications, the Zoning Administrator may require review by the Architectural Review Committee. Review by the Architectural Review Committee will be final and will not require further review by the Development Review Board.

§31-211 Administrative Review

(A) Authority

The Zoning Administrator is hereby authorized to conduct administrative review and approval of site plan and design review applications for principal permitted uses as provided below.

(B) Determination of Eligibility

All determinations of eligibility for zoning administrative review are subject to the discretion of the Administrator. The Zoning Administrator may review, approve, approve with conditions, or deny administrative amendments to site plans and design review involving a principal permitted use if the proposed amendment meets one or more of the following thresholds and criteria:

- 1. Relocation of site improvements and/or accessory structures that have been previously approved, provided that such relocations do not alter the approved coverage for the site.
- 2. Re-approval of plans if a permit issued by the Development Review Board has expired within the preceding six months and no changes or alterations of any kind are proposed, including those outlined in (4) below.

3. Approval of plans showing as-built adjustments beyond standard field adjustments, provided that such adjustments do not require the amendment of any condition of approval in the most recent findings of fact.
4. Minor alterations to an approved landscaping plan such as substitution of appropriate similar species or landscaping or hardscaping material, provided that the landscaping proposed in the amended plan is equal to or exceeds the landscaping approved by the Development Review Board.
5. An increase in building area and/or impervious coverage totaling less than five thousand (5,000) square feet or three percent (3%) of the overall site coverage, whichever is smaller. Applicants are advised that the cumulative total increase in building area and/or site coverage cumulatively permitted through all administrative amendments on any one lot shall not exceed five thousand (5,000) square feet or three percent (3%) of the overall site coverage, whichever is smaller. Development Review Board approval shall be required for any amendment exceeding these limits.
6. Changes in use of all or part of a building or structure with prior site plan approval to a permitted use in the applicable zoning district, provided the proposed use, whether solely or in combination with other uses subject to the same approval, will not result in any permitting requirement or threshold being exceeded or violated.

(C) Reporting of Decisions

All administrative approvals shall be reported by the Zoning Administrator to the Development Review Board at its next meeting following the date of the approval, and all such decisions of the Administrative Officer shall state that the decision may be appealed in accordance with State law.

Article III DISTRICTS

§ 31-301 Single Family Residential District (SFR)

- (A) There is hereby established a single-family residential district hereinafter referred to as SFR.
- (B) The area and dimensions for SFR shall be:
  1. Minimum lot size 10,000 sf.
  2. Minimum frontage 50 ft.
  3. Minimum setbacks
    - a. Front 25 ft.
    - b. Side 15 ft.
    - c. Rear 20% of lot - min. 20 - max 50
  4. Maximum building height 40 ft.
  5. Minimum building width 20 ft.

Notwithstanding §31-501 Definitions, Building, for purpose of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width

(C) The following are permitted uses in SFR.

4. Single Family Dwelling
5. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
6. Day Care - Home
7. Municipal uses
5. Residential Care Home

(D) Conditional Uses

1. School and school uses
2. Church and church uses
3. Country Club/Golf Course excluding mini-golf
4. Cemetery
5. Utility facilities, provided there is no service area or garage
6. Bed and Breakfast
7. Day Care - Small

(E) Accessory Uses

8. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
9. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
10. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner whose property the structure will be abutting is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on a corner lot the side yard setback shall be 15 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

§ 31-302 Mixed Residential District 1 (MR-1) Amended September 2008

(A) There is hereby established a mixed residential district hereinafter referred to as MR.

(B) The area and dimensions for MR-1 shall be:

- |     |                         |                            |
|-----|-------------------------|----------------------------|
| 11. | Minimum lot size        | 6,500 sf.                  |
| 12. | Minimum frontage        | 50 ft.                     |
| 13. | Minimum setbacks        |                            |
|     | a. Front                | 20 ft.                     |
|     | b. Side                 | 10 ft.                     |
|     | c. Rear                 | 20% of lot - min 20 max 50 |
| 4.  | Maximum Building height | 40 ft.                     |
| 5.  | Minimum Building width  | 20 ft.                     |

Notwithstanding §31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The following are permitted uses in MR-1:

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
3. Day Care Home
4. Municipal Uses
5. Residential Care Home
6. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
7. Bed & Breakfast
8. Day Care - Small

(D) Conditional Uses:

1. Neighborhood Retail

- 2 Office
- 3 Funeral Homes
- 4 Community Facility
- 5 Cemetery
- 6 Club
- 7 Utility facilities, provided there is no service area or garage
- 8 Agriculture
- 9 Parking for all permitted uses not located on the same lot as the permitted use
- 10 Mobile home parks
- 11 School and School uses
- 12 Church and Church uses

(E) Accessory Uses

- 1 Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
- 2 Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
- 3 A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner whose property the structure will be abutting is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on a corner lot, the side yard setback shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

**§ 31-302(a) Mixed Residential District 2 (MR-2) Amended September 2008**

(A) There is hereby established a mixed residential district hereinafter referred to as MR -2. The mixed residential district shall be located in the area bounded easterly by the westerly boundaries of the existing single-family properties on the westerly side of Dorr Drive, northerly by the southerly boundaries of the single-family properties on the southerly edge of Stone Ridge Drive, westerly by a line parallel to and 200 feet easterly of Campbell Road, and southerly by the southerly boundary of the existing Otter Creek Development, LLC parcel.

(B) The minimum lot size and dimensions for MR-2 uses shall be:

- 1. Minimum lot size:  
Multi-family: One acre minimum; one unit allowed per 10,000 square feet of lot size.
- 2. Minimum frontage:
  - a. Single-family: 50 feet
  - b. Multifamily: 150 feet
- 3. Minimum setback:
  - a. Front 200 ft.
  - b. Side 50 ft.
  - c. Rear 50 ft.
- 4. Maximum Building height 40 ft.
- 5. Minimum Building width 20 ft.

(C) The following are permitted uses in MR-2:

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
3. Multifamily residential
4. Day care - Home
5. Municipal Uses
6. Residential Care Home

(D) Conditional Uses:

1. School and school uses
2. Church and church uses
3. Country club/Golf course excluding mini-golf
4. Cemetery
5. Utility facilities, provided there is no service area or garage
6. Bed and Breakfast
7. Day care – small

(E) Accessory Uses

1. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory buildings shall not be used for dwelling purposes.
2. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
3. A detached accessory building (structure) may be placed on the rear or side lot line provided that the written consent of the abutting property owner or owners is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on a corner lot, the side yard setback shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrator's office.

§ 31-303 Gateway Business District - South Main Street

(A) There is hereby established a Gateway Business District - South Main Street.

(B) The area and dimensions for GB-SMS shall be:

- |     |                         |            |        |
|-----|-------------------------|------------|--------|
| 14. | Minimum lot size        | 10,000 sf. |        |
| 15. | Minimum frontage        | 50 ft.     |        |
| 16. | Minimum setbacks        |            |        |
|     | a. Front                | 10 ft.     |        |
|     | b. Side                 | 10 ft.     |        |
|     | c. Rear                 | 10 ft.     |        |
| 17. | Maximum building height |            | 40 ft. |
| 18. | Minimum building width  | 20 ft.     |        |

Notwithstanding § 31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The following are Permitted Uses in GB-SMS:

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
3. Day Care Home
4. Day Care - Small
5. School and School uses
6. Church and Church uses
7. Municipal uses
8. Residential Care Home
9. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
10. Bed & Breakfast
11. Retail Store
12. Office
13. Restaurant
14. Hotel/Inn/Motel
15. Medical Clinic
15. Community Facility
17. Funeral Home



- 23. Minimum frontage 50 ft.
- 24. Minimum setbacks
  - a. Front 10 ft.
  - b. Side 10 ft.
  - c. Rear 10 ft.
- 25. Minimum building width 20 ft.
- 5. Minimum building width 20 ft.

Notwithstanding § 31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The Following are Permitted Uses in GB-GH:

- 1. Single Family Dwelling
- 2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
- 3. Day Care Home
- 4. Day Care - Small
- 5. Municipal uses
- 6. Residential Care Home
- 7. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
- 8. Office
- 9. Medical Clinic
- 10. Funeral Home
- 11. Day Care - Large
- 12. Utility facility, provided there is no service area or garage
- 13. Bed & Breakfast

(D) Conditional Uses

- 1. Halfway house

(E) Design Criteria Gateway Business - Gouger Hill

1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Modern appliances and accessories such as satellite dishes, dumpsters and chain link fencing should be placed in unobtrusive locations, and screened from view.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
5. Lighting shall be compatible with the traditional character of the district.

(F) Accessory Uses

26. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
27. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
28. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

§ 31-305 Gateway Business District - Routes 4 & 7

- (A) There is hereby established a Gateway Business District - Routes 4 & 7.
- (B) The area and dimensions for GB- 4&7 shall be:

- |     |                         |            |        |
|-----|-------------------------|------------|--------|
| 29. | Minimum lot size        | 10,000 sf. |        |
| 30. | Minimum frontage        | 50 ft.     |        |
| 31. | Minimum setbacks        |            |        |
|     | a. Front                | 10 ft.     |        |
|     | b. Side                 | 10 ft.     |        |
|     | c. Rear                 | 10 ft.     |        |
| 32. | Maximum building height |            | 40 ft. |
| 33. | Minimum building width  | 20 ft.     |        |

Notwithstanding § 31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The Following are Permitted Uses in GB- 4&7

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
3. Day Care Home
4. Day Care - Small
5. Municipal uses
6. Residential Care Home
7. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
8. Bed & Breakfast
9. Retail Store
10. Office
11. Restaurant
12. Medical Clinic
13. Utility facility, provided there is no service area or garage

(D) Conditional Uses

1. Clubs
2. Indoor Recreation
3. Service Station
4. Halfway House
5. Parking for permitted uses not located on the same lot as the permitted use

(E) Design Criteria Gateway Business - 4 & 7

1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.

3. Modern appliances and accessories such as satellite dishes, dumpsters and chain link fencing should be placed in unobtrusive locations, and screened from view.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
5. Lighting shall be compatible with the traditional character of the district.

(F) Accessory Uses

34. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
35. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
36. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

§ 31-306 Gateway Business - I District

(A) There is hereby established a Gateway Business -I District.

(B) The area and dimensions for GB-I shall be:

- |     |                         |            |        |
|-----|-------------------------|------------|--------|
| 37. | Minimum lot size        | 10,000 sf. |        |
| 38. | Minimum frontage        | 50 ft.     |        |
| 39. | Minimum setbacks        |            |        |
|     | a. Front                | 10 ft.     |        |
|     | b. Side                 | 10 ft.     |        |
|     | c. Rear                 | 10 ft.     |        |
| 40. | Maximum building height |            | 40 ft. |
| 41. | Minimum building width  | 20 ft.     |        |

Notwithstanding § 31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The Following are Permitted Uses in GB-I

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;

- b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
- c. The primary single family residence is occupied by the owner.

- 3. Day Care - Home
- 4. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
- 5. Bed & Breakfast
- 6. Day Care - Small
- 7. Office
- 8. Funeral Home

(D) Accessory Uses

- 1. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
- 2. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
- 3. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

(E) Design Criteria Gateway Business - I District

- 1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
- 2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
- 3. Modern appliances and accessories such as satellite dishes, dumpsters and chain link fencing should be placed in unobtrusive locations, and screened from view.
- 4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
- 5. The scale and setting of the buildings comprising the existing Main Street streetscape north of Woodstock Avenue to Temple Street shall be maintained and preserved in these areas.

6. Additions, alterations and new construction in this district shall reflect the size, scale and visual character of the existing, traditional architecture, north of Woodstock Avenue to Temple Street employing such architectural elements as gabled roofs, horizontal wood or brick siding, articulated windows and 2-1/2 story heights.
7. Lighting shall be compatible with the traditional character of the district.

§ 31-307 Gateway Business District - II

(A) There is hereby established a Gateway Business District - II.

(B) The area and dimensions for GB-II shall be:

- |     |                         |            |        |
|-----|-------------------------|------------|--------|
| 42. | Minimum lot size        | 10,000 sf. |        |
| 43. | Minimum frontage        | 50 ft.     |        |
| 44. | Minimum setbacks        |            |        |
|     | a. Front                |            | 10 ft. |
|     | b. Side                 |            | 10 ft. |
|     | c. Rear                 |            | 10 ft. |
| 45. | Maximum building height |            | 40 ft. |
| 46. | Minimum building width  | 20 ft.     |        |

Notwithstanding § 31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The Following are Permitted uses in GB-II

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
3. Community Facility
4. Day Care - Home
5. Municipal uses
6. Residential Care Home

7. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
8. Bed & Breakfast
9. Day Care - Small
10. Office
11. Restaurant
12. Funeral Home
13. Day Care - Large
14. Utility facility, provided there is no service area or garage
15. Indoor Recreation

(D) Conditional Uses

1. Clubs
2. Halfway House
3. Parking for permitted uses not located on the same lot as the permitted use
4. Retail Store

(E) Design Criteria Gateway Business District - II

1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Modern appliances and accessories such as satellite dishes, dumpsters and chain link fencing should be placed in unobtrusive locations, and screened from view.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
5. Lighting shall be compatible with the traditional character of the district.

(F) Accessory Uses

47. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
48. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

§ 31-308 Gateway Business District - North Main Street

(A) There is hereby established a Gateway Business District - North Main Street.

(B) The area and dimensions for GB-NMS shall be:

49.	Minimum lot size	10,000 sf.	
50.	Minimum frontage	50 ft.	
51.	Minimum setbacks		
	a. Front	10 ft.	
	b. Side	10 ft.	
	c. Rear	10 ft.	
52.	Maximum building height		40 ft.
53.	Minimum building width	20 ft.	

Notwithstanding § 31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The Following are Permitted uses in GB-NMS

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
3. Community Facility
4. Day Care - Home
5. Municipal uses
6. Residential Care Home
7. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
9. Bed & Breakfast
10. Day Care - Small
11. Retail Store
12. Office
13. Restaurant
14. Hotel/Inn/Motel
15. Medical Clinic

16. Funeral Home
17. Day Care - Large
18. Utility facility, provided there is no service area or garage
19. Indoor Recreation
20. School and School Uses **Added Jan. 9, 2015**

(D) Conditional Uses

1. Clubs
2. Halfway House
3. Parking for permitted uses not located on the same lot as the permitted use
4. Outdoor Recreation
5. Service Station

(E) Design Criteria Gateway Business - North Main Street

1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Modern appliances and accessories such as satellite dishes, dumpsters and chain link fencing should be placed in unobtrusive locations, and screened from view.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
5. Lighting shall be compatible with the traditional character of the district.

(F) Accessory Uses

54. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
55. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
56. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

§ 31-309 Gateway Business District - Woodstock Avenue

(A) There is hereby established a Gateway Business District - Woodstock Avenue.

(B) The area and dimensions for GB-WA shall be:

57.	Minimum lot size	10,000 sf.	
58.	Minimum frontage	50 ft.	
59.	Minimum setbacks		
	a.    Front		10 ft.
	b.    Side		10 ft.
	c.    Rear		10 ft.
60.	Maximum building height		40 ft.
61.	Minimum building width	20 ft.	

Notwithstanding § 31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The Following are Permitted uses in GB-WA

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
3. Day Care - Home
4. Municipal uses
5. School and school uses
6. Church and church uses
7. Residential Care Home
8. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
10. Bed & Breakfast
11. Day Care - Small
12. Retail Store
13. Office
14. Restaurant
15. Hotel/Inn/Motel
16. Medical Clinic
17. Community Facility
18. Funeral Home

19. Day Care - Large
20. Utility facility, provided there is no service area or garage
21. Indoor Recreation

(D) Conditional Uses

1. Clubs
2. Service Station
3. Halfway House
4. Parking for permitted uses not located on the same lot as the permitted use
5. Outdoor Recreation

(E) Design Criteria Gateway Business - Woodstock Ave.

1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Modern appliances and accessories such as satellite dishes, dumpsters and chain link fencing should be placed in unobtrusive locations, and screened from view.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
5. Lighting shall be compatible with the traditional character of the district.

(F) Accessory Uses

62. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
63. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
64. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

§ 31-310 Gateway Business District - State & West Streets

- (A) There is hereby established a Gateway Business District - State & West Streets.
- (B) The area and dimensions for GB-S&WS shall be:

65.	Minimum lot size	10,000 sf.	
66.	Minimum frontage	50 ft.	
67.	Minimum setbacks		
	a.    Front		10 ft.
	b.    Side		10 ft.
	c.    Rear		10 ft.
68.	Maximum building height		40 ft.
69.	Minimum building width	20 ft.	

Notwithstanding § 31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The Following are Permitted uses in GB-S&WS

1. Single Family Dwelling
2. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
3. Day Care - Home
4. Municipal uses
5. School and school uses
6. Church and church uses
7. Residential Care Home
8. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
9. Bed & Breakfast
10. Day Care - Small
11. Retail Store
12. Office
13. Restaurant
14. Hotel/Inn/Motel
15. Medical Clinic
16. Community Facility
17. Funeral Home
18. Day Care - Large
19. Utility facility, provided there is no service area or garage
20. Warehousing and Distribution
21. Light Industry

22. Indoor Recreation

(D) Conditional Uses

1. Clubs
2. Outdoor Recreation
3. Service Station
4. Nightclub
5. Bar
6. Halfway House
7. Parking for permitted uses not located on the same lot as the permitted use

(E) Design Criteria Gateway Business - State & West Streets

1. Additions, alterations and new construction in this district shall be compatible, in terms of size (footprint & height), setbacks, roof shapes, fenestration and exterior materials with the existing structures comprising the streetscape of the district.
2. Parking areas and garages should be located to the rear of or to one side of the main structure and be secondary in nature to the main structure and unobtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Modern appliances and accessories such as satellite dishes, dumpsters and chain link fencing should be placed in unobtrusive locations, and screened from view.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties.
5. Lighting shall be compatible with the traditional character of the district.

(F) Accessory Uses

70. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
71. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
72. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

§ 31-311 Downtown Business District

- (A) There is hereby established a Downtown Business District hereinafter referred to as DB.
- (B) The area and dimensions for DB shall be

1. Minimum lot size 5,000 sf.
  2. Minimum frontage 0 ft.
  3. Minimum setbacks
    - a. Front 0 ft.
    - b. Side 0 ft.
    - c. Rear 0 ft.
  4. Maximum building height None
  5. Minimum building width 20 ft.
- Notwithstanding §31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) Permitted Uses

1. Single Family Dwelling
2. Two Family Dwelling
3. Day Care - Home
4. Day Care - Small
5. Retail Store
6. Office
7. Restaurant
8. Bar
9. Nightclub
10. Hotel/Inn
11. Medical Clinic
12. Hospital
13. Church and Church Uses
14. School and School Uses
15. Multi Family
16. Municipal Uses
17. Parking Facilities
18. Recreation
19. Community Facility
20. Club
21. Funeral Home
22. Day Care - Large
23. Courthouse
24. State-owned and operated institutions and facilities, except correctional facilities
25. Warehousing and Distribution
26. Light Industry
27. Halfway House

(D) Accessory Uses

Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.

§31-312 Courthouse District

- (A) There is hereby established a Courthouse District which will be hereinafter referred to as CH

- (B) The area and dimensions for the CH zone shall be:
1. Minimum lot size 6,000
  2. Minimum frontage 50 ft.
  3. Minimum setbacks
    - a. Front 10 ft.
    - b. Side 10 ft.
    - c. Rear 20% of lot, min 20 ft - max 50 ft
  4. Maximum building height 40 ft.
  5. Minimum building width 20 ft.

Notwithstanding §31-501 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) Permitted Uses

1. Single Family Dwelling
2. Two Family Dwelling. For each additional dwelling unit, there shall be an additional 1000 square feet added to the minimum lot size.
3. Day Care - Home
4. Municipal uses
5. Retail Store
6. Office
7. Medical Clinic
8. Church and Church Uses
9. School and School Uses
10. Community Facility
11. Bed and Breakfast
12. Funeral Home
13. Day Care - Small
14. Day Care - Large
15. Clubs
16. Indoor Recreation
17. Halfway house

(D) Accessory Uses

1. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
2. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of abutting property owner or owners is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

(E) Design Criteria

1. Physical elements such as yards, fences, screening, entrance drives, landscaping, accessory buildings and on site parking areas shall be similar to or compatible with elements existing in the immediate area which complement the existing architecture.
2. Parking area and garages should be located to the rear of the main structure and be secondary in nature to the main structure and obtrusive. Curb cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Additions and/or alterations to building listed as contributing structures in the National Register, shall adhere to the United States Secretary of the Interiors Standards for Rehabilitating Historic Buildings.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties. Lights shall be compatible with the traditional residential character of the district.
5. No internally illuminated signs are permitted and no sign may be larger than 32 square feet. All other conditions of R.O.R. Title 10 shall apply.

§31-313 Main Street Park District

- (A) There is hereby established a Main Street Park District which will be hereinafter referred to as MSP.
- (B) The area and dimensions for the MSP Zone shall be:
  1. Minimum lot size 6,500 sq. ft.
  2. Minimum frontage 50 ft.
  3. Minimum setbacks
    - (a) Front 20 ft.
    - (b) Side 10 ft.
    - (c) Rear 20% of lot depth, min. 20 ft. - max. 50 ft.
  4. Maximum building height 40 ft.
  5. Minimum building width 20 ft.

Notwithstanding Section 31-501 Definitions, Buildings, for purposes of determining minimum building width, porches, decks, garages, and sheds shall not be included in determining width.

- (C) Permitted Uses
  1. Single family dwelling
  2. Two family dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum.
  3. Day Care - Home
  4. Office
  5. Church and Church Uses
  6. School and School Uses
  7. Bed & Breakfast

8. Funeral Home
9. Municipal uses
10. Museum and gallery

(D) Accessory Uses

1. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
2. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of the abutting property owner or owners is obtained for such location for the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on a corner lot, the side yard shall be 10 feet on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

(E) Design Criteria

1. Physical elements such as yards, fences, screening, entrance drives, landscaping, accessory buildings and on site parking areas shall be similar to or compatible with elements existing in the immediate area which compliment the existing architecture.
2. Parking area and garages should be located to the rear of the main structure and be secondary in nature to the main structure and unobtrusive. Cub cuts should be limited to one per parcel with consolidated driveways encouraged.
3. Additions and/or alterations to building listed as contributing structures in National Register shall adhere to the Secretary of the Interiors Standards for Rehabilitating Historic Buildings.
4. Lighting shall be designed so as to minimize visual glare to adjacent properties. Lights shall be compatible with traditional residential character of the district.
5. No internally illuminated signs are permitted and no sign may be larger than 32 square feet. All other conditions of R.O.R. Title 10 shall apply.
6. Modern appliances and accessories such as satellite dishes, dumpsters and chain link fencing should be placed in unobtrusive locations, and screened from view.
7. New construction should be compatible with the rhythm (density and setbacks) established by the existing residential scale structures which comprise the streetscape. New construction should reflect the scale and visual character of the existing traditions, residential architecture, employing such architectural elements as gabled roofs, roof pitches similar to those of nearby residential buildings, horizontal siding, articulated windows, and 2 2 story heights.

§ 31-314 Planned Office Park District

- (A) There is hereby established a Planned Office Park District hereinafter referred to as POP
- (B) The area and dimensions for POP shall be:

- |    |                         |                                      |
|----|-------------------------|--------------------------------------|
| 1. | Minimum lot size        | 10,000 sf.                           |
| 2. | Minimum frontage        | 20 ft.                               |
| 3. | Minimum setbacks        |                                      |
|    | a. Front                | 25 ft.                               |
|    | b. Side                 | 20 ft.                               |
|    | c. Rear                 | 20% of lot - min 20 ft. - max 50 ft. |
| 4. | Maximum building height | None                                 |
| 5. | Minimum building width  | 20 ft.                               |

Notwithstanding §31-501 Definitions, Building, For purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) Permitted Uses

1. Office
2. Single Family Dwelling
3. One additional dwelling unit constructed within or attached to the primary single family residence. Such unit shall satisfy the following requirements:
  - a. Occupancy is restricted to not more than two persons, one of whom is related by blood or marriage to the owner of the single family residence, is disabled as defined in subdivisions 251(2) of Title 18 of the Vermont Statutes Annotated, or is at least 55 years of age;
  - b. Floor area shall not exceed thirty per cent (30%) of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
  - c. The primary single family residence is occupied by the owner.
4. Day Care Home
5. Municipal Uses
6. Residential Care Home
7. Two Family Dwelling. For each additional dwelling unit in excess of a two family dwelling there shall be an additional 1,000 square feet of lot size over the minimum
8. Bed & Breakfast
9. Day Care - Small
10. Retail Store
11. Residential Health Care Facilities
12. Hospital
13. Community Facility
14. Day Care - Large
15. School and school uses
16. Church and church uses
17. Country Club/Golf Course excluding mini-golf
18. Cemetery
19. Utility facilities, provided there is no service area or garage

(D) Accessory Use

1. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
2. Uses accessory to a conditional use are permitted only when applied for and granted as part of the conditional use.
3. A detached accessory structure may be placed on the rear or side lot line provided that the written consent of abutting property owner or owners is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line except on corner lots, the side yard set back shall be 20 ft. on the road side. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

§ 31-315 Industrial District

- (A) There is hereby established an Industrial District hereinafter referred to as I.
- (B) There are no minimum area and dimension requirements for the Industrial District.
- (C) Permitted Uses - All uses are permitted in the Industrial Zone including, but not limited to, those listed below.
  1. Correctional Facility
  2. Public utility power generating plants and transmission lines
  3. Regional Solid Waste Management Facilities
  4. Hazardous Waste Facilities
  5. State-owned and operated institutions and facilities

§ 31-316 Neighborhood Business District

- (A) There is hereby established a Neighborhood Business District hereinafter referred to as NB.
- (B) There are no minimum area and dimension requirements for the NB district.
- (C) Permitted Uses - All uses are permitted in the NB district except for those listed below.
  1. Correctional Facility
  2. Public utility power generating plants and transmission lines
  3. Regional Solid Waste Management Facilities
  4. Hazardous Waste Facilities
  5. State-owned and operated institutions and facilities
- (D) Performance Standard Buffering Review Required as Follows:
 

Given that the neighborhood business district has been developed as a highly intense business district and adjoins a residential district, any and all development, including additions, alterations or new construction shall in addition to any other required review be subject to review of the Development Review Board to determine if performance standards and buffering should be employed. Performance standards may be employed which describe the level of operation which are acceptable and not likely to affect

adversely the use of the adjoining residential properties by the emission of such dangerous or objectionable elements as noise, vibration, smoke, dust, odor or other forms of air pollution, heat, cold, dampness, electromagnetic or other disturbance, glare, liquid or solid refuse or waste; or create any dangerous, injurious, noxious, fire, explosive or other hazard.

§ 31-317 Park District

(A) There is hereby established a Park District hereinafter referred to as P.

(B) The area and dimensions for P shall be:

- 1. Minimum lot size 1 acre
- 2. Minimum frontage 100 ft.
- 3. Minimum setbacks
  - a. Front 25 ft.
  - b. Side 20 ft.
  - c. Rear 20% of lot - min 20 ft. - max 50 ft.
- 4. Maximum building height 40 ft.
- 5. Minimum building width 20 ft.

Notwithstanding §502 Definitions, Building, for purposes of determining minimum building width, porches, decks, garages, sheds shall not be included in determining width.

(C) The Following are Permitted Uses in P:

- 1. Municipal uses
- 2. Single Family Dwelling
- 3. Golf Course/Country Club excluding miniature golf

(D) Accessory Use

- 1. Accessory uses customarily incidental to a permitted use are permitted on the same lot. Accessory structures shall not be used for dwelling purposes.
- 2. A detached accessory building (structure) may be placed on the rear or side lot line provided that the written consent of abutting property owner or owners is obtained for such location of the building/structure; otherwise it shall be placed not nearer than five (5) feet to any side or rear lot line. Notice of placement of the detached accessory structure together with a copy of the written consent of the abutting property owner, when required, shall be filed with the zoning administrators office.

ARTICLE IV GENERAL REGULATIONS

§31-401 Existing Small Lots

(A) Any undeveloped lot in individual and separate non-affiliated ownership from the surrounding properties in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than 1/8 acre in area with a minimum width or depth dimension of 40 feet.

(B) If a small non-conforming undeveloped lot is owned by the same owner as the adjacent lot, the small non-conforming lot shall be considered part of the adjacent lot and may not be developed separately. However, such lot shall not be deemed merged and may be separately conveyed, if:

1. The lots are conveyed in their preexisting, nonconforming configuration; and
2. On the effective date of any zoning regulations, each lot has available to it connection to the city water and wastewater system, or had been developed with a water supply and wastewater disposal system; and
3. Time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
4. The deeds of conveyance create appropriate easements on both lots for replacement of one or more systems in case a wastewater system fails, which means the system functions in a manner:
  - a. That allows wastewater to be exposed to the open air, pool on the surface of the ground, discharge directly to surface water, or back up into a building or structure unless the approved design or the system specifically requires the system to function in such a manner;
  - b. So that a potable water supply is contaminated or rendered not potable;
  - c. that presents a threat to human health; or
  - d. that presents a serious threat to the environment

If, subsequent to separate conveyance, as authorized above, a wastewater system fails, the owner shall be required to obtain from the secretary of natural resources a permit as required under the subdivision regulations or a certification that the wastewater system has been modified or replaced, with the result that it no longer constitutes a failed system.

§31-402 Required Frontage Or Access To Public Roads

No land development may be permitted on lots which do not have either frontage on a public road or access to a public road by a permanent easement or right-of-way at least 20 feet wide.

§31-403 Home Occupations

- (A) These regulations shall not infringe upon the right of any resident to use a minor portion of their dwelling for an occupation which is customary in residential areas, and which does not adversely change the character thereof.
- (B) Home occupations are subject to the following standards:

1. The home occupation shall be carried on wholly within the dwelling used as a primary residence or attached garage.
2. The home occupation shall be carried on by residents of the dwelling. No more than the equivalent of three (3) non-resident full-time employees are permitted.
3. No outdoor storage of material, inventory and equipment used in the home occupation is permitted except occasional or incidental storage of such not inconsistent with residential outdoor storage.
4. No traffic shall be generated in greater volumes than would normally be expected in the neighborhood.
5. No unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall be produced by the home occupation.
6. The home occupation shall not use more than 25% of the building area. See Article V Definitions, for definition of Floor Area.

§31-404 Non-Conforming Uses

Any non-conforming use may be continued indefinitely, but shall be subject to the following provisions. A non-conforming use:

1. Shall not be changed without the approval of the zoning administrator, and then only to a use which is the same or more conforming;
2. Shall not be re-established if such use has been discontinued for a period of one year or has been changed to, or replaced by, a conforming use;
3. Shall not be restored or continued for other than a conforming use after damage from cause unless such non-conforming use is carried on uninterrupted in the undamaged part of the structure or unless the non-conforming use is reinstated by the commencement of construction within one year of such damage, and the construction or restoration of such structure is completed within two years;
4. Shall not be moved, extended or enlarged greater than 25% unless the Development Review Board shall find that such movement, extension, or enlargement does not create a greater nuisance or detriment than currently exists.

§31-405 Non-complying Structures

(A) Any non-complying structure existing at the time of the adoption of these regulations may be allowed to continue indefinitely, but shall be subject to the following provisions. A non-complying structure:

1. May be restored after damage within twelve (12) months from any cause provided that the restoration does not increase the degree of non-compliance;
2. May be enlarged or expanded to the existing degree of noncompliance.

- (B) Nothing in this section shall be deemed to prevent normal maintenance and repair of a non-complying structure provided that such action does not increase the degree of non-compliance.

§31-406 Mobile Home Parks

- (A) General Provisions

Each mobile home park and extension thereof shall comply with the following requirements:

1. A mobile home park shall be located on site so graded as to ensure drainage of surface and subsurface water, and freedom from stagnant pools.
2. A minimum of 5000 square feet shall be provided for each mobile home lot or site within a mobile home park or extension thereof. Said lot shall have at least 50 feet frontage on the mobile home park road.
3. Each mobile home lot shall be defined by permanent corner markers, and provided with a permanently displayed number corresponding to the number shown on the plot plan.
4. No mobile home shall be located less than 15 feet from any mobile home lot boundary and no mobile home shall be located within 25 feet of any public street line. Each mobile home lot shall provide a rear yard equal to 20% of the depth of the lot, except that such rear yard shall not be less than 20 feet and need not be more than 50 feet.
5. All mobile home lots shall abut on a roadway of not less than 30 feet in width, if off-roadway parking for cars is provided, or not less than 40 feet in width where no off-roadway parking is provided.
6. All roadways within a mobile home park shall be well drained, provided with a gravel or hard surface, maintained in good condition and kept free of dust, mud or snow.
7. Any mobile home must be located on a substantial foundation, of sufficient height.

- (B) Health and Safety

1. Each mobile home park shall be provided with a water supply pipe line connected with the City water system at the nearest practical point; and this pipe line shall be connected by pipes to each mobile home lot, and to each building other than a mobile home which requires water supply, each mobile home park shall be connected with the City sewage system; and connection shall be made by pipe to each mobile home lot. The construction and maintenance of such system shall be subject to the written approval of the commissioner of public works. No water supply from other sources than the City water system shall be permitted. No mobile home shall be occupied until it is connected with the water supply and sewer.

2. Water and sewer connections for each lot shall be so constructed that they shall not be damaged by the parking or removal of mobile homes. Said connections shall be approved by the commissioner of Public Works in writing.
3. Water supply to each mobile home park shall be metered; and the charges thereof shall be paid to the City by the licensee of the mobile home park.
4. Each mobile home shall be provided with an approved electrical connection.
5. Each owner/operator is responsible for the collection and disposal of garbage and other rubbish, and for the maintenance of other proper sanitary conditions, under the direction of the Health Officer. Each owner/operator is responsible for the prevention of fire hazards, under the direction of the Fire Marshall.
6. The space beneath each mobile home shall be completely enclosed with concrete block, masonry, or other fire resistant noncombustible material. The building inspector shall be empowered to formulate specifications for the materials and construction details of such required enclosures. Such specifications and amendments thereof shall become a part of this ordinance.
7. Compliance with subsection (6) shall be compulsory within sixty days from the date the building inspector formulates specifications for materials and construction of such required enclosures for existing mobile homes. For all mobile homes located in mobile home parks after the effective date of this Ordinance, compliance shall be required immediately upon this location.

(C) Previously Existing Parks

All mobile home parks in existence upon the effective date of this subchapter shall comply with the requirements of this subchapter, except that the City shall, upon application of a park operator, waive such requirements that require prohibitive reconstruction costs if such waiver does not alter the sanitation requirements herein provided.

§31-407 Planned Unit Developments and Planned Residential Developments

(A) Purpose:

To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open spaces, provisions of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.

(B) These zoning regulations may be modified by the Development Review Board simultaneously with approval of a Planned Unit Development or a Planned Residential Development, subject to the following standards and procedures.

1. Districts and Uses

A Planned Unit Development may include within its area any permitted or conditional residential or nonresidential uses in the district in which it is located and allowed. A Planned Residential Development may include only permitted or conditional residential uses.

2. Dimensional Requirements

a. Planned Unit Development

- i. The minimum lot size shall be one (1 ) acre.
- ii. The setback of the buildings and structures around the perimeter shall be determined based upon the topography taking into consideration the surrounding area and adjoining properties.
- iii. Building height shall take into consideration the height allowed in the district of the development and the height of structures in the surrounding area.

b. Planned Residential Development

- i. The minimum lot size shall be five (5) acres.
- ii. The setback of the buildings and structures around the perimeter shall be determined based upon the topography taking into consideration the surrounding area and adjoining properties.
- iii. Building height shall take into consideration the height allowed in the district of the development and the height of structures in the surrounding area.

3. Standards and Criteria

a. Scenic assets and natural features such as the following shall be protected and preserved to the greatest extent feasible:

- i. Areas of archeological or historic significance;
- ii. Flood plains, streams, aquifer recharge areas;
- iii. Unique or unusual topographical features;
- iv. Individual trees or stands of trees of unusually large size or great age.

b. The site shall be planned and developed in such a manner to reduce or eliminate negative impacts on surrounding property whether presently developed or not. This can be achieved through such techniques as buffer areas at the site perimeter, screening and landscaping and site design and layout and traffic calming techniques

c. The scale, setting and design of the development shall be in conformity and consistent with the surrounding neighborhoods, including, but not limited to, buildings, open space, landscaping and other features and characters.

d. Integrated architectural design shall be used for buildings, structures, landscaping, and common open areas.

e. When a PUD site includes a mixture of land uses, such as residential and/or recreational and/or commercial, the development of each use shall occur within a timetable that ensures that accessory buildings, shops are

completed before or at the same time as the primary buildings (i.e. housing units).

- f. Principal vehicular access shall be from streets and roads that are capable of supporting existing and anticipated volumes of traffic, as well as traffic that will be generated by the development. Access points shall be designed to provide smooth flow, controlled turning movements and minimum hazard to vehicular or pedestrian traffic. Merging lanes, deceleration lanes, left-turn stacking lanes, and/or traffic dividers shall be provided where existing or anticipated heavy flows of traffic indicate such need. Where present or potential traffic loads indicate a need, traffic signals may be required by the Development Review Board.
- g. Significant natural features such as woodland areas, large trees, natural watercourses and bodies of water, rock outcrops and scenic views shall be incorporated into common open space areas whenever possible.
- h. The development shall incorporate pedestrian walkways along roadways and nature paths when appropriate.

4. Density Increases

Character, identity, and architectural and siting variation incorporated in a development shall be considered reason for density increases up to ten (10) percent.

5. Joint Review

The application process shall be conducted simultaneously during the Site Plan Review process.

§ 31-408 Buffering

When a proposed use is on a property that abuts property or properties in a zoning district where the proposed use is not allowed, the Development Review Board may require conditions to protect the abutting property or properties, which may include increased setbacks, design criteria, screening, moving of the footprint of any structures, and location of curb cuts, and any other conditions the Development Review Board may deem reasonable.

§ 31-409 Setback Relief

In any residential district, a building or structure need be located only as far back from the street as the average of the front yard depth of the buildings or structures nearest on either side.

§ 31-410 Prohibited Uses

Due to the nature, character and size of the City of Rutland, the following uses are prohibited with the entire City. It is the finding of the Board of Aldermen that these uses, No matter which district they may be located in, create burdens such as noise, dust traffic

and disturbance of adjoining areas of such a nature as to make them unsuitable for use within the entire City of Rutland.

A. Stock Car Races

**ARTICLE V - DEFINITIONS**

§31-501 Definitions

Accessory Structure	A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.
Accessory Use	A use incidental and subordinate to the principal use allowed in the district on the same lot.
Architectural Review Committee	A committee consisting of the director of the Rutland Redevelopment Authority and two other persons who shall provide review within design control districts and provide a report to the Development Review Board.
Bar	An establishment where the sale and consumption of alcoholic beverages on premises are the primary activities.
Bed and Breakfast	A dwelling in which the resident owner or permanent dwelling occupant provides short-term lodging and where only a morning meal is provided to overnight guests.
Building	A structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or personal property, including garages, carports, porches, terraces, decks or covered steps.
Building Height	The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.
Cemetery	Land or building used for the permanent internment of deceased persons or animals.
Church or Place of	An institution that people regularly attend to participate in or hold

Religious Worship	religious services, meetings, and other activities The term church shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.
Club	Building or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose.
Commissioner	Means the commissioner of the department of corrections.
Community Facility	Any meeting hall, theater, museum, art gallery, library or other similar type of establishment.
Correctional Facility	Any building, enclosure, space or structure of or supported by the department of correction and used for the continued confinement of persons committed to the custody of the commissioner of corrections, or for any other matter related to such confinement.
Day Care - Home	A State registered or licensed daycare facility serving up to six (6) pre-school plus (4) school-aged children or adults. A family day care shall be considered by right to constitute a permitted accessory use to single detached dwellings.
Day Care - Small	A State registered or licensed day care facility of no more than twenty (20) full-time children/adults where no playground equipment is located within the front yard. Conditional use review shall insure that adequate and safe drop-off/pickup space is provided and that traffic problems are not created. Any additions, signage or site improvements shall be residential in character and no more than one residential unit may be converted for any single small day care center.
Day Care - Large	A State registered or licensed facility providing day care services for children/adults without regard to the number served.
Development	The division of a parcel into two or more parcels, the construction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.
Dwelling	A building or portion thereof that provides living facilities for one or more families.
Dwelling, Single Family	Detached building used providing one dwelling unit.
Dwelling, Two Family	Detached building used providing two dwelling units.
Dwelling, Multi-Family	Building used providing three or more dwelling units.

Dwelling Unit	A room or group of rooms located within a dwelling forming a habitable unit for one family.
Floor Area	Sum of the gross horizontal area of the floors of a building, excluding basement floor areas. Measurements shall be taken from the interior wall faces.
Frontage	The length of any one property line of a premise which property line abuts a legally accessible right-of-way.
Funeral Home	A building used for preparing the deceased for burial or cremation.
Gallery	An institution whose primary purpose is the exhibition of paintings, sculpture, and photography which is handcrafted. As an ancillary purpose, the sale of exhibited items may be arranged on a commission basis.
Halfway House	A licensed home for persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.
Hospital	An institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and related support facilities and may include overnight care facilities.
Hotel/Inn	A facility offering transient lodging accommodations on a daily rate to the general public and may provide additional services, such as restaurants, meeting rooms, and recreational facilities.
Light Industry	A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
Lot	A platted parcel of land intended to be separately owned, developed or otherwise used as a unit.
Lot Size	Total area within the property lines excluding any part thereof lying within the boundaries of an existing or proposed street.
Medical Clinic	A non-residential office building used by members of the medical professions for the diagnosis and out-patient treatment of human ailments which does not include overnight care facilities.
Mobile Home Park	Any parcel of land under single or common ownership or control which contains, or is designed, laid out, or adapted to accommodate more than

two manufactured homes and shall be developed in accordance with §31-406.

Motel	A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended, or used primarily for the accommodation of travelers and provides parking located on the premises. (See also Hotel/Inn)
Museum	An institution whose sole purpose is the exhibition of cultural, historical, and scientific artifacts.
Neighborhood Retail	Any retail establishment offering for sale food products, household items and other goods commonly associated with the same, or services primarily for the immediate neighborhood but excluding the sale of pump-dispensed motor fuels.
Nightclub	An establishment dispensing alcoholic beverages for consumption on the premises; and in which dancing or entertainment is permitted.
Non-complying Structure	Structure not complying with the zoning regulations regarding dimensions, height, area or setbacks where such structure complied with all applicable laws and ordinances in effect at the time of construction of the structure; or pre-existed the adoption of zoning in the City of Rutland.
Non-conforming Use	Use of land or structure which does not conform with all zoning regulations where such use conformed to all applicable laws, ordinances, and regulations prior to enactment of these regulations as amended.
Office	A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.
Outdoor Recreation	The organized or unorganized conduct of non-motorized sports, leisure activities, and other recreational activities wholly or partially outside of any building or structure. Fields, trails, bodies of water, or other land may be used for recreational purposes. Where permitted, structures may include swimming pools, tennis courts, skating rinks, playground equipment, storage and accessory buildings, similar facilities, and accessory uses such as snack bars, pro shops and locker rooms. Example of outdoor recreation include but are not limited to public and private golf courses, clubs, swimming pools, tennis courts, ball fields, ball courts, driving ranges, miniature golf courses, skateboard parks, and other similar unenclosed recreation activities. Excluded are home recreation, Municipal facilities and school and church facilities.
Principal Use	The main use of land or structures, as distinguished from a secondary or accessory use.
Recreation	Outdoor sports and activities such as skiing, hiking, tennis, golf, horseback riding, fishing, hunting, swimming, and similar activities, and

structures necessary to and incidental to the actual carrying on of such activities.

Residential Care Home	A residential care or group home, licensed or registered by the state, serving not more than 8 persons who are developmentally disabled or physically handicapped, except if said home is located within 1000 feet of another such home. A residential care home should be treated as a single family residential use.
Residential Healthcare Facilities	A facility for the transitional residency of elderly and/or disabled persons, progressing from independent living in single-family units to congregate apartment living where residents share common meals and culminating in a full health and continuing care nursing home facility.
Restaurant	A public eating establishment in which the primary function is the preparation and serving of food.
Retail store	Any business concerned primarily with the sale of goods or services.
School	A facility that provides a curriculum of state-certified pre-school, elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and institutions of higher learning.
Screening	The method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include, but are not limited to: fences, walls, hedges, berms or other features.
Self-Service Storage Facility	A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies. This use shall be considered a retail use.

Service Station	Any premises where gasoline and other petroleum products are sold and/or maintenance activities are conducted.
Structure	An assembly of materials for occupancy or use, including a building, mobile home or trailer, sign, wall or fence.
Temporary Structure	A structure intended to be used for a temporary period, such as a replacement structure for use during renovations or rebuilding, or a structure used for storage of construction materials or as a mobile office during renovations or rebuilding.
Warehousing and Distribution	A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
Stock Car Races	A race that features cars that conform externally to standard US commercial models and having the basic chassis of a commercially produced assembly line model and are raced in competition with each other on a track.

APPENDIX A

Rutland Downtown Redevelopment Area  
 Redevelopment Plan  
 Architectural and Design Guidelines  
 Historical Context and Design Principles

NOVEMBER 3, 1993

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I. Statement of Purpose

The Redevelopment Plan stipulates that all proposed plans for the Redevelopment Area be reviewed by the Architectural Review Committee prior to permitting and construction. These guidelines define the context in which proposed designs will be reviewed. Architectural planning and design issues of importance to the City are outlined in this document and should be discussed with the Zoning Administrator in a pre-design conference before any design work is undertaken.

Designs will be reviewed against the criteria set down in the following sections. The overall intention of architectural review is to assure that individual buildings contribute to forming a coherent environment in the downtown that is consistent with the best qualities of existing buildings. However, designers are urged to interpret the design guidelines in contemporary ways rather than slavishly imitating existing buildings. Judgements of the adequacy of proposed designs inevitably involve subjectivity and tradeoffs in view of financial necessities. The intentions of the Redevelopment Plan and the specific context of the proposed structure will be important in judging the acceptability of a proposal.

## II. Historical Context

### Phase I Context

From the 19th century through the 1950's the bulk of the Redevelopment Area (Parcels A, B, C and D) was a large railroad yard, complete with passenger and freight terminals, switching yards and repair facilities. The remaining parcels were primarily industrial and commercial sites. Downtown Rutland thus has always been oriented toward an open, expansive space at its center. Although surrounded by rail yards, the train station was well kept and attractively landscaped. Rutland was a city where railroads and industry were part of the daily fabric of life, so provisions were made for the human as well as industrial needs.

Redevelopment of the Area is not intended to create a tightly structured street grid, as exists in the downtown east of the Area. Instead, the Plan seeks to re-establish a public park in the center of town and encourage buildings that are properly viewed across open space.

Indeed, the facades of the 100 block of Merchants Row, generally regarded as the architectural signature of downtown, was designed to be viewed across such an open space and would be diminished if overshadowed by new structures immediately across the street.

### Phase II Context

Rutland's central business district grew in response to the location of the railroad tracks. Today, with the tracks largely gone, downtown is left with two distinct areas: a traditional street grid lined with well-preserved late 19th century commercial buildings (Phase II Redevelopment Area) and an open area with few pre-existing land use constraints (Phase I Redevelopment Area). Consequently, site plan requirements for Phase I and Phase II differ significantly. With the possible exception of Parcel E, all parcels in Phase II should be redeveloped in a manner consistent with the traditional street grid already in place.

### Common to Both

Downtown Rutland's distinctive building stock is based on well built, practical commercial structures - functional and without pretense. In many regards they define Rutland itself. New structures should be designed to complement the spatial openness of downtown and maintain the tone of a practical, working city.

Downtown Rutland is an established National Historic Preservation District. The stock of late 19th and early 20th century commercial buildings is Rutland's major architectural asset. All designs will, first and foremost, be reviewed for their contribution to the enhancement of this established architectural mix.

## IV. General Design Principles

"Imitation" historic designs are discouraged. New structures should present a pleasing visual effect viewed side by side with existing buildings but are not required to attempt wholesale mimicry of those buildings.

This juxtaposition defines the central design context in which plans will be reviewed: the design's ability to serve current commercial needs in a manner that complements the existing building stock.

Two categories of site frontage are used to determine treatments for facades and landscaping: A) Public Access areas, such as major streets and major pedestrian approaches to buildings, and B) Service Access, which includes loading and general service areas for buildings. The specific classification of frontage within the parcels will be set at the pre-design review session, as frontage requirements will change depending on the division of parcels.

In general, Public Access frontage will be seen and used by the general public, and must be designed to a higher level of architectural detail than the Service Access frontage, which is out of the flow of public traffic and thus more hidden from public view.

All proposed redevelopment projects must demonstrate that the needs for employees, customer or resident parking are accommodated on the redevelopment site or provided in a dedicated off-site parking area. Aside from customer parking at curb-side metered spaces, parking for redevelopment projects will not be permitted to spill over onto surrounding streets. Parking requirements will be determined according to the specific nature of the site using ratios set forth in the Urban Land Institute 1983 report entitled "Shared Parking". Alternate solutions such as satellite parking and public transit will also be taken into consideration in setting parking requirements.

## V. Design Objectives

The primary function of a commercial building is to provide a good environment for commerce. Designs must provide effective commercial spaces that encourage customer traffic and public interaction.

The street level presentation of buildings is extremely important. Buildings must relate constructively with public spaces such as streets and parks. From any vantage point around the building a pedestrian or passing motorist must be able to clearly understand the function of that building and see an easy, attractive path to gain access to the building.

Building designs are expected to emphasize the visual and commercial effect of their primary orientation but should also present well structured solutions for the aesthetics of secondary approaches. Placement of primary and secondary orientations are critical to the success of the design. All four building elevations will be reviewed with consideration to this issue.

Buildings will be sited and massed so that they do not overpower existing buildings or create extreme shadows on major public areas. All plans for the Phase I Area will be reviewed for their relationship to the facades of the east side of Merchants Row, acknowledged here as the architectural centerpiece of downtown Rutland.

Building materials will be reviewed for their contribution to a pleasing look for the overall Area. The existing buildings contain a variety of materials and colors, so other than to state a preference for brick, the guidelines do not specify certain required materials.

Recessed windows and punched windows are desirable for buildings on Phase I Parcels B and D and elsewhere in the historic district, as they complement the windows of the existing buildings in the historic district along Merchants Row and Evelyn Street.

Parking areas must be reasonably landscaped. While it is essential that large parking areas be included to insure the commercial viability of the Area, these parking fields must be visually compatible with surrounding buildings and public spaces.

All building designs will strive to preserve the quality of public open spaces. Siting of buildings in relation to angles of sunlight is of prime importance. Public spaces must be provided with adequate exposure to natural light.

Any land not covered by buildings or pavement shall be suitably landscaped and maintained. All landscaped areas shall be maintained in good condition to prevent presence of dead shrubs and trees, un-mowed grass areas and overgrown or unkempt planters.

Extended, windowless walls on a Public Access frontage must incorporate design elements to break the visual expanse of the blank wall. When feasible, this same objective may be attained through landscape design.

#### VI. Design Prohibitions

Mirrored or heavily tinted glass is prohibited at street level.

Landscaping treatments that block store windows or inhibit the normal flow of pedestrian traffic are prohibited.

#### VII. Review Process

All proposals and plans must be submitted to the Zoning Administrator. They will be reviewed by an Architectural Review Committee made up of the Zoning Administrator, two representatives from RRA, and two representatives from the Planning Commission. The Committee will report its findings to the zoning administrator, who will then convey a final ruling to the applicant.

There are three levels of review for all proposed renovation and new construction projects:

Pre-design conference: Project developers and their architects must meet with the design review committee prior to the start of any project design work in order to review these guidelines and discuss the implications of these stated policies for the proposed project. The pre-design conference may be conducted by the zoning administrator.

Schematic design: The schematic design for the project, complete with site plans and elevations must be reviewed and approved. These plans must indicate the building's relationship with all surrounding properties and the treatment of landscaping and parking areas. At this stage, a preliminary review will also be conducted to determine compliance with City codes. Applicants will be informed in writing within 30 days whether the design has been approved, conditionally approved with specific required changes or disapproved. If disapproved, specific reasons will be provided to the applicant in writing. Applicants who believe that approval has been unreasonably withheld may appeal the decision to the Planning Commission, which may form a special review committee to hear the appeal.

Final project approval: Final construction documents for the project, and samples of major exterior materials and colors, must be approved prior to permits being issued. As in 2, above, applicants 1) will be informed in writing within 30 days whether the design has been

approved, conditionally approved or disapproved, and 2) shall have the right to appeal the decision.

For some smaller projects it may be possible to combine the concept review and the final project review.

All inquiries concerning these guidelines should be addressed to:

RUTLAND CITY ZONING ADMINISTRATOR  
City Hall  
1 Strongs Avenue  
Rutland, Vermont 05701  
Phone: (802) 773-1800

## CHAPTER 3

### Planning and Subdivisions

#### Subchapter 1. Purpose and Definitions

##### Section

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- 6002. Definitions
- 6003. Other definitions

#### Subchapter 2. Submission and Review of Plans

##### Section

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- 6012. Application for approval of preliminary plat
- 6013. Public hearing on preliminary plat
- 6014. Approval of preliminary plat
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##### Section

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#### Subchapter 1. Purpose and Definitions

#### § 6001. Purpose.

These subdivision regulations are formulated pursuant to 24 V.S.A. §4401(b)(2) and are for the purposes set forth by chapter 117 of Title 24 Vermont Statutes Annotated.

#### § 6002. Definitions.

For the purpose of these regulations, certain words used herein shall be defined as follows:

**Comprehensive plan or plan.** The municipal development plan for the city and any amendment thereto, as defined and adopted under the Vermont Planning and Development Act.

**Construction drawing.** The drawing showing location profile, grades, size and type of drains, sewers, water mains, underground utilities, pavements, cross-section of streets, miscellaneous structures, etc.

**Easement.** Authorization of a property owner for the use by another and for a specified purpose, of any designated part of his property.

**Final subdivision plat.** Final drawings on which the subdivision is presented to the commission for approval for which, if approved, shall be filed for record with the city clerk.

**Location maps.** A map showing the relation of the proposed subdivision to adjacent properties and the surrounding area.

**Planning commission or commission.** The planning commission of the City of Rutland.

**Preliminary subdivision plat.** The preliminary drawing for a major subdivision, indicating proposed layout of the subdivision to be submitted to the commission for its consideration.

**Private streets.** Any road, lane, or way, intended for vehicular access purposes, which serve a subdivision (as defined herein) and is neither owned nor maintained by the city.

**Resubdivision.** Amended subdivision.

**Sketch plan.** An informal sketch of the proposed subdivisions, the purpose of which is to enable the subdivider to save time and expense in reaching general agreement with the commission as to the form of the subdivision and objective and requirements of these regulations.

**Street.** Any road, highway, avenue, street, parkway, lane or other way between right-of-way lines, commonly used by the public for vehicular traffic.

Street, minor. A street intended to serve primarily as access to abutting residential properties.

Street, major. A street which serves or is designed to be used primarily as a route for traffic between communities or major development areas.

Street, secondary. A street which serves or is designed to carry traffic from local residential streets to the system of major streets, or which serves abutting non-residential uses or districts.

Subdivider. Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or development any subdivision or part thereof as defined herein, either for himself or others. The term shall include an applicant for subdivision approval.

Subdivision.

1. The division of any parcel of land for other than agricultural or forestry purposes, with or without streets, into two (2) or more legal divisions of land for immediate or future transfer of ownership, which results in the creation of one or more improvable parcels of less than twenty-five acres.

2. Any development of a parcel of land such as a commercial or industrial complex, multi-family project, planned unit development or planned residential development; including commercial or residential condominiums.

3. Division of land such as for minor realignment of property lines, for municipal purposes which conform to the comprehensive plan (such as road widening, easements, sidewalks, parks, etc.), or enlargement of existing lots, shall not be deemed a subdivision, provided that no new developable lots result.

Subdivision, major. Any residential subdivision containing four (4) or more lots, any non-residential subdivision or any subdivision requiring any installation of new streets, or the extension of any municipal facilities, or any shopping complex, multi-family housing, planned residential development, or planned unit development, including condominiums.

Subdivision, minor. Any residential subdivision containing less than four (4) lots, which does not require a new public street or extension of municipal facilities.

Vicinity map. A detailed map which shows, within a prescribed area, the relation of the proposed subdivision to adjacent properties and the surrounding area, indicating curb cuts, property and building lines, streets, easements, etc., and municipal boundaries, if within 500 feet.

§ 6003. Other definitions.

Unless otherwise defined herein, the definitions contained in the Vermont Planning and Development Act and the City of Rutland zoning regulations shall apply to these regulations.

## Subchapter 2, Submission and Review of Plans

§ 6011. Submission of sketch plan.

Any person proposing to subdivide land shall first apply to the administrative officer for sketch plan approval. Said plans shall be 18" x 24" or 24" x 36" in size.

(a) Prior to submitting application for approval, a subdivider shall submit to the administrative officer a sketch plan for the proposed subdivision, which shall include the following information:

1. Name and address of the owner of record and applicant.
2. Name of owners of record of contiguous properties.
3. Boundaries and area of:
  - (a) All contiguous land belonging to the owner of record; and
  - (b) proposed subdivision.
4. Existing and proposed layout of property lines; type and location of existing and proposed restrictions of land, such as easements and conditions, to the extent that this information is available.

5. Type of, location, and approximate size of existing and proposed streets, utilities, existing structures, and open space, to the extent that this information is available.

6. Date, north arrow and scale (numerical and graphic).

(b) The administrative officer shall advise applicant of sketch plan is complete within 48 hours. The administrative officer shall advise the applicant whether the subdivision shall be treated as a major subdivision or minor subdivision pursuant to the requirements of section 6002 herein. Any subdivision that qualifies as a minor subdivision and is designated as such by the administrative officer may be considered and reviewed by the planning commission under the minor subdivision procedures established under section 6011(c).

(c) (1) Plats required. A minor subdivision shall require only the submission of a final plat; and preliminary plat review shall be waived; provided however, that the planning commission shall have conducted a sketch review of the sketch plan submitted by the applicant as approved by the administrative officer.

(2) Time of submission. The final plan shall be submitted not more than six (6) months following the determinations of the planning commission relative to the sketch plan at the sketch review session.

(3) Fees. The fee for a minor subdivision shall be set by the board of aldermen.

§ 6012. Application for approval of preliminary plat

Within six months of the meeting on the sketch plan, the subdivider shall file an application for the approval of a preliminary plat with the administrative officer. Said application shall include the following:

1. Preliminary map. The preliminary map shall consist of one or more maps or drawings which shall be 18" x 24" or 24" x 36" in size with all dimensions shown in feet or decimals of a foot, drawn to a scale of not less than 100 feet to the inch, or not more than 40 feet to the inch where lots have less than 100 feet frontage, showing or accompanied by the following information:

(a) Proposed subdivision name or identifying title and the name of the city.

(b) Name and address of owner of record, subdivider, and designer of preliminary plat.

(c) Number of acres within proposed subdivision, location of property lines, structures, watercourses, wooded areas, and other essential existing physical features.

(d) Names of all subdivisions immediately adjacent and names of owners of record of adjacent acreage.

(e) Location and size of existing sewers and water mains, culverts and drains on the property or serving the property to be subdivided, showing depths of pipe and directions of flow, if known.

(f) Location, names and widths of existing and proposed streets, private ways, sidewalks, curb cuts, paths, easements, parks and other public or privately maintained open spaces, as well as similar facts regarding adjacent property.

(g) Contour lines at 5 foot intervals based on U.S. Geological Survey datum of existing grades and also of proposed finished grades where change of existing ground elevation will be five feet or more. Contour intervals closer than five feet may be required by the commission in order to properly evaluate specific aspects of the project, such as storm drainage, landscaping, etc.

(h) Complete survey of subdivision tract by licensed land surveyor.

(i) Numerical and graphic scale, date, and true and magnetic north arrow.

(j) Details of proposed connection with existing municipal water supply or alternative means of providing water supply to the proposed subdivision.

(k) Details of proposed connections with existing sanitary sewage disposal system or adequate provision for on-site disposal of septic wastes.

(l) If on-site sewage disposal system is proposed, location and results of tests to ascertain subsurface soil, rock and ground water conditions, depth to ground water unless pits are dry at depth of five feet; location and results of percolation tests, all in accordance with applicable state regulations or standards.

(m) Drainage plan, indicating provisions for collection and discharge of storm drainage.

(n) Preliminary designs of any bridges or culverts which may be required.

(o) Location of temporary markers adequate to enable commission to readily locate and appraise the basic layout in the field. Unless an existing street intersection is shown, distance along a street from one corner of the property to the nearest existing street intersection shall be shown.

(p) All parcels of land proposed to be dedicated or reserved for public use and the condition of such dedication or reservation.

(q) List of waivers subdivider desires from requirements of these regulations.

(r) General description of type of development to be built.

(s) A registered mailed receipt from each record owner of all adjacent parcels of land and a copy of the letter sent to each such record owner of all adjacent parcels of land, the content of which letter should include notice to the adjacent land owners of the applicant's intent to subdivide, the location of the proposed subdivision, the intended project for use to be developed in and on the subdivision subdivided parcels, the date, time, and location of the first public hearing to be held by the planning commission.

2. Vicinity map. The vicinity map which shall be 18" x 24" or 24" x 36" in size, which shall be prepared from existing surveys or public records, shall show relative of the proposed subdivision to adjacent properties and to the general surrounding area. The vicinity map shall include the following:

(a) All existing subdivisions, approximate tract lines and acreage of adjacent parcels, together with names of record owners of all adjacent parcels of land, namely those directly abutting or directly across any street adjoining the proposed subdivision.

(b) Locations, widths and homes of existing, filed, or proposed streets, curb cuts, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in paragraph 1 above.

(c) An outline of the plated area together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the preliminary plat submitted covers only part of the subdivider's entire holding.

§ 6013. Public hearing on preliminary plat.

A public hearing on the preliminary plat shall be held by the commission within thirty (30) days after the time of its submission to the administrative officer. Said hearing shall be advertised and warned in accordance with the public notice provisions of the Vermont Planning and Development Act.

§ 6014. Approval of preliminary plat.

Within 45 days after the public hearing on a preliminary plat, the commission shall approve, modify and approve, or disapprove said preliminary plat and the ground for any modification(s) required or the grounds for disapproval shall be stated upon the records of the commission. Failure of the commission to act within said 45 day period shall constitute an approval of the preliminary plat.

When granting approval to a preliminary plat, the commission shall state the conditions of such approval, if any, with respect to the specific changes which it will require in the preliminary plat. The action of the commission plus any conditions attached thereto shall be noted with two

copies of the preliminary plat. One copy shall be returned to the subdivider and one copy retained by the planning commission.

The amount of improvement or the amount of all bonds which shall be required shall be set prior to the final subdivision plat approval. The subdivider shall estimate the cost of improvements, and the city engineer shall set the amount of the bond.

Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final plat. Prior to approval of the final subdivision plat, the planning commission may require additional changes as a result of further study of the subdivision or as a result of new information obtained at any public hearing held pursuant to these regulations.

At the time the commission grants preliminary plat approval, it may permit the plat to be divided into two or more sections (for phased development) subject to any conditions the commission deems necessary in order to insure the orderly development of the plat. The applicant may submit a section of the approved preliminary plat for final approval if said section constitutes at least 25% of the lots or floor area in the approved preliminary plat. Under these circumstances, preliminary approval on the remaining sections of the plat shall remain in effect for three years from the date of the preliminary plat approval or a period of time mutually agreed to by the commission and the applicant.

§ 6015. Application for approval of final plat

The subdivider shall, within 18 months after approval of the preliminary plat, submit an application for approval of the final subdivision plat to the administrative officer at least 21 days prior to a regular meeting of the commission. The final plat application may be submitted in sections in accordance with section 5814 so that it shall only include the phase of the approved preliminary plat which the subdivider proposes to record and develop at that time. If the final plat, or the first section thereof, is not submitted to the commission within 18 months after the approval of the preliminary plat, the commission may refuse without prejudice to act on the final plat and require resubmission of the preliminary plat. The final plat application shall include the following:

1. Final plat: The subdivision plat which shall be 18" x 24" or 24" x 36" in size, shall conform in all respect to the preliminary subdivision plant as approved by the commission and shall show:

(a) Proposed subdivision name or identifying title, name of the city, name and address of record owner and subdivider, name, license number and seal of licensed land surveyor, boundaries of the subdivision and its general location in relation to existing streets or other landmarks, scale (numerical and graphic) date true and magnetic north arrows.

(b) Street names and lines, pedestrian ways, lots reservations, easements, and areas to be dedicated to public use.

(c) Sufficient data acceptable to the city engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. These shall be tied to existing reference points acceptable to the city engineer.

(d) The length of all straight lines, deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.

(e) By proper designation on such plat, all public space for which offers of cession are made by the subdivider and these spaces title to which is reserved by him.

(f) Lots within the subdivision numbered in numerical order within block, and blocks lettered in alphabetical order.

(g) The location of all improvements referred to in section 5821 and in addition thereto the location of all utilities, sewage disposal systems, water supply systems and rough grading and other devices and methods of draining the area affecting the subdivision.

(h) Permanent reference monument shown thus: "X"; and lot corner markers shown thus "O".

- (i) Construction drawings of all required improvements.
2. Supporting documents:
- (a) Copies of such covenants or deed restrictions as are intended to cover all or part of tract.
  - (b) Prospectus describing management organization, of one is required.
  - (c) In the case of a subdivision or development served by a privately owned and/or maintained street:
    - (1) A completed contract between city and landowner regarding the number of lots or dwelling units to be served by the proposed right-of-way or private street, and the responsibility for roadway maintenance, with city attorney's certificate that the contract is satisfactory.

§ 6016. Public hearing on final plat.

A public hearing shall be held by the commission within thirty (30) days after the time of submission to the administrative officer of the final subdivision plat for approval. Said hearing shall be warned in accordance with the public notice provisions of the Vermont Planning and Development Act. In addition, notice of such hearing shall be forwarded to the regional planning commission and to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary at least 15 days prior to the hearing.

§ 6017. Action by planning commission.

The planning commission shall, within 45 days after the public hearing held under section 6016 of these regulations, approve, modify and approve, or disapprove such plat. Failure to act within 45 days shall be deemed approval.

### Subchapter 3. Required improvements

§ 6021. Required improvement list

The following are required improvements; monuments, lot markers, streets, curbs, sidewalks, street signs, outdoor lighting, water mains, sanitary sewers, storm drains, fire hydrants, landscaping and other capital improvements as required by the commission.

§ 6022. Installation - design standards.

All required improvements shall be designed and installed in accordance with the design standards, development requirements, specifications and procedures set forth in these regulations and standards. Said installation and design standards apply to both public and privately owned required improvements.

§ 6023. Modification of design

If at any time after approval before or during the construction of the required improvements, it is demonstrated that unforeseen conditions make it necessary to modify the location or design of structures, curb cuts, roads, or parking lots, the commission may, with the concurrence of the city engineer, authorize minor modifications, provided that they are within the spirit and intent of the commission's approval and that they do not alter the function of any improvements previously required by the planning commission. The modification of minor engineering or construction details or improvements may be authorized by the city engineer, provided they do not alter the location or design of structures, curb cuts, roads, or parking lots.

§ 6024. Inspection of improvements

At least seven days prior to commencing construction of any required improvement(s), subdivider shall advise the city engineer, in writing, when the construction of required improvement(s) shall begin, so he can inspect during the construction process to assure satisfactory completion of improvements or stipulations required by the commission.

§ 6025. Proper installation

Prior to construction of required improvements, developer shall submit contract documents and working drawings, certified by a registered engineer, for the required improvements to city engineer or his designee for approval. City engineer or his designee shall give his approval or denial within a period of two weeks. If requested by the developer, city engineer shall make reasonable periodic inspections and, as soon as possible, in writing, notify developer of any deficiencies found. Within 30 days of completion of improvements, developer shall submit to city engineer as built construction drawings, certified by a registered engineer. City engineer shall then inspect required improvements within 45 days after said submission and determine if all required improvements have been constructed in accordance with the submitted drawings and the final plat approval. He shall report his findings within 30 days of his inspection, in writing, to the administrative officer with a copy to developer. In the event deficiencies are found and not remedied by developer within 2 weeks of receipt of notice, administrative officer shall notify the bonding company and take all necessary steps to preserve the city's rights under any performance bond required under §5058. If all required improvements are found to be properly completed, administrative officer shall release the performance bond.

Subchapter 4. Development Requirements

§ 6031. Streets

1. Arrangement: The arrangement of streets in the subdivision shall provide for the continuation of major and secondary streets of adjoining subdivisions and for proper projection of major and secondary streets necessary to make possible fire protection, movement or traffic and construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and draining facilities. Where, in the opinion of the commission, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

2. Topography: Streets shall be logically related to the topography so as to produce usable lots and safe intersections in appropriate relation to the proposed use of the land to be served by such streets. The maximum grade for street should be 8% unless the commission and city engineer approve a higher grade. Adequate provisions shall be made to control the drainage of each street by an adequate storm water system, subject to approval of the commission and city engineer.

3. Intersections: Street intersections shall be as nearly at right angles as possible and no intersection shall be at an angle of less than 80 degrees.

4. Street jogs: Street jogs with center line offsets of less than 200 feet shall not be allowed.

5. Streets names: Streets shall be identified by name on the proposed plat. Proposed streets which are obviously in alignment with others already existing and names shall bear the names of existing streets. In no case shall names for proposed streets duplicate existing street names within the local zip code district irrespective of the suffix, be it street, avenue, boulevard, driveway, place or court.

The board of highway commissioners shall have the authority to designate or redesignate by name, streets in the city.

6. Street signs: All street signs and posts shall be provided and installed by the city.

7. Cul-de-sac: A cul-de-sac is a dead end street, terminating in a turnaround at one end and a secondary or major street at the other, which is not intersected by any other streets or

ways. Cul-de-sac streets shall be permitted only in residential districts and the length of a cul-de-sac shall not exceed ten times the minimum required lot frontage for the district(s) involved. The number of dwelling units served by a cul-de-sac or by a system of streets sharing a common single access to a major or secondary street shall not exceed 5- unless additional connections to other streets are approved by the planning commission after consultation with the city engineer.

8. Access: Adequate provisions shall be made for the regulation of general traffic access to the proposed subdivision or development. Entrances and exits for motorized vehicles shall be designed to facilitate smooth traffic flow, controlled and coordinated turning movements, and minimize hazards to pedestrians. Paved access for emergency vehicles shall be provided to within 100 feet of the principal entry for multi-family dwellings and commercial, industrial and institutional establishments.

All streets and highways shall be of sufficient width and suitable grade and be so located to facilitate fire protection and coordinated so as to compose a convenient system properly related to the plan.

9. Streets: All streets shall be completely constructed by the subdivider in accordance with minimum requirements for street construction as promulgated and maintained by the city engineer. Street construction shall be at the sole expense of the developer, unless this requirement is waived by the board of aldermen.

10. Sidewalks: Sidewalks shall be installed along both sides of major and secondary streets, and along one side of minor streets. Sidewalk to curb distance shall be at least four feet or as otherwise approved by city engineer. Sidewalks shall be laid out so as to maximize southern exposure. Sidewalk provisions may be waived by the commission if such waiver is in the best interest of the city.

§ 6032. Lot layout

Lots shall be laid out in such a way that they can be developed in full compliance with zoning regulations, and give consideration to topography, soils and drainage conditions.

Corner lots shall have extra width to conform to setbacks on each street. No subdivision showing any reserved strips shall be approved. At lot frontage width of length ratio shall not exceed one to five.

§ 6033. Pedestrian access

Permanent pedestrian easements, 10 feet in width, may be required through blocks 600 feet or more in length of as a continuation of cul-de-sacs, or in conjunction with utility easements in order to facilitate pedestrian circulation within the subdivision or access to adjoining neighborhoods and public property or community focal points such as parks, schools, and other public property, shopping centers, centers of employment, and community recreation facilities, etc. Additional pedestrian easements shall be reserved where indicated by the comprehensive plan.

§ 6034. Water

The existing public utility system shall be extended so as to provide necessary quantities of water, at acceptable pressure. Construction shall conform to city water department requirements.

The developer may be required to design and install water mains and appurtenances of larger size than immediate needs of his development would require to conform to the city water department master plan for water main sizes to give service to future development.

City shall pay for differences between material costs of needed sizes and required larger sizes of pipes and appurtenances. Developer shall pay all handling and laying costs.

Should nearest pipes servicing development area not be large enough, subdivider shall pay for and install proper sizes at its expense, unless the board of aldermen authorizes city to pay part or all of such expense.

§ 6035. Fire protection

The layout of the subdivision shall be reviewed by the fire chief or his designee to insure that adequate fire protection can be provided. This review shall include, but not be limited to, minimum distance between structures, street width, vehicular access from two directions where possible, looping of water lines, water flow and pressure, and number and location of hydrants.

All aspects of fire protection systems shall be designed and installed in accordance with applicable codes in all areas served by municipal water.

§ 6036. Sewage disposal

Off-site.

Subdivider shall connect to the public sewer system. The subdivider is required to provide such pumping and other facilities as may be necessary. Developer may be requested by the planning commission or city engineer to over-design and over-build said utilities or portions thereof so that future users may connect onto the system. City shall pay the difference between the cost of improvements necessary for the subdivision and cost of over-designing and over-building. Costs of over-designing and over-building shall be confined to difference in material costs of pipe and structure sizes. The difference in costs of handling and laying of various sizes of pipe shall be borne by the developer.

Should nearest pipes servicing development area not be large enough, subdivider shall pay for and install proper sizes at its expense, unless the board of aldermen authorizes city to pay part or all of such expense.

On-site.

Sewage disposal facilities shall be designed and installed in accordance with all applicable local and state regulations and standards.

Community sewer systems shall be designed in such a way that they may eventually be connected to the municipal sewer system.

§ 6037. Utility lines

Electric, telephone and cable telecommunications distribution systems may be underground or aboveground, at option of developer. All work is to be coordinated with utility company, both for subdivision and areas adjacent to subdivision.

§ 6038. Outdoor lighting

Illumination of areas such as streets, sidewalks, driveways, parking areas, loading and unloading areas, principal entryways and/or other locations shall be provided in accordance with the recommendations of the city engineer, and in compliance with the performance standards of the Rutland zoning regulations.

Subject to approval by the board of aldermen, the city may furnish lights on utility poles. Subdivider shall furnish poles, fixtures, and any lights not provided by city.

§ 6039. Storm drainage

A. Removal of spring and surface water. The subdivider shall remove, either by pipe or by open ditch, any spring or surface water that may exist, either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width as specified by the city engineer, and shall be designed to standards approved by the city engineer. In design of the drainage system, natural waterways and drainage ways shall be utilized to the fullest extent possible.

B. Drainage structure to accommodate potential development upstream. Culverts or other drainage facilities shall, in each case be large enough to accommodate potential run-off from inside or outside the subdivision. The commission shall approve the design and size of facilities based on anticipated run-off under conditions of total potential development. The subdivider's

engineer shall provide such information as the adequacy of the facilities. Developer's engineer is to certify that culverts or other drainage facilities are large enough to accommodate potential run-off from inside or outside the subdivision. Certification shall be in a form acceptable to the commissioner of public works and city engineer.

C. Responsibility for drainage downstream. Subdivider's engineer shall provide such information as the commission and city engineer deem necessary to determine the effect of the subdivision on existing downstream drainage facilities outside the area of the subdivision. Where the city engineer advises that additional run-off incident to development of the subdivision will overload an existing downstream drainage facility so there will be damage to private property or an increase in expenditures of public funds. The commission shall not approve the subdivision until the subdivider and board of aldermen agree to allocation of the costs of improvement. Developer's engineer is to certify that additional run-off incident to the development will not overload existing downstream drainage facilities.

§ 6041. Open space and recreation areas

Land with adequate access to and from public streets shall be reserved for open space and recreational area as deemed necessary in proper cases by the commission in any plot submitted for approval. The commission may waive this requirement concerning recreation lands.

§ 6042. Site preservation and landscaping

A. Existing features. The preservation of side amenities such as trees, brooks or drainageways, historic sites, and other unusual features which the commission feels are an asset to the side and/or community, shall be required insofar as possible through harmonious design and appropriate construction methods.

B. Natural cover. Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours and conserve the natural cover and soil. After application for approval has been submitted to the Commission, no topsoil, sand or gravel shall be removed from the subdivision for any purpose other than to meet construction needs of that particular subdivision or to meet any requirements of these regulations.

C. Erosion and sediment control. The smallest practical area of land should be exposed at any one time during development. When land is exposed during development, the exposure should be kept to the shortest practical period of time. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the commission to protect areas exposed during development. Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained during development to remove sediment from runoff water and from land undergoing development. The permanent final vegetation and structures should be installed as soon as practical in the subdivision. Adequate and permanent measures shall be taken at culvert outfalls to minimize or prevent erosion and disruption of drainageway areas. All responsibility for damage or other problems caused by erosion associated with the development shall rest with the developer.

D. Landscaping. Suitable hardwood shade trees such as sugar maple, Norway maple, red maple, ash or oak shall be planted at 60 foot intervals on the average, along both sides of streets or private ways where there are or would otherwise be no trees. All trees shall measure at least two inches in diameter measured at a point four feet above finished grade level. Final choice of tree species and exact plant locations are subject to recommendations of the city forester.

§ 6043. Excavation and grading

A. General. All excavating and filling required for construction of improvements shall be as specified within this section. The entire area of work shall be brought to the required lines and grades by excavation or filling. Excavation material, if suitable, may be used in making

embankments and in filling low areas. A minimum of four (4) inches of top soil shall be provided to cover overall finished slopes. This material shall be spread uniformly over all finished slopes. All streets shall be graded from property line to property line to approved grade and cross section.

B. Fill. No stumps, wood, roots, sod, other fibrous or organic material or refuse shall be used as fill. In those locations where the alignment crosses swamp or marsh land, or other similar soil that is incapable of withstanding expected loads, such inadequate soils shall be entirely removed and replaced with adequate material. The materials so removed shall not be placed in embankments, but may be used in flattening embankment slopes or for filling low spots outside the road section. The commission may require the developer to submit evidence of boring and/or other soil investigations to determine the depth, composition and stability of the subgrade within the road section.

C. Embankments. Embankments shall be formed of suitable and acceptable excavated materials and brought to the required lines and grades. The materials for embankment shall be placed in successive horizontal layers not exceeding six (6) inches in depth, extending across the entire fill area. They shall be spread by a bulldozer or other acceptable method and shall be thoroughly compacted. Where embankments are made of rock, the rock shall be deposited that all voids are filled with earth and in such a way that the compaction specified above may be secured.

D. Subgrade. Upon completion of filling and excavation, the subgrade shall be formed to the required grade and contour, and the entire surface again rolled as specified above. High spots shall be removed and low spots filled with the acceptable material and the process of leveling and rolling continued until no further depression results.

E. Side slopes. Side slopes in embankment and on roadside drainage ditches shall descend one (1) foot vertically for at least each two (2) feet horizontally (1 on 2). Surplus materials resulting from excavation of the road prism shall be used to flatten slopes of embankment so that they ascend one (1) foot vertically for at least two (2) feet horizontally (1 on 2). Side slopes in excavation rock shall ascend six (6) feet vertically for at least each one (1) foot horizontally (6 on 1). Where rock cuts have a face higher than ten (10) feet vertically, a three (3) foot berm shall be provided at each ten (10) foot level above the grade at the edge of the pavement. Side slopes shall not be graded so as to extend beyond the limits of the road right-of-way onto land not part of the subdivision unless a suitable slope easement has been properly established and granted by the affected property owner.

#### § 6044. Utility Easements

Easements of sufficient width shall be provided in locations acceptable to city engineer so as to serve both the proposed subdivision and existing and anticipated development outside the subdivision.

#### § 6045. Assessment of development impact

The commission shall evaluate any proposed major subdivision according to the following standards. In light of findings made on these standards, the commission may require reasonable modification or appropriate phasing of the proposed subdivision.

1. Will not result in undue water or air pollution. In making this determination it shall consider: elevation of land above sea level in relation to flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; slope of the land and its effect on effluent; applicable health and water resource department regulations.

2. Does have sufficient water available for reasonable foreseeable needs of the subdivision or development.

3. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

4. Will not cause unreasonable highway congestion or unsafe conditions with respect to use of highways existing or proposed. PLaN must be approved by city engineer.
5. Will not have undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sties or rare and irreplaceable natural area.
6. Efficiency of allocation and distribution of street and public facility installation, construction and maintenance.
7. Will not cause unreasonable burden on the ability of the municipality to provide educational services.
8. Will not place an unreasonable burden on the ability of the local government to provide municipal or governmental services and facilities.

#### Subchapter 5. General Provisions

##### § 6051. Fees

Upon submission of an application for minor subdivision plat approval, major subdivision preliminary plat approval, or major subdivision final plat approval, applicant shall pay a fee in accordance with a fee schedule established by the board of aldermen for the administration of subdivision review. Included in said fee shall be the anticipated costs of any public hearing and expenses not otherwise provided for herein.

##### § 6052. Number of copies

All required submissions under these regulations shall be submitted in quadruplicate.

##### § 6053. Attendance at public hearings

The subdivider or his duly authorized representative shall attend all required meetings and hearings held under these regulations to review the subdivider's application, including any public meetings or hearings which are continued to a specific time and date. The commission may disapprove subdivider's application if he or his duly authorized representative fails to attend any such public hearings or meetings.

##### § 6054. Suitability of land

The commission shall not approve an application if development is subject to adverse physical limitations which would be harmful to the safety, health and general welfare of surrounding and adjacent areas unless adequate methods to solve the physical limitations are established. Land subject to periodic flooding, poor drainage, inadequate capability to withstand structures, including streets, utilities, and buildings, or other hazardous conditions shall not ordinarily be developed.

##### § 6055. Conformity with municipal development plan and by-laws

Proposed subdivisions shall conform to the municipal development plan and all by-laws of the city, including the city zoning ordinances. When a subdivider submits an application for a proposed planned unit development of residential development in addition to the requirements of these regulations, applicable requirements of the Vermont Planning and Development Act and the City of Rutland Zoning Regulations shall be adhered to.

##### § 6056. Performance bonds

Before final approval of a subdivision plat, subdivider shall furnish the city with a performance bond with appropriate surety or security, approved by the board of aldermen, in an amount to cover the full costs of all new streets and required improvements, and their maintenance for a period of two years after completion, the cost of which shall be borne by the subdivider. The amount of such bond shall be determined by the city engineer and the form and execution of such

bond shall be approved by the city attorney. The performance bond shall run for a term determined by the planning commission, however, the term may be extended for an additional period not to exceed three years.

As-built construction drawings and plans shall be submitted to and approved by the city engineer prior to the release of any bonds or portions thereof, for installation of required improvements.

§ 6057. Acceptance of streets

Approval of a subdivision plat by the commission shall not be deemed to constitute or be evidence of acceptance with the city of any streets, easements, water and sewer facilities, or open space shown on the subdivision plat.

§ 6058. Filing of approved plat

Approval by the planning commission or certification by the city clerk of the planning commission's failure to act with 45 days of the final public hearing held under these regulations, shall expire 90 days from such approval or certification unless, within such 90 day period, such plat shall have been duly filed or recorded with the office of the city clerk.

No plat showing a new street or highway may be filed or recorded in the office of the city clerk until it has been approved by the commission and such approval is endorsed in writing on such plat, or the certificate of the city clerk showing the failure of the commission to take action within said 45 day period is attached.

§ 6059. Plat void if revised after approval

No changes, erasures, modifications or revisions shall be made on any subdivision plat after approval has been given by the commission and endorsed in writing on the plat, unless said plat is first resubmitted to the commission and the commission approves such modification. In the event said subdivision plat is recorded without complying with these requirements, the plat shall be considered null and void and the commission shall institute proceedings to have the plat stricken from the records of the city clerk.

§ 6060. Application forms

All applications required under these regulations shall be submitted on forms furnished and approved by the administrative officer.

§ 6061. Certificate of title

Final plat application for a minor or major subdivision shall be accompanied by a certificate of title showing ownership of all property and easements to be dedicated or acquired by the city, and said certificate of title shall be approved by the city attorney. All proposed deeds conveying property or easements to the city shall also accompany final applications for minor or major subdivisions, and be approved by the city attorney. All such deeds must be accepted by the city prior to release of any performance bonds or sections thereof.

§ 6062. Form of recorded plat

The plat to be filed with the city clerk shall comply with requirements of the Vermont Statutes Annotated as presently enacted or as hereinafter from time to time amended.

§ 6063. Action on staff, committee or department recommendations

Before taking action on a final plat, the commission shall notify, in writing, any municipal staff, committee or department of any intended changes with respect to recommendations pertaining to the plat made by said staff, committee, or department. Action taken on final plats shall be

deferred until said staff, committee, or department has submitted its comments on the commission's intended changes.

§ 6064. Waivers and variances

The procedures and requirements for the submission and processing of plats and the standards for the design and layout established by these subdivision regulations may be waived or varied by the planning commission, subject to appropriate conditions, when the planning commission finds that compliance with any procedure, requirement or standard is not requisite in the interest of the public health, safety and general welfare due to the special circumstances of a particular plat or plats or are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision, however, any waiver or variance granted shall pertain only to that particular subdivision for which it was granted and shall not set a precedent for similar action for any other subdivision. When a waiver or variance has been requested with respect to a subdivision application, the notice of the public hearing on such application shall specify that such has been requested, the section or sections of this regulation to which the request pertains, and a concise statement of the nature and the reasons for the request.

Subchapter 6. Administration and Enforcement

§ 6071. Administrative officer

The zoning administrator shall perform the necessary administrative and enforcement requirements of this by-law.

§ 6072. Endorsement by the commission

Every approved subdivision plat shall carry the following endorsement on the copy to be filed with the City Clerk: "Approved by resolution of the planning commission of the City of Rutland on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_ subject to the requirements and conditions of said resolution. Signed this \_\_\_\_ day of \_\_\_\_\_ 19\_\_ by \_\_\_\_\_, Chairman or Clerk".

§ 6073. Appeals

Appeals from the decision of the commission shall be in accordance with provisions of the Vermont Planning and Development Act and Vermont Statutes as presently in effect or as hereinafter from time to time amended.

§ 6074. Enforcement and penalties

Any person who violates any of the provisions of these regulations shall be fined not less than \$5.00 nor more than \$50.00 for each offense and each day that a violation continues shall constitute a separate offense.

Any person who sells, transfers, or agrees to sell or transfer land in a subdivision or land development or erects any structure thereon without first having recorded a duly approved final plat under these regulations shall be fined not less than \$5.00 nor more than \$50.00, and each lot, parcel, or unit so sold, transferred or agreed to be sold or transferred shall be deemed a separate violation. Nothing herein contained shall be deemed to bar any other legal or equitable remedy provided in the Vermont Planning and Development Act, as presently enacted and as from time to time hereinafter amended, or otherwise, to restrain, correct, or prevent any violation of these regulations or prosecute violators thereof.

§ 6075. Expiration of approval

If no action is taken by subdivider to construct substantially his proposed subdivision within three years of final plat approval, said approval shall become null and void; however, said

approval may be extended for up to two additional years if the commission determines that the developer has, since final plat approval, been diligently and consistently pursuing financing or other necessary approvals.

§ 6976. Severability  
The invalidity of any provision of these regulations shall not invalidate any other part.

§ 6077. Repeal of prior ordinances  
Upon passage, these subdivision regulations shall be known and cited as Rutland City Subdivision Regulations and are in accord with 24 V.S.A. §4401 et seq. Title 31 R.O.R. Chapter 3, §5871 through §5879 inclusive together with any amendments thereto are hereby repealed as of the effective date of these regulations.

## CHAPTER 5 REPEALED 11/2000

## TITLE 31

### CHAPTER 6

#### FLOOD HAZARD AREA REGULATIONS

*6501-6514 Amended September 10, 2008*

#### *Section*

- 6501. Statutory Authorization**
- 6502. Statement of Purpose**
- 6503. Definitions**
- 6504. Lands to which these regulations apply**
- 6505. Development Permit Required**
- 6506. Procedures**
- 6507. Base Flood Elevations and Floodway Limits**
- 6508. Development Standards**
- 6509. Variances to the Development Standards**
- 6510. Duties and Responsibilities of the Administrative Officer**
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- 6513. Validity and Severability**
- 6514. Precedence of Ordinance**

**§ 6501. Statutory Authorization**

To effect the purposes of 10 V.S.A. Chapter 32, and in accordance with 24 V.S.A. § 4424, there is hereby established an ordinance for areas of special flood hazard in the City of Rutland, Vermont.

**§ 6502. Statement of Purpose**

It is the purpose of this ordinance to:

A. Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding and other flood related hazards; and

B. Ensure that the design and construction of development in flood hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property; and

C. Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and

D. Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

**§ 6503. Definitions**

Administrative Officer means the Zoning Administrator of the City of Rutland.

Appropriate Municipal Panel means a planning commission performing development review, a board of adjustment, a development review board, or a legislative body performing development review.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

Basement means any area of the building having its floor elevation subgrade (below ground level) on all sides.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging,

filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood means (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of “flood”).

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (Regulatory within the City of Rutland) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

Historic Structure means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

Legislative Body means the selectboard in the case of a town, the trustees in the case of an incorporated village, and the mayor, alderpersons, and city council members in the case of a city, and the supervisor in the case of an unorganized town or gore.

Lowest Floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of the floodplain

management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Start of Construction includes start of substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Structure means, for flood hazard management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (a) A

building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the total cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The definition of “substantial improvement” includes buildings that have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the state or local code enforcement official and which improvements are the minimum necessary to ensure safe conditions. “Substantial Improvement does not apply to any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

Violation means the failure of a structure or other development to be fully compliant with the community’s Flood Hazard Area Regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

#### **§ 6504. Lands to which these regulations apply**

These regulations shall apply to all areas in the City of Rutland, Vermont identified as areas of special flood hazard in and on the most current official flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

#### **§ 6505. Development Permit Required**

- A. A permit is required from the Administrative Officer for all proposed construction or other development in areas of special flood hazard.
- B. Conditional use approval by the appropriate municipal panel is required prior to the issuance of a permit by the Administrative Officer for:
  - 1. New buildings, other than accessory structures
  - 2. Substantial improvement of existing buildings, other than accessory structures
  - 3. Development in a floodway\*
- C. Administrative permit. All development other than that listed in IV.B shall require only an administrative permit.\*
- D. All development and subdivisions shall be reviewed by the Administrative Officer to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

(\* The requirements that all development located within a floodway be issued Conditional Use approval and that all development within the flood hazard area requires an administrative permit are included in these regulations at the insistence of VTDEC. The City believes that development that does not change the grade (e.g. replacing a buried utility) or is above the base flood elevation (e.g. repairs to a bridge) should not require conditional use approval nor be subjected to formal administrative permitting process. We apologize for any additional costs, in time and resources incurred in complying with these requirements for such innocuous projects.)

### § 6506. Procedures

- A. Prior to issuing a permit a copy of the application and supporting information shall be submitted by the Administrative Officer to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
- B. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified by the applicant at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- C. Application for proposed development shall be accompanied by a Vermont

Agency of Natural Resources Project Review Sheet completed by the appropriate Agency staff member. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the City permit application. The identified permits, or letters indicating that such identified permits are not required, shall be submitted to the Administrative officer and attached to the permit before work can begin.\*

(\*The City questions its authority to require the Agency of Natural Resources to “identify all State and Federal agencies from which permit approval is required”. The City also questions whether any person exists who can confidently say that they know of all State and Federal permits that may be required for every type of development. The wording of V. C is included in these regulations at the insistence of VTDEC. The City has no control over or responsibility fo, the content or completeness of the information on the ANR review sheet and shall not be held responsible for damages resulting from reliance on that information, nor is it responsible for damages caused by any delays in securing the permits or letters required by this section.)

## **§ 6507. Base Flood Elevations and Floodway Limits**

- A. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.
- B. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other competent sources, shall be obtained by the applicant and utilized to administer and enforce these regulations.
- C. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted in Zones A, A1-30, AE, and AH unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

## **§ 6508. Development Standards**

### A. Floodway Areas

1. Development or other encroachment within the regulatory floodway, as determined by Section VI.A, is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice and certified by a registered professional

engineer that the proposed development will result in no increase in flood levels during the occurrence of the base flood.\*

2. Junkyards, on-site wastewater disposal systems, and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

(\* The requirement that a hydrologic and hydraulic analyses performed in accordance with standard engineering practice and certified by a registered professional engineer be provided before development is allowed within a floodway is included in these regulations at the insistence of VTDEC. The City believes that development that does not change the grade (e.g. replacing a buried utility) or is above the base flood elevation (e.g. repairs to a bridge) should not require such analyses. We apologize for any additional costs, in time and resources incurred in complying with these requirements for such innocuous projects.)

B. All Special Flood Hazard Areas (within mapped Floodway Areas, the following Section B. provisions are additive to the Section A provisions above).

1. All Development - All development shall be reasonably safe from flooding and:

(a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,

(b) constructed with materials resistant to flood damage below the base flood elevation,

(c) constructed by methods and practices that minimize flood damage, and

(d) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. Residential Development:

(a) New construction and existing buildings to be substantially improved that are located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

(b) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are located in Zones A, A1-30, AE, and AH that are:

(i) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.

(ii) located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

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3. Non-residential Development (see section 7 for small accessory building exemption):

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(a) New construction located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

(b) Existing buildings to be substantially improved located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM or no less than two feet if no depth number is specified or together with attendant utility and sanitary facilities be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(c) A permit for a building proposed to be floodproofed shall not be

issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

#### 4. Subdivisions:

(a) New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.

(b) Subdivisions (including manufactured home parks) shall be designed to assure:

(i) such proposals minimize flood damage within the flood-prone area,

(ii) public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

(iii) adequate drainage is provided to reduce exposure to flood hazards.

#### 5. Enclosed Areas Below the Lowest Floor:

(a) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.

(b) New construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(c) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or

devices provided that they permit the automatic entry and exit of floodwaters.

6. Recreational Vehicles: Recreational Vehicles placed on sites with special flood hazard areas shall:

(a) be on the site for fewer than 180 consecutive days,

(b) be fully licensed and ready for highway use, or

(c) be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in section B.2. (b).

7. Accessory Structures: A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the structure meets the following requirements:

(a) The structure must only be used for parking or storage,

(b) The structure must have the required openings to allow floodwaters in and out,

(c) The structure must be constructed using flood resistant materials below the Base Flood Elevation,

(d) The structure must be adequately anchored to resist flotation, collapse, and lateral movement, and

(e) All building utility equipment including electrical and heating must be elevated or floodproofed.

8. Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

9. Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration flood waters into the systems and discharges from the systems into flood waters.

10. On-Site Waste Disposal Systems: On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

11. Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

## § 6509. Variances to the Development Standards

Variances shall be granted by the appropriate municipal panel only in accordance with 24 V.S.A. § 4469 and in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program. Any variance issued will inform the applicant that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property ***and will result in increased flood insurance premiums as high as \$25 for \$100 of coverage\****. Such notification shall be maintained with a record of all variance actions.

(\* the bold italicized wording is included in this document at the insistence of Vermont DEC. The City of Rutland has no knowledge of what flood insurance company policies premiums may be over the life of these regulations.)

## § 6510. Duties and Responsibilities of the Administrative Officer

The administrative officer shall maintain a record of:

(A) All permits issued for development in areas of special flood hazard;

(B) The elevation (consistent with the datum of the elevation on the NFIP maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings within the flood hazard area;

(C) The elevation (consistent with the datum of the elevation on the NFIP maps for the community) to which buildings have been floodproofed;

(D) All floodproofing certifications required under this regulation; and

(E) All variance actions, including justification for their issuance.

## § 6511. Enforcement and Penalties

It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days and that failure to cure the violation may result in fines and/or loss of flood insurance.

If the structure is still noncompliant after the opportunity to cure has passed, and any appeals have been resolved, the Administrative Officer shall submit a declaration of violation to the Administrator of the NFIP Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:

(A) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location,

(B) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance,

(C) a clear statement that the public body making the declaration has authority to do so and a citation to that authority,

(D) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance, and

(E) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

**§ 6512. Warning of Disclaimer of Liability**

This ordinance does not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Rutland or any city official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**§ 6513. Validity and Severability**

If any portion of this ordinance is held unconstitutional or invalid by a competent court, the remainder of this ordinance shall not be affected.

**§ 6514. Precedence of Ordinance**

The provisions of this ordinance shall not in any way impair or remove the necessity of compliance with any other applicable ordinances. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall take precedence.

## TITLE 33

### BOARD OF ASSESSORS

#### Section

- 7001. Board of assessors
- 7002. Assessors--general qualifications
- 7003. Duties of assessors
- 7004. Appraisal book

#### § 7001. Board of assessors

1. The assessors shall consist of three members and shall have the same powers, discharge the same duties, proceed in the discharge thereof in the same manner, and be subject to the same liabilities as are prescribed for listers, except as herein otherwise provided. They shall also be members of the board for the abatement of taxes, and shall perform such additional duties as are prescribed for them under the ordinances.

2. Chief assessor--the assessor elected in March, 1971 and every three years thereafter, shall be known as chief assessor. He shall hold the office of chief assessor for the term of three years.

#### § 7002. Assessors--general qualifications

- 1. Assessors shall be legal voters of the City of Rutland.
- 2. The chief assessor shall be annually appointed by the mayor from the elected assessors, subject to confirmation by the board of aldermen.
- 3. An assessor may not appraise or evaluate in any capacity real or personal property in Rutland City other than in connection with his duties as an assessor for the City of rutland.

#### § 7003. Duties of assessors

1. The chief assessor shall have control of all the administrative affairs of the assessor's office. The chief assessor shall be responsible for implementing this ordinance and state statutes relating to the duties of the assessors, and see that the same are complied with by the assessors. He shall direct the other assessors in carrying out their duties under this ordinance and the state statutes relating to assessors.

2. The chief assessor shall be a full-time employee of the City of Rutland and the other assessors shall be employed to the extent deemed necessary by the board of aldermen. The assessors shall make a physical inspection of all parcels of real property located in the City of Rutland at least once in every three year period. A record shall be kept of all such physical inspections showing the assessor involved and the date of said physical inspection and the time spent thereon, and the chief assessor shall make a monthly report to the board of aldermen, showing the number of commercial and residential parcels inspected, and such other information as the board may require.

3. All appraisals shall include taxable property not specifically exempt under 32 VSA 3802 and 32 VSA 3803.

4. The assessors shall use the forms provided by the Vermont commissioner of taxes pursuant to 32 VSA 4001(b), in compiling taxable real and personal property in the city.

5. The assessors shall use such guidelines and methods as shall be issued by the commissioner of taxes, pursuant to 32 VSA 3401.

6. At least one Rutland City assessor, pursuant to 32 VSA 3435, shall be required to attend all meetings of listers carried out by the commissioner of taxes including the annual listers school.

7. The board of assessor's office shall be open during the usual business hours at city hall.

§ 7004. Appraisal book

The appraisers shall cause to be published an appraisal book within three (3) years of the passage of this ordinance and said book shall be updated at least once in every five (5) year period thereafter.

## TITLE 34

### CITY PARKS

#### Section

8001. Definitions

8002. Park property

8003. Sanitation, **Use of Tobacco Products (Amended 9-7-2010)**

8004. Traffic

8005. Recreational activities

8006. Behavior

8007. Merchandising, advertising and signs

8008. Park operating policy

**8009. Giorgetti Fund (Amended 6-4-2007)**

**8010. Giorgetti Park Revenue (Amended 6-4-2007) (12-20-2013 No. 275)**

**8011. Enforcement (Amended 6-4-2007)**

§ 8001. Definitions

1. "City" is the City of Rutland, Vermont

2. "Superintendent" means the superintendent of recreation and parks for the City of Rutland.

3. "Park" is any area in the city, only used by the city, and devoted to active or passive recreation.

4. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

5. "Vehicle" is any conveyance, whether motor powered, animal-drawn, or self-propelled. The term shall include any trailer in tow of any size, kind or description.

§ 8002. Park property. No person in a park shall:

1. Buildings and other property

(a) Disfiguration and removal. Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other

boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(b) Restrooms and washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition.

(c) Removal of natural resources. Dig or remove any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency.

(d) Erection of structures. Construct or erect any building or structure or whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

2. Trees, shrubbery, lawns

(a) Injury and removal. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

3. Wild animals, birds, etc.

(a) Hunting. Hunt, kill, trip shoot or throw missiles at any animal, reptile or bird in the park.

§ 8003. Sanitation, **Use of Tobacco Products**; No person in a park shall:

1. Pollute the natural waters located in the parks.

2. Refuse and trash. Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

**3. Be in possession of lighted tobacco products in any form.**

**4. Place, maintain or chew, within their mouth, smokeless tobacco products.**

*(Effective 10-14-2010)*

§ 8004. Traffic. No person in a park shall:

1. Motor vehicle laws apply. Fail to comply with all applicable provisions of the state motor vehicle statutes or city ordinances in regard to equipment and operation of vehicles.

2. Speed of vehicles. Ride or drive a vehicle at a rate of speed exceeding 15 miles an hour, except upon such roads as the superintendent may designate, by posted signs, for speedier travel.

3. Operation confined to designated areas. Drive any vehicle on any area except the paved park road or trails or parking areas designated by the superintendent.

4. Parking.

(a) Designated areas. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions.

§ 8005. Recreational activities. No person in a park shall:

1. Bathing and swimming.

(a) Designated areas. Swim, bath, or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefore, and in compliance with such regulations as are herein set forth or may be hereafter adopted.

(b) Certain hours. Frequent any waters or places designated for the purpose of swimming or bathing, or congregate thereat, except between such hours of the day as shall be designated by the superintendent for such purposes for each individual area.

2. Firearms. No person shall use, carry, or possess firearms of any descriptions, or air-rifles, spring-guns, bow-and-arrows, slings or any other forms of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Shooting into parks areas from beyond park boundaries is forbidden.

3. Picnic areas and use.

(a) Regulated. Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(b) Availability. Violate the regulation that use of the individual fireplaces together with tables and benches follows generally the rule of "first come, first served."

(c) Non-exclusive. Use any position of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.

(d) Duty of picnicker. Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

4. Camping. No person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as house-trailer, camp-trailer, camp-wagon, or the like, without a permit from the superintendent.

5. Games. Take part in the playing of any games involving thrown or otherwise propelled objects in annoyance or discomfort of others. The playing of rough, or comparatively dangerous games such as football and baseball is prohibited except on the fields and courts or areas provided therefore.

6. Horseback riding. Ride a horse except on designated bridle trails. Where permitted, horses shall be thoroughly broken and properly restrained, and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree or shrub.

§ 8006. Behavior. No person in a park shall:

1. Intoxicating beverages.

(a) Prohibition. Have brought alcoholic beverages, nor shall any person drink alcoholic beverages at any time in the park, except when allowed by rule or regulation of the superintendent.

(b) Drunkenness. Have entered or be under the influence of intoxicating liquor.

2. Fireworks and explosives. Brought, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives.

3. Loitering and boisterousness. Engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.

§ 8007. Merchandising, advertising and signs.

No person in a park shall:

1. Vending and peddling. Expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article

or thing. Exception is here made as to any person acting by and under the authority by permit of the superintendent.

2. Advertising. Announce, advertise, or call the public attention in any way to any article or service for sale or hire.

3. Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.

§ 8008. Park operating policy

1. Hours. The parks shall be open to the public during the hours of operation as designated by the superintendent.

2. Closed hours. Any park or portion thereof may be declared closed to the public by the superintendent as he may deem necessary.

3. Permits required for park uses. A permit shall be obtained from the superintendent before participating in the following park activities:

(a) For any person who plans to conduct or participate in any organized entertainment, demonstration or public gathering.

(b) This ordinance required issuance of a permit for any other purpose or reason mentioned herein, the person seeking the permit shall file an application with the superintendent stating the following:

(1) The name and address of the applicant;

(2) The name and address of the person, persons, corporation or association sponsoring the activity, if any;

(3) The day and hours for which the permit is desired;

(4) The park or portion thereof for which such permit is desired;

(5) An estimate of the anticipated attendance;

(6) Any other information which the superintendent shall find reasonably necessary to a fair determination as to whether a permit should issue hereunder.

(c) Standards for issuance. The superintendent shall issue a permit hereunder when he finds:

(1) That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.

(2) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;

(3) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.

(4) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city.

(5) That the facilities desired have not been reserved for other use at the day and hour required in the application.

(d) Appeal. Within seven (7) days after receipt of an application the superintendent shall apprise an applicant in writing of his reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within 7 days to the board of aldermen, which shall consider the application under the standards set forth in subsection (c) hereof and sustain or overrule the superintendent's decision within 7 days. the decision of the board of aldermen shall be final.

(e) Effect of permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.

(f) Liability of permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.

(g) Revocation. The superintendent shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown.

(h) The superintendent shall give notice of the issuance of the permit to any other department or official of the city who may be affected by the activity permitted.

(i) The permittee shall be held liable to repair or replace any equipment or city property damaged by the activity allowed in the permit.

§ 8009 Giorgetti Fund

1. The Giorgetti Fund shall be maintained by the City Treasurer as an independent interest bearing account.

2. Expenditures from the Giorgetti Fund shall only be used for maintenance, upkeep or improvements to Giorgetti Park and/or Pine Hill Park, except as noted below.

3. Any expenditure that deviates from #2 above shall only be by vote of three quarters of the Rutland City Board of Aldermen at a duly warned meeting. Any such deviations shall only be for maintenance, upkeep or improvements to recreational facilities owned by the City of Rutland and within the City of Rutland. (Added 2007, No. 249, eff. July 4, 2007)

§ 8010 Giorgetti Park Capital Fund

**1. The Superintendent and the Mayor shall appropriate \$30,000.00 annually for capital improvements at Giorgetti Park to be transferred to the Giorgetti Capital Fund.**

**2. This ordinance shall sunset June 30, 2019 unless expressly renewed by the Board of Aldermen.** (Amended 12-20-2013, No. 275)

§ 8011. Enforcement

1. Officials. The superintendent and park attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this ordinance.

2. Ejectment. The superintendent and any park attendant shall have the authority to eject from the park any person acting in violation of this ordinance.

3. Seizure of property. The superintendent and any park attendant shall have the authority to seize and confiscate any property, thing or device in the park, or used, in violation of this ordinance.

4. Any person who violates any provisions of this title shall be subject to a civil penalty of not less than \$100 nor more than \$500. (Amended 2007, No. 249, eff. July 4, 2007)

## TITLE 35 GARAGE SALES

Chapter

1. Garage Sale Ordinance

CHAPTER 1

Garage Sale Ordinance

Section

- 8501. Definitions
- 8502. Garage sale regulations (Updated August 5, 2013)
- 8503. Penalties
- 8504. Severability
- 8505. Effective date

§ 8501. Definitions

(a) Garage sale: The sale of personal property conducted in or near a residence under cover, or completely outside of any building, in the open. The term shall include garage sales, patio sales, rummage sales, yard sales, estate sales, tag sales or other similar sales which are advertised by a sign or other means, for the public to attend.

(b) Nonprofit organization: Includes but is not limited to fraternal organizations, hobby societies, educational societies, historical societies, museums, hospital auxiliary groups, churches, church auxiliary organizations, student groups and parent-teacher organizations.

(c) Person: As used herein, shall mean any corporation, individual or members of a family residing in a household conducting the sale, but shall not include nonprofit organizations.

§ 8502. Garage sale regulations

(a) No person or nonprofit corporation shall operate, conduct, manage or permit more than four (4) garage sales per calendar year upon his/her or its premises or other property under his/her or its control. Each sale shall not be continued for a period of time of more than three (3) consecutive days. No garage sale shall be conducted before 8:00 a.m. or after 8:00 p.m.

**(b) Removed On August 30, 2013**

§ 8503. Penalties

Any person who violates any of the provisions of this chapter shall pay a civil penalty of not less than \$50.00 nor more than \$500.00 for each offense. Each and every day shall be considered a separate offense.

§ 8504. Severability

In the event any section, subsection, sentence, clause or phrase of this ordinance shall be adjudicated invalid or unconstitutional, such phrase is declared to be separable and the remaining portions of this ordinance to be in full force and effect.

§ 8505. Effective date

This ordinance shall take effect and be enforced from and after its passage and publication according to law.

WAIVER FINES

<u>SECTION</u>	<u>WAIVER FINE</u>	<u>MINIMUM FINE</u>
§ 652(b)	\$50.00	
§ 803 1st Offense	\$100.00	
§ 803 2nd Offense	\$250.00	
§ 803 3rd Offense	\$500.00	
§ 1030(a)	\$50.00	
§ 1030(b)	\$50.00	
§ 1030(c)	\$50.00	
§ 1128	\$50.00	
§ 1129	\$50.00	
§ 1308	\$50.00	
§ 1335	\$100.00	
§ 1450	\$50.00	\$50.00
§ 1517	\$50.00	
§ 1543 1st Offense	\$25.00	
§ 1543 2nd Offense	\$50.00	
§ 1543 3rd Offense	\$100.00	
§ 2555 1st Offense	\$50.00	
§ 2555 2nd Offense	\$100.00	
§ 2555 3rd Offense	\$150.00	
§ 2556(b)	\$50.00	
§ 2802(b)	\$50.00	
§ 2991	\$50.00	
§ 3212	\$50.00	
§ 3282	\$50.00	
§ 3456	\$100.00	
§ 3506	\$100.00	
§ 3661 1st Offense	\$25.00	
§ 3661 2nd Offense	\$50.00	
§ 3661 3rd Offense	\$100.00	
§ 3670	\$100.00	
§ 3706 1st Offense	\$50.00	
§ 3706 2nd offense	\$125.00	
§ 3706 3rd offense	\$200.00	
§ 3706 4th offense	\$275.00	
§ 3706 5th and subsequent offenses	\$350.00	
§ 3803	\$100.00	
§ 3861(b)	\$100.00	
§ 3928	\$100.00	
§ 4161(b)	\$100.00	
§ 4182(d)	\$100.00	
§ 4185(c)(2)	\$50.00	
§ 4464(f) 1st Offense	\$50.00	
§ 4464(f) 2nd Offense	\$150.00	
§ 4464(f) 3rd/Subsequent Offense	\$300.00	
§ 4470	\$25.00	
§ 4474	\$100.00	
§ 4503(f)	\$100.00	
§ 4503(f)	\$50.00	

§ 4508(d)	\$50.00	
§ 4559	\$50.00	\$50.00
§ 4605	\$50.00	
<u>SECTION</u>	<u>WAIVER</u>	<u>MINIMUM FINE</u>
	<u>FINE</u>	
§ 4611(a)(1)	\$150.00	\$175.00
§ 4611(a)(2)	\$150.00	\$175.00
§ 4611(b)(1)	\$150.00	\$175.00
§ 4611(b)(2)	\$150.00	\$175.00
§ 4611(b)(3)	\$150.00	\$175.00
§ 4611(b)(4)	\$150.00	\$175.00
§ 4611(b)(5)	\$150.00	\$175.00
§ 4611(b)(6)	\$150.00	\$175.00
§ 4611(b)(7)	\$150.00	\$175.00
§ 4611(b)(8)	\$150.00	\$175.00
§ 4611(b)(9)	\$150.00	\$175.00
§ 4611(b)(10)	\$150.00	\$175.00
§ 4611(b)(11)	\$150.00	\$175.00
§ 4611(b)(12)	\$150.00	\$175.00
§ 5044 1st Offense	\$25.00	
§ 5044 2nd Offense	\$100.00	
§ 5044 3rd Offense	\$175.00	
§ 5320 1st Offense	\$25.00	
§ 5320 2nd Offense	\$75.00	
§ 5320 3rd Offense	\$150.00	
§ 5344	\$50.00	
§ 5356	\$200.00	
§ 8009(4)	\$100.00	
§ 8501	\$50.00	\$50.00
§ 8502	\$50.00	\$50.00
§ 8503	\$50.00	\$50.00
§ 8504	\$50.00	\$50.00
§ 8505	\$50.00	\$50.00

AMENDED December 28, 2004

amended October 16, 2000

PLANNING COMMISSION  
NOTICE OF PUBLIC HEARING

§ 5712. Business entertainment BE districts

To protect and conserve the value of property in the City of Rutland and for other purposes of this chapter the following shall be permitted in all portions of the city indicated on the municipal zoning district map as coming under business-entertainment BE classification; and only in said portions, subject to the provisions of other sections of this chapter and the usual sanitary and health requirements.

- (1) Taverns.
- (2) Bottle clubs.
- (3) Night clubs.
- (4) Indoor theater, hall, club or [other places of amusement].