

Winooski Municipal Code
Chapter 13
Offenses and Miscellaneous Provisions

ARTICLE I. PURPOSE AND APPLICABILITY.

Certain activities require regulation and enforcement to maintain order, protect property, promote business, and support the safety and welfare of the public. This chapter includes provisions to control and prohibit activities that affect the quality of life of Winooski citizens and shall apply at all times within the general limits of the City of Winooski. Specific provisions for the control of activities in the City of Winooski Parking Garage are contained in Article V of this chapter.

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ARTICLE III. GENERAL.

SECTION 13-1. DEFINITIONS.

ABANDONED AIRTIGHT CONTAINER - Unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snaplock or other device thereon for the purpose of locking the same without first removing the snaplock, other device or door from said icebox, refrigerator or container.

ENFORCEMENT OFFICER - Shall include sheriffs, deputy sheriffs, constables, police officers, state's attorneys, motor vehicle inspectors, state game wardens and state police.

EXPLOSIVE - Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

FIREWORKS - The term "fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, Roman candles, Daygo bombs, sparklers or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term "fireworks" shall not include toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are

so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper or plastic caps which contain less than twenty-hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times. Provided, however, that the term "fireworks," as herein used, shall not be held to mean and include fixed ammunition for firearms, and the primers thereof. (Cross Reference 20 VSA 3131)

MINOR - Any person who has not yet attained the age of 21 shall be considered a minor for the purposes of this Ordinance.

OPEN BEVERAGE CONTAINER - A malt or spirituous container, bottle, can or vessel which is opened and from which the contents may be consumed or poured.

PERSON - As used in this chapter shall include a corporation, association, co-partnership, company, firm or other aggregation of individuals.

PLAINLY AUDIBLE - Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if a sound source 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 base component of the music is sufficient to constitute a plainly audible sound.

PUBLIC PLACE - Public Place shall mean any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall also include but not be limited to any store, shop, bowling alley, cafe, theater, drug store, pool room, shopping center and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate areas of the above. For the purposes of this chapter, no licensed establishment that sells malt, spirituous or alcoholic beverages for consumption on the premises shall be considered as public.

SIDEWALK - Shall mean that improved portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines intended for the use, or routinely used, by pedestrians.

SECTION 13-2. ENFORCEMENT. Enforcement will be primarily managed and executed by the Winooski Police Department. Winooski Police Officers will remain the primary means of enforcement for violations of this chapter, but can be augmented by any trained enforcement officer as defined in Section 21-1 above.

SECTION 13-3. FINES and PENALTIES.

Unless otherwise stated, any person, firm or corporation violating any provisions of this chapter shall be fined not less than ONE HUNDRED FIFTY (\$150.00) dollars and no more than TWENTY FIVE HUNDRED (\$2,500.00) for each offense.

SECTION 13-3A. FINES. Unless otherwise stated, the following fines will be applied to any violation of a section of Chapter 13 of the Winooski Code of Ordinance.

First Offense: \$150.00

Second Offense: \$250.00

SECTION 13-3B. PENALTIES. Any and all violations of the provisions of this chapter will be considered a criminal act. Unless otherwise stated, third and subsequent offenses could result in imprisonment for not more than six (6) months or fined not more than \$2,500.00, or both.

ARTICLE IV. REGULATIONS. The activities regulated below have been specifically cited by the Winooski City Council as disturbing, as a nuisance, and/or as a safety concern and are regulated to protect the quality of life of the citizens of Winooski.

SECTION 13-4. ABANDONED AIRTIGHT CONTAINERS. It shall be unlawful for any person to dispose of, abandon or have in his possession, in a place accessible to children, any abandoned airtight container as defined in Section 13-1 above.

SECTION 13-5. UNLAWFUL MISCHIEF. A person who, having no right to do so or any reasonable ground to believe that he/she has such a right, does any damage to any personal or real property which is valued in an amount not exceeding \$1000.00 shall be in violation of this ordinance.

SECTION 13-6. DESTRUCTION OF TREES ON PUBLIC GROUNDS. No person shall cut down, remove, mutilate or otherwise injure or destroy any fruit, shade or other ornamental Tree growing in any public ground in the city, without the permission of the city council.

SECTION 13-7. POSTING BILLS OR ADVERTISING. No person shall post any show bills, advertisements or paper, or paint any sign, advertisement or notice, or post any political signs on any public building, fence, post, stone, tree or walk, or on any other natural or artificial object within a public right of way within the city, except as may be permitted by the city council.

SECTION 13-8. COASTING OR SLEDDING ON STREETS OR SIDEWALKS. No person shall coast or slide on a sled, sleigh or other vehicle in a street or upon the sidewalks thereof, except such streets as shall be designated by the city council.

SECTION 13-9. SKATEBOARDING AND ROLLERBLADING PROHIBITED IN CERTAIN PLACES. The use of skateboards, rollerblades, scooters and/or other similar recreational devices shall be prohibited from use on City sidewalks in the Downtown Business District, Parking Garage and on all Winooski public recreational property that is not specifically designated for skateboarding and rollerblading activities. In the case where such devices are used in violation of this ordinance provision by a person under the age of sixteen (16), the devices will be confiscated and held until a legal guardian or parent has made payment of the appropriate fine, or resolved the issue through appropriate adjudication.

This section does not limit, narrow, or abridge any rights of the City or personal property owners that may be available, either criminal or civil, for the collection of damages for acts of vandalism and or destruction, arising from the unauthorized use of such devices.

SECTION 13-10. SHOPPING CARTS. It shall be unlawful for any person to take a shopping cart from the premises where they are used, unless the person taking the shopping cart arranges with the owner or manager of the store to return the cart immediately upon completion of the use of the cart. It shall be the responsibility of the owner or manager of the store which uses the shopping carts to prevent the removal or to insure the return of the shopping carts to its premises in the event they are removed without permission.

SECTION 13-11. PROCESSIONS. No procession, funeral or otherwise, containing two hundred (200) or more persons or fifty (50) or more vehicles shall occupy or proceed along any street except in accordance with a permit issued by the City Manager and such traffic regulations as may apply.

SECTION 13-12. TRESPASS OF A MOTOR VEHICLE. No person shall enter or remain in or on a motor vehicle without legal authority or the consent of the person in lawful possession of the motor vehicle. Motor vehicle shall include all vehicles propelled or drawn by power other than muscular power, to include tractors used entirely for work on the farm, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances or snowmobiles, or implements of husbandry.

SECTION 13-13. OPEN CONTAINER. It shall be prohibited, under the terms of this Ordinance, to carry, hold or have on ones's person on the streets, sidewalks, or on or within public places of the City of Winooski, open containers of malt, spirituous or alcoholic beverages that are not specifically licensed.

SECTION 13-13A. RESTAURANT AND CABARET EXCEPTION. Notwithstanding the section above, it shall not be unlawful to possess an open beverage container in sidewalk areas that have been appropriately requested, permitted, designated, and approved for outside consumption by the Winooski Liquor Control Board of Commissioners. The owner/requestor will:

- Be a licensed restaurant or cabaret.
- At the time of request, provide a completed Vermont Department of Liquor Control Outside Consumption Permit form for approval.
- In writing and with an accompanying diagram, describe appropriate controls, maintenance procedures and barriers to ensure the requested sidewalk area can be adequately supervised and controlled. The requestor will:
 - Use and maintain the approved public right-of-way sidewalk area in accordance with the approved Outside Consumption Permit descriptions. No change to layout or conditions will be made without prior written approval (with a new plan attached) from the Winooski Liquor Control Board.
 - Provide trash containers and ashtrays and ensure litter and refuse is not subsequently dumped into the City's litter containers.
 - Ensure that tables, chairs, or other apparatus/furniture are well-maintained, appropriately stored, and secured. Unless approved otherwise, furniture will not be set-up more than one hour before approved opening hours and will be removed and stored within one hour of closing time. For the purposes of safety, all furniture (including umbrellas) will be of a weight and/or design that will insure that the wind

- cannot move the furniture.
- o Be required to pick-up and sweep the approved areas each day of operation.
 - o Pay a Sidewalk License Fee of \$1.00 per square foot per year, payable at the time of application. Owner understands that there may be times that the permitted area will not be available for construction or other use and that no portion of this fee is refundable.

SECTION 13-13B. NON-APPLICABILITY. The terms of this Ordinance shall not apply to certain social functions, affairs or meetings of a public or private nature where prior approval has been granted by the Mayor and City Council to consume or have open beverage containers on or within a public place.

SECTION 13-14. POSSESSION BY A MINOR. It shall be prohibited, under the terms of this Ordinance, for any minor to purchase, possess or consume any malt, spirituous or alcoholic beverages within the city of Winooski. The odor or presence of malt, spirituous or alcoholic beverages upon the breath of any minor shall be prima facia evidence of possession for the purpose of this Ordinance.

SECTION 13-15. DISTURBING MEETING; AIDING OR ABETTING DISTURBANCE. No person shall willfully disturb or annoy a lawful assembly, collection of persons or organized meeting of any kind, or cause the same to be done, in any manner or by any unlawful means whatsoever; nor shall any person make, aid or abet the making of any disturbance, riot or disorder, at, in or about any building or other place whatever.

SECTION 13-16. DISCHARGING FIREARMS. No person shall, except in the performance of some duty required by law, discharge any gun, pistol or other firearm within the limits of the city.

SECTION 13-17. BOWS AND ARROWS, AIR GUNS, AND SLINGSHOTS. No person shall shoot or use a bow and arrow, slingshot or an air gun within the city.

SECTION 13-18. THROWING STONES AND OTHER MISSILES. No person shall throw stones or other missiles in or upon a public street, lane, alley or common in the city.

SECTION 13-19. DISORDERLY CONDUCT. No person shall engage in fighting or in violent, tumultuous or threatening behavior, which causes public inconvenience or annoyance, or recklessly creating a risk thereof; or obstructs vehicular or pedestrian traffic.

SECTION 13-20. USE OF BUILDINGS BY DISORDERLY PERSONS. No person shall permit his buildings or other places to be used, frequented or resorted to by riotous or disorderly persons, or by any vagrant, gambler or common prostitute, or shall suffer or permit any boisterous, riotous or disorderly conduct therein or thereabout.

SECTION 13-21. LOITERING. No person shall remain upon a sidewalk or upon a doorstep, portico or other projection from any house or other building, or in the entrance or hallway of any building, to the inconvenience or disturbance of any person.

SECTION 13-22. INDECENT EXPOSURE. No person 10 years old or older shall expose to view any penis, vagina or female breasts of a human body, in any public place. As used in this section, "public place" means any place where the conduct may reasonably be expected to be viewed by others. "Public place" does not include a private residence where the conduct is not easily visible from a public place or from another private place. **Exceptions:** This ordinance shall not be deemed to prohibit the use of live nude models or partially nude models, in a place where models can be seen only by artists and art students, including part time or amateur students. This ordinance shall not prohibit the natural act of "breast feeding" within a public place as defined.

SECTION 13-23. PUBLIC URINATION OR DEFECATING. No person shall urinate or defecate in any public place, street or park, except in facilities specifically provided for that purpose.

SECTION 13-24. BEGGING/PANHANDLING. No person shall approach another for the purpose of begging on any street or other public place within the city.

SECTION 13-25. KEEPING HOUSE OF PROSTITUTION. It shall be unlawful for any person to keep a house of prostitution; permit prostitution in any house or building he may occupy; be an inmate of any house of ill-fame or in any manner contribute to the support or maintenance of any house of ill-fame. It shall also be unlawful for any person having the control of any house or building to lease or rent the same to any prostitute to be kept as a house of ill-fame.

SECTION 13-26. USES OF VEHICLES PROHIBITED IN CERTAIN PLACES. The use of motor vehicles, trail bikes, motor scooters, snowmobiles or other such devices shall be prohibited from use on Winooski public school property and Winooski public recreation property, that is not used as a traveled roadway or parking area. A person found operating a motor vehicle, trail bike, motor scooter, or snowmobile on school property or city recreation property that is not a traveled roadway, or parking area or access or egress to such traveled roadway or parking area, may be found in violation of the terms of this section. In the case where such vehicle or other device is operated by a person under the age of sixteen (16), his guardian or parents shall be responsible for the payment of the fine upon conviction for the violation of the terms of this section.

This section does not narrow or abridge any rights that may be available, either criminal or civil, for the collection of damages for acts of vandalism and or destruction, arising out of the unauthorized use of such vehicles as enumerated by federal law, statute, or other local ordinance.

ARTICLE V. SPECIAL PROVISIONS

SECTION 13-27. PARKING GARAGE. The following activities are prohibited within the Winooski Parking Garage:

- Tampering with, removing, destroying, and/or vandalizing installed devices,

- equipment, or fixtures (gate arms, card readers, elevators, etc.)
- Tampering with, removing, destroying, defacing and/or vandalizing any parking garage facility or structure (graffiti, sign removal, etc)
 - Operating a vehicle at more than Five (5) miles per hour
 - Operating vehicle in violation of any posted rules or regulations
 - Skateboarding, rollerblading, skating, or use of any other unlicensed recreational vehicle, toy, or apparatus
 - Using proximity access cards for any use other specifically implied (no transferring or passing another person)
 - Littering
 - Loitering
 - Advertising or using the garage for commercial or business purposes without permission of the City Council
 - Smoking
 - Using alcoholic beverages (see Section 13-12 above)

SECTION 13-28. TRUANCY/DISTURBING SCHOOLS.

SECTION 13-28A. TRUANCY. That no person who is legally registered as a student within the Winooski School District, any other established school or recognized educational program shall be absent from school and at large within the community during the lawfully established hours of the particular educational institution. **Exception:** This regulation shall not apply to any student whose educational plan calls for alternative schooling times or any student who is excused from school due to illness, physician appointments, family emergency, etc. by an authorized School District representative. Truancy is defined and governed by the following age descriptions:

- **Pupils Under Sixteen** - A person having the control of a child who allows such child to become enrolled in a public school, shall cause such child to attend such school continually for the full number of school days of the term in which s/he enrolled, unless the child is mentally or physically challenged and unable to continue or complete the tenth (10th) grade, or excused in writing from the Superintendent of Schools or a majority of the School Board. In case of such enrollment, such person, and the teacher, child, superintendent and school board shall be under the laws and subject to the penalties relating to the attendance of children between the ages of six and sixteen years.
- **Pupils Over Sixteen** - A person having the control of a child over sixteen years of age who allows such child to become enrolled in a public school, shall cause such child to attend such school continually for the full number of school days of the term in which s/he is enrolled, unless the child is mentally or physically challenged and unable to continue or complete the tenth (10th) grade, or excused in writing from the Superintendent of Schools or a majority of the School Board. In case of such enrollment, such person, and the teacher, child, superintendent and school board shall be under the laws and subject to the penalties relating to the attendance of children over sixteen years of age.

SECTION 28A-1. TRUANCY PROCESS.

- **Failure to attend; notice by teacher** - When a pupil between the ages of six and sixteen years, who is not excused or exempted from school attendance, fails to enter school at the beginning thereof, or being enrolled, fails to attend the same, and when a pupil who has become sixteen years of age and enrolls in a public school and fails to attend, the teacher or principal shall notify the superintendent or school board, and the designated truant officer, unless the teacher or principal is satisfied upon information that the pupil is absent on account of sickness.
- **Notice of Complaint; Penalty** - The truant officer, upon receiving the notice provided above, shall inquire into the cause of the non-attendance of the child. If the truant officer finds that the child is absent without cause, s/he shall give written notice to the person having the control of the child that the child is absent from school without cause, and s/he shall notify that person to cause the child to attend school regularly thereafter.
- **Failure to Comply** - When, after receiving such notice, a person fails, without legal excuse, to cause a child to attend school as required by this Section, such person shall be cited as provided by City code. Additionally, the truant office shall enter a complaint to the City Grand Juror and shall furnish him/her with a statement of evidence upon which the complaint is based, and the City Grand Juror shall prosecute the person. In the prosecution, the complaint, information or indictment shall be deemed sufficient if it states that the respondent having control of a child of school age, neglects to send that child to an approved public school or an approved or reporting private school or a home study program as required by law.

SECTION 13-28B. DISTURBING SCHOOLS. Any person violating any provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not less than fifty dollars nor more than two thousand five hundred dollars, or imprisoned no more than ninety days. It shall be unlawful for any person willfully or unnecessarily:

- to interfere with or to disturb in any way or in any place the students or teachers of any school within the City of Winooski
- to loiter about such school except on business, without the permission of the principal or his/her designee.
- to act in an obnoxious manner on school property
- to taunt, harass, or use hate speech toward a student or staff member which interferes in the educational process of that student or staff member

SECTION 13-29. EXCESSIVE NOISE. This ordinance is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of the City of Winooski through the reduction, control and prevention of noise. The intent of this ordinance is to establish standards, which will eliminate and reduce unnecessary noises, which are physically harmful or otherwise

detrimental to the enjoyment of life, property and maintenance of business. This ordinance shall not apply to commercial or industrial land uses regulated under the Winooski Zoning Ordinance Section 9 Performance Standards.

SECTION 13-29A. NOISE ABATEMENT PERIOD 10:00PM TO 7:00AM.

No party may create, cause, or produce, disturbing sounds or noise on or in any land, building, part of a building, domicile, common area, roads or public area or space between the hours of 10:00 PM in the evening and 7:00 AM in the morning. This noise abatement period covers trucking, hauling, deliver vehicles, trash/rubbish/garbage pick-ups, construction, demolition, repairs, gatherings, social activities, and any other disturbing noise producing activities.

EXCEPTIONS. Trucking and Hauling shall only be on approved designated routes during this period or as may be licensed by the City Council.

SECTION 13-29B. NOISE REGULATION AT ALL TIMES: The following acts are declared to be loud, objectionable, unnecessary noises, and are therefore a public nuisance, and are prohibited by this ordinance at all times when declared as plainly audible as defined in Section 13-1. The creation of, permitting or operation of any of the above sets, instruments, devices or vehicles causing said noise in such a manner as to be plainly audible at a distance of 25 feet from a building, structure, land or vehicle from which noise emanates shall be prima facie evidence of a nuisance and a violation of this ordinance.

- Defect in vehicle or operation of vehicle. The operation of an automobile or motorcycle, which creates abnormal or unusual engine revving, squealing, squealing of tires, loud and unnecessary grating, grinding, exploding-type, rattling or other noises.
- Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle except as a danger warning; the creation, by means of other signaling device, of unreasonably loud or harsh sound; and the sounding of any such device for unnecessary and/or unreasonable periods of time.
- The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle; except as a danger warning; so that the sounding of any such device is for unnecessary and/or unreasonable periods of time.
- The creation, by means of other signaling devices of unreasonably loud or harsh sound; and the sounding of any such device for unnecessary and/or unreasonable periods of time.
- Radios, Phonographs, etc. The using, operating, or permitting to be played, used or operated, of any radio or television receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sounds in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such a machine or device is operated and who are voluntary listeners thereto.
- Exhaust. The discharge into the open air of the exhaust of any steam engine, internal combustion engine, or motor vehicle except through a

muffler or other device, which will effectively prevent loud or explosive noises there from.

- Dogs, cats and other animals. The keeping of any dog, cat or other animal, which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming or other animal noise and vocalizations.
- Vocal disturbances. Yelling, shouting, whistling, singing or making any other loud vocal or noise disturbance, including parties and other social events so as to disturb, destroy, or endanger the peace of persons in the immediate vicinity of the noise or disturbance. This section shall not be construed to prohibit a vocal disturbance, whether or not it is electronically amplified, by spectators or participants in an athletic event or assembly sponsored by a public or private school, or recognized organized recreational activities.
- Noises emanating from the excavation, demolition, alteration or repair of buildings, structures, or property.
- Noise in General. Any noise, which is deemed objectionable because of volume, frequency, or beat and is not muffled or otherwise controlled.
- Music, noise, vocalizations which disturbs or interferes with the peace or health of persons and is plainly audible through the walls of a building or the same building or from another property or from the street is also covered by this ordinance

SECTION 13-29C. EXCEPTIONS TO NOISE REGULATIONS.

- Any person or organization that has obtained a noise waiver from the City of Winooski (i.e. parade, block party, etc.).
- Any vehicle owned by and operated by government or a utility in the performance of its duties.
- Noise associated with routine snow removal activities where customary practices and equipment are used.
- Any government or utility emergency repair. Any construction activity, other than government or utility emergency repairs, that has obtained approval of the City of Winooski to occur between the hours of 10:00 PM and 7:00 AM that is deemed in the best interest of the public health, safety and welfare.
- Any siren or other warning device used for public safety, including railroad signals.
- Noise associated with a bona fide response to an emergency situation that poses a threat to the public health, safety or welfare.

SECTION 13-30. POSSESSION OF FIREWORKS. Except as hereinafter provided it shall be unlawful for any person, firm, co-partnership or corporation to offer for sale, expose for sale, sell at retail or wholesale, possess, use or explode any fireworks; and it shall also be unlawful for any person, firm, co-partnership or corporation to transport fireworks except in interstate commerce.

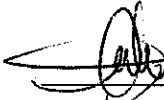
SECTION 13-30A. PERMITS. Permits for supervised public displays shall be

granted in accordance with Title 20, section 3132 (b)(c)(d) of Vermont Statutes Annotated.

SECTION 13-30B. SEIZURE. Any person, firm, co-partnership, or corporation violating the provisions of this subchapter shall be fined as provided for in Article III. In addition, the Fire Chief, or his/her assistant, a Law Enforcement Officer for the State of Vermont, may seize such articles held by a person in violation of this Ordinance.

ARTICLE VI. APPEALS AND SEVERABILITY

SO ORDAINED this 18 day of August, 2008.



Katherine Heard

Jodi H...

Michael Mahoney
Winooski City Council

Michael...
Winooski Mayor