

CHAPTER 10

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ARTICLE I

General Provisions

Sec. 10-1. Adopted.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., there is adopted by reference, in part, Title 18, C.R.S., officially approved, adopted and published by the State, of which one (1) copy is on file at the Town Hall and may be inspected during regular business hours, pursuant to the adopted ordinance, to wit: (Ord. 215 §1, 1993)

Sec. 10-2. Legislative purpose.

It is the purpose of this Chapter to provide for the public health, safety and welfare of the Town. (Ord. 215 §1, 1993)

Sec. 10-3. Local question.

It is the intention of the Board of Trustees that the ordinances and provisions of this Chapter deal with matters of "local" and "mixed" state and local concern and that no provision of this Chapter is to be construed expressly or by implication to permit conduct that is illegal under the laws of the State or to prohibit conduct that is expressly permitted by the laws of the State. The provisions of this Chapter are to be construed to apply to misdemeanors and other minor and petty offenses only and are not to be interpreted to apply to conduct that is defined as a felony under the laws of the State. (Ord. 215 §1, 1993)

Sec. 10-4. Irreconcilable ordinances.

If the Board of Trustees enacts an ordinance that is irreconcilable with another provision of this Chapter, the ordinance whose effective date is latest prevails. (Ord. 215 §1, 1993)

Sec. 10-5. Application of Code.

(a) A person is subject to prosecution in Municipal Court for a violation committed through the conduct of such person or through the conduct of another for whom such person is legally accountable, if:

(1) The conduct constitutes a violation and is committed either wholly or partly within the Town;

(2) The conduct outside the Town constitutes an attempt, as defined by this Chapter, to commit a violation within the Town;

(3) The conduct outside the Town constitutes a conspiracy to commit a violation within the Town, and an act in furtherance of the conspiracy occurs in the Town; or

(4) The conduct within the Town constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction a violation prohibited under the laws of the Town and such other jurisdiction.

(b) Whether a violator is in or outside the Town is immaterial to the commission of a violation based on an omission to perform a duty imposed by the law of the Town.

(c) Town, as used in this Chapter and in any summons, summons and complaint or complaint alleging a violation of the Code or any ordinance, includes both the area within the territorial limits of the Town of Aguilar, Colorado, and also those areas over which extraterritorial police power has been granted by the statutes of this State. It is the intent of the Board of Trustees to extend the territorial jurisdiction of the Municipal Court as widely as possible. However, where specific sections of this Chapter require that the violation occur "within the Town," then the offense is limited to the territorial limits of the Town. (Ord. 215 §1, 1993)

Sec. 10-6. Classification of violations.

Violations of this Code shall be classified as misdemeanors, Class 1 petty offenses or Class 2 petty offenses. (Ord. 215 §1, 1993)

Sec. 10-7. Violations.

(a) The terms *crime*, *petty offense*, *offense*, *misdemeanor* and *violation*, as used in this Code or any uncodified ordinance, are synonymous. Any act or omission declared to be a violation or to be unlawful or required or prohibited by the phrase "no person shall," or similar mandatory language in or by this Code or any ordinance of the Town or any rule promulgated thereunder constitutes a violation.

(b) Unless otherwise specifically provided in this Code, an ordinance of the Town or a rule promulgated thereunder, every day of a violation of this Code, ordinance or rule constitutes a separate violation. (Ord. 215 §1, 1993)

Sec. 10-8. Statute of limitations.

No person shall be prosecuted, tried or punished for any violation under this Code or any ordinance unless the action for said violation is instituted within one (1) year of the date of the alleged violation, but the statute of limitations within which a prosecution must be instituted shall be tolled for any period in which a prosecution is pending against the accused for the same conduct, even if the summons, complaint or summons and complaint that commence the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal. (Ord. 215 §1, 1993)

Secs. 10-9—10-20. Reserved.

ARTICLE II

Attempt, Conspiracy, Complicity, Accessory

Sec. 10-21. Criminal attempt.

(a) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he or she engages in conduct constituting a substantial step toward the commission of the offense. A substantial step is any conduct, whether act, omission or possession,

which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his or her complicity under Section 18-1-603, C.R.S., were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent.

(d) Criminal attempt to commit a misdemeanor is a misdemeanor.

(e) Criminal attempt to commit a petty offense is a crime of the same class as the offense itself. (Ord. 215 §1, 1993)

Sec. 10-22. Conspiracy.

(a) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he or she agreed with another person or persons that they, or one (1) or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or he or she agreed to aid the other person or persons in the planning or commission of a crime or of an attempt to commit such crime.

(b) No person may be convicted of conspiracy to commit a crime, unless an overt act in pursuance of that conspiracy is proved to have been done by him or her or by a person with whom he or she conspired.

(c) If a person knows that one with whom he or she conspires to commit a crime has conspired with another person or persons to commit the same crime, he or she is guilty of conspiring to commit a crime with the other person or persons, whether or not he or she knows their identity.

(d) If a person conspires to commit a number of crimes, he or she is guilty of only one (1) conspiracy so long as such multiple crimes are part of a single criminal episode.

(e) Conspiracy to commit a misdemeanor is a misdemeanor.

(f) Conspiracy to commit a petty offense is a crime of the same class as the offense itself. (Ord. 215 §1, 1993)

Sec. 10-23. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. 215 §1, 1993)

Sec. 10-24. Accessory to crime.

(a) A person is an accessory to crime if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of a crime, he or she renders assistance to such person.

(b) Render assistance means to:

- (1) Harbor or conceal the other;
- (2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;
- (3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;
- (4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or
- (5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

(c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed or has been convicted of, or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class. (Ord. 215 §1, 1993)

Secs. 10-25—10-40. Reserved.

ARTICLE III

Offenses Against the Person

Sec. 10-41. Menacing.

A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury. Menacing is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-42. Reckless endangerment.

A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment, which is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-43. False imprisonment.

Any person who knowingly confines or detains another without the other's consent and without proper legal authority commits false imprisonment, which is a misdemeanor. This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties. (Ord. 215 §1, 1993)

Secs. 10-44—10-60. Reserved.

ARTICLE IV

Offenses Against Property

Sec. 10-61. Criminal mischief.

It is unlawful for any person to knowingly damage the real or personal property of one (1) or more other persons in the course of a single criminal episode where the aggregate damage to the real or personal property is less than four hundred dollars (\$400.00). (Ord. 215 §1, 1993)

Sec. 10-62. Trespassing on privately owned property.

It is unlawful for any person to knowingly occupy, use or remain on or in any privately owned property, real or personal, without the permission of the owner or persons entitled to the possession thereof. (Ord. 215 §1, 1993)

Sec. 10-63. Theft.

It is unlawful for a person to commit theft. A person commits theft when he or she knowingly obtains or exercises control over anything of another without authorization or by threat or deception when the value of the thing is less than four hundred dollars (\$400.00), and:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;
- (2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
- (3) Uses, conceals or abandons the thing of value, intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or
- (4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person. (Ord. 215 §1, 1993)

Sec. 10-64. Theft of rental property.

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if he or she:

(1) Obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the personal property;

(2) Having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his or her representative or to the person from whom he or she has received it within seventy-two (72) hours after the time at which he or she agreed to return it; and

(3) The value of the property involved is less than four hundred dollars (\$400.00). (Ord. 215 §1, 1993)

Sec. 10-65. Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of the thing of value is less than four hundred dollars (\$400.00). (Ord. 215 §1, 1993)

Sec. 10-66. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than four hundred dollars (\$400.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 215 §1, 1993)

Sec. 10-67. Tampering and unauthorized connection.

(a) Any person who connects any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or contrivance with any main, service pipe or other medium conducting or supplying gas, water or electricity to any building without the knowledge and consent of the person supplying such gas, water or electricity commits tampering and unauthorized connection, which is unlawful.

(b) Any person who in any manner alters, obstructs or interferes with any meter pit, meter or metering device provided for measuring or registering the quantity of gas, water or electricity passing through said meter without the knowledge and consent of the person owning said meter commits tampering and unauthorized connection, which is unlawful.

(c) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he or she knowingly makes unauthorized connection with property of a utility, commits tampering and unauthorized connection, which is unlawful.

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 215 §1, 1993)

Sec. 10-68. Damaging property of another.

(a) No person shall knowingly damage the real or personal property of another.

(b) This Section does not apply where the damage in the course of a single criminal episode is four hundred dollars (\$400.00) or more, is effected by means of fire or explosives or is otherwise feloniously caused. (Ord. 215 §1, 1993)

Sec. 10-69. Damaging public property.

No person shall damage, move, remove, destroy or injure in any manner whatsoever or cause to be damaged, moved, removed, destroyed or injured any grass, tree, shrub, plant, flower, railing, bridge, culvert, sign, building or any other property whatsoever belonging to the Town or under the possession and control of the Town, unless done pursuant to a written permit or contract from the Town. (Ord. 215 §1, 1993)

Sec. 10-70. Defacing posted notice.

Any person who knowingly mars, destroys or removes any posted notice authorized by law commits a Class 1 petty offense. (Ord. 215 §1, 1993)

Sec. 10-71. Littering of public and private property.

(a) Any person who deposits, throws or leaves any litter on any public or private property or in any waters commits littering.

(b) The term litter, as used in this Section, means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

(c) It shall be an affirmative defense that:

(1) Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property;

(2) The litter is placed in a receptacle or container installed on such property for that purpose;
or

(3) Such person is the owner or tenant in lawful possession of such property, or he or she has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

(d) The phrase public or private property as used in this Section includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, playground or building, any refuge, conservation or recreation area, and any residential, farm or ranch properties or timberlands.

(e) It is in the discretion of the court, upon the conviction of any person and the imposition of a fine under this Section, to suspend any or all of the fine in excess of the mandatory minimum fine upon the condition that the convicted person gather and remove from specified public property or

lawful possession thereof, any litter found thereon, or upon the condition that the convicted person pick up litter at the time prescribed by and a place within the jurisdiction of the court for not less than eight (8) hours upon a second or subsequent conviction.

(f) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom. (Ord. 215 §1, 1993)

Sec. 10-72. Criminal use of a noxious substance.

(a) Any person who deposits on the land or in the building or vehicle of another, without his or her consent, any stink bomb or device, irritant or offensive- smelling substance, with the intent to interfere with another's use or enjoyment of the land, building or vehicle, commits a misdemeanor.

(b) It shall be an affirmative defense that a peace officer in the performance of his or her duties reasonably used a noxious substance. (Ord. 215 §1, 1993)

Secs. 10-73—10-90. Reserved.

ARTICLE V

Offenses Involving Fraud

Sec. 10-91. Unlawfully using slugs.

(a) A person commits unlawfully using slugs if:

(1) With intent to defraud the vendor of property or a service sold by means of a coin machine, he or she knowingly inserts, deposits or uses a slug in such machine or causes the machine to be operated by any other unauthorized means; or

(2) He or she makes, possesses or disposes of a slug or slugs with intent to enable a person to use it or them fraudulently in a coin machine.

(b) Slug means any object or article which, by virtue of its size, shape or any other quality, is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token, and of thereby enabling a person to obtain without valid consideration the property or service sold through the machine.

(c) Unlawfully using slugs is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-92. Fraud by check.

(a) A person violates this Section if he or she issues or passes a check or similar sight order for the payment of money in an amount less than four hundred dollars (\$400.00), knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order, as well as all other checks or orders outstanding at the time of issuance.

(b) This Section does not relieve the prosecution from the necessity of establishing the required knowledge by evidence. However, for purposes of this Section, the issuer's knowledge of insufficient funds is presumed, except in the case of a postdated check or order, if:

(1) He or she has no account with the bank or other drawee at the time he or she issues the check or order; or

(2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issuance.

(c) Insufficient funds means not having a sufficient balance in account with a bank or other drawee for the payment of a check or order when the check or order is presented for payment and it remains unpaid thirty (30) days after such presentment.

(d) A bank shall not be civilly or criminally liable for releasing information relating to the issuer's account to a police officer investigating or prosecuting a charge under this Section. (Ord. 215 §1, 1993)

Secs. 10-93—10-110. Reserved.

ARTICLE VI

Offenses Relating to Drugs

Sec. 10-111. Definitions.

As used in this Article, the following words shall have the meanings ascribed hereafter:

(1) Controlled substance means a drug or other substance or an immediate precursor which is declared to be a controlled substance under this Article, and also includes marijuana, marijuana concentrate and cocaine.

(2) Drug paraphernalia means any machine, instrument, tool, equipment or device which is primarily designed and intended for one (1) or more of the following:

a. To introduce into the human body any controlled substance under circumstances in violation of the laws of this State;

b. To enhance the effect on the human body of any controlled substance under circumstances in violation of the laws of this State;

c. To conceal any quantity of any controlled substance under circumstances in violation of the laws of this State; or

d. To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of the laws of this State. (Ord. 215 §1, 1993)

Sec. 10-112. Possession of drug paraphernalia.

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of the laws of this State.

(b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense. (Ord. 215 §1, 1993)

Sec. 10-113. Possession of marijuana.

Any person who possesses not more than one (1) ounce of marijuana commits a Class 2 petty offense. (Ord. 215 §1, 1993)

Sec. 10-114. Substances releasing toxic vapors.

(a) Substances releasing toxic vapors defined. As used in this Article, the term *substances releasing toxic vapors* means the following products: plastic (styrene) cements containing toluene, acetone, benzene, aliphatic acetates (such as ethyl acetate and methylcellosolve acetate), hexane; model cements containing acetone, toluene or naphtha of petroleum origin; household cements containing toluene, acetone, isopropanol, methyl ethyl ketone or methyl isobutyl ketone; fingernail polish removers containing acetone, aliphatic acetates, benzene or alcohol; lacquer thinners containing toluene, aliphatic acetates or methyl, ethyl or propyl alcohol; lighter fluids or cleaning fluids containing naphtha of petroleum origin, perchlorethylene, trichloroethane or carbon tetrachloride.

(b) Certain use, possession or purchase. No person shall intentionally smell or inhale the fumes of any substance releasing toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled sense of nervous system, or possess, buy or use any such substance for the purpose of violating or aiding another to violate this Section.

(c) Sale or other provision for intended illegal use. It is unlawful for any person knowingly to sell or offer for sale, deliver or give away to any other person any substance releasing toxic vapors, where the seller, offeror or deliverer knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses or nervous system.

(d) Exception - medical or dental use. This Article shall not apply to the inhalation of anesthesia for medical or dental purposes. (Ord. 215 §1, 1993)

Secs. 10-115—10-130. Reserved.

ARTICLE VII

Offenses Relating to Alcohol

Sec. 10-131. Definitions.

For purposes of this Code, the following words shall have the meanings ascribed hereafter:

(1) *Alcoholic beverages* or *alcoholic liquors* means malt, vinous or spirituous liquors.

(2) *Fermented malt beverage* means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent (0.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight.

(3) *Malt liquors* includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight.

(4) *Spirituous liquors* means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (0.5%) alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except malt liquors and vinous liquors shall be construed to be spirituous liquor.

(5) *Vinous liquors* means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 215 §1, 1993)

Sec. 10-132. Sales near schools.

It shall be unlawful for any person to sell, offer or expose for sale or gift, beer or any vinous, spirituous or malt liquors within a distance of two hundred fifty (250) feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established. Nor shall this prohibition prevent the renewal upon the expiration thereof of any license in effect at such time authorizing such business within the restricted area hereby established. (Ord. 215 §1, 1993)

Sec. 10-133. Regulations concerning fermented malt beverages.

(a) It is unlawful to sell fermented malt beverage to any person under the age of twenty-one (21) years, or to any person between the hours of midnight and 5:00 a.m., or for any person under twenty-one (21) years to purchase or possess the same. It is unlawful to permit any fermented malt beverages to be sold or dispensed by a person under the age of twenty-one (21) years or to permit any such person to participate in the sale or dispensing thereof.

(b) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be of the age of twenty-one (21) years or more for the purpose of purchasing within the Town any fermented malt beverage.

(c) It is unlawful for any person over the age of twenty-one (21) years to purchase or attempt to purchase fermented malt beverage for a person under the age of twenty-one (21) years.

(d) It shall be unlawful for any minor under twenty-one (21) years of age to have in his or her possession fermented malt beverages in public places, including but not limited to, public streets, alleys, roads or highways. (Ord. 215 §1, 1993)

Sec. 10-134. Regulations concerning malt, vinous and spirituous liquors.

(a) It shall be unlawful for any person to sell malt, vinous or spirituous liquors as defined by state law to any person under the age of twenty-one (21) years or to permit any malt, vinous or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.

(b) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be of the age of twenty-one (21) years or more for the purpose of purchasing within the Town any malt, vinous or spirituous liquors.

(c) It shall be unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any article which the person under the age of twenty-one (21) years of age is forbidden by law to purchase or possess.

(d) It shall be unlawful for any minor under twenty-one (21) years of age to have in his or her possession malt, vinous or spirituous liquors in public places, including but not limited to, public streets, alleys, roads or highways. (Ord. 215 §1, 1993)

Sec. 10-135. Special use permit.

Nothing herein shall prohibit the drinking of or having open containers of malt beverages, malt, vinous or spirituous liquors in public places when the Board of Trustees shall have issued a permit therefor, provided that:

(1) Such permit shall be issued only for a designated area;

(2) It shall be for a period not to exceed forty-eight (48) hours; and

(3) The Board of Trustees shall have determined that the permit shall be necessary for conducting a public event or celebration and that adequate provision has been made for police supervision and area maintenance. (Ord. 202, 1979)

Sec. 10-136. Illegal possession or consumption of alcoholic beverages by an underage person.

(a) As used in this Section, unless the context otherwise requires:

(1) *Establishment* means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence, and any real property, including buildings and improvements connected therewith, and shall also include any members, employees and occupants associated therewith.

(2) *Private property* means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public, and privately owned real property which is not open to the public. Private property shall not include:

a. Any establishment which has or is required to have a license pursuant to Article 46, 47 or 48 of Title 12, C.R.S.;

b. Any establishment which sells alcoholic beverages or upon which alcoholic beverages is sold; or

c. Any establishment which leases, rents or provides accommodations to members of the public generally.

(b) Any person under twenty-one (21) years of age who possesses or consumes alcoholic beverages anywhere in the Town commits illegal possession or consumption of alcoholic beverages by an underage person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.

(c) It shall be an affirmative defense to the offense described in Subsection (b) of this Section that the alcoholic beverages were possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

(1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of alcoholic beverages in a person's body was due solely to the ingestion of a confectionery which contained alcoholic beverages within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of alcoholic beverages by weight.

(d) The possession or consumption of alcoholic beverages shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(e) Prima facie evidence of a violation of Subsection (b) of this Section shall consist of:

(1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed alcoholic beverages anywhere in this State; or

(2) Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with alcoholic beverages, intoxication or impairment while present anywhere in this State.

(f) During any trial for a violation of Subsection (b) of this Section, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon

such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages.

(g) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (c)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age. (Ord. 215 §1, 1993)

Secs. 10-137—10-150. Reserved.

ARTICLE VIII

Offenses Relating to Morals

Sec. 10-151. Public indecency.

It is unlawful to commit public indecency. Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:

- (1) An act of sexual intercourse;
- (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or
- (3) A lewd fondling or caress of the body of another person. (Ord. 215 §1, 1993)

Sec. 10-152. Indecent exposure.

(a) A person commits indecent exposure if he or she knowingly exposes his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

(b) Indecent exposure is a misdemeanor. (Ord. 215 §1, 1993)

Secs. 10-153—10-170. Reserved.

ARTICLE IX

Offenses Relating to Governmental Operations

Sec. 10-171. Resisting arrest

(a) A person commits resisting arrest if he or she knowingly prevents or attempts to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, by:

(1) Using or threatening to use physical force or violence against the peace officer or another;
or

(2) Using any other means which creates a substantial risk of causing bodily injury to the peace officer or another.

(b) It is no defense to prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if he or she was acting under color of his or her official authority and, in attempting to make the arrest, he or she was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts under color of his or her official authority when, in the regular course of assigned duties, he or she is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her.

(c) Resisting arrest is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-172. Interference with police officers.

(a) It shall be unlawful for any person in any way to interfere with or hinder any police officer or other duly empowered police authority while such person is discharging his or her duties.

(b) A person commits obstructing a peace officer or fireman who, by using or threatening to use violence, force or physical interference or obstacle, he or she knowingly obstructs, impairs or hinders the enforcement of the penal law or the preservation of peace by a peace officer, acting under color of his or her official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of a fire by a fireman, acting under color of his or her official authority.

(c) It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if he or she was acting under color of his or her official authority, as defined in Section 10-171(b) above.

(d) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest.

(e) Obstructing a peace officer is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-173. Refusing to aid a peace officer.

A person eighteen (18) years of age or older commits a Class 1 petty offense when, upon command by a person known to him or her to be a peace officer, he or she unreasonably refuses or fails to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense. (Ord. 215 §1, 1993)

Sec. 10-174. Interference with firemen on duty.

It shall be unlawful for any person to hinder, obstruct, oppose or interfere with any member of the Fire Department while he or she is in the performance of his or her duty. (Ord. 215 §1, 1993)

Sec. 10-175. Compounding.

(a) A person commits compounding if he or she accepts or agrees to accept any pecuniary benefit as consideration for:

- (1) Refraining from seeking prosecution of an offender; or
- (2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime.

(b) Compounding is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-176. False reporting to authorities.

(a) A person commits false reporting to authorities if:

- (1) He or she knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;
- (2) He or she makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur; or
- (3) He or she makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false.

(b) False reporting to authorities is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-177. Interference with alarm system; false alarm.

It shall be unlawful for any person to damage or interfere with any fire alarm system or appliance or any part of the same. It shall be unlawful for any person to make or give a false alarm of fire. (Ord. 215 §1, 1993)

Sec. 10-178. Impersonating a peace officer.

A person who falsely pretends to be a peace officer and performs an act in that pretending capacity commits impersonating a peace officer, which is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-179. Escapes.

A person commits a Class 1 petty offense if, while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense, he or she knowingly escapes from said custody or confinement. (Ord. 215 §1, 1993)

Secs. 10-180—10-190. Reserved.

ARTICLE X

Offenses Against Public Peace, Order and Decency

Sec. 10-191. Disorderly conduct.

(a) A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

(1) Makes a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to incite an immediate breach of the peace;

(2) Abuses or threatens a person in a public place in an obviously offensive manner;

(3) Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy;

(4) Fights with another in a public place except in an amateur or professional contest of athletic skill;

(5) Not being a peace officer, displays a deadly weapon in a public place except when engaged in lawful target practice or hunting; or

(6) Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under Subsection (a)(2) of this Section that the actor had significant provocation for his or her abusive or threatening conduct.

(c) An offense under Subsection (a)(1) to (a)(3) of this Section is a Class 1 petty offense; and an offense under Subsections (a)(4) to (a)(6) is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-192. Disrupting lawful assembly.

(a) A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means.

(b) Disrupting lawful assembly is misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-193. Harassment.

(a) A person commits harassment if, with intent to harass, annoy or alarm another person, he or she:

(1) Strikes, shoves, kicks or otherwise touches a person or subjects a person to physical contact;

(2) In a public place directs obscene language or makes an obscene gesture to or at another person;

(3) Follows a person in or about a public place or, without the consent of the owner thereof, onto private property or into a private residence;

(4) Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone which is obscene;

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Makes repeated communications at inconvenient hours or in offensively coarse language;
or

(7) Repeatedly insults, taunts or challenges another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section unless the context otherwise requires, obscene means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Harassment is a misdemeanor.

(d) Any act prohibited by Subsection (a)(5) of this Section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received. (Ord. 215 §1, 1993)

Sec. 10-194. Loitering.

(a) The word loiter means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.

(b) A person commits a Class 1 petty offense if he or she:

(1) Loiters for the purpose of begging;

(2) Loiters for the purpose of unlawful gambling with cards, dice or other gambling paraphernalia;

(3) Loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse;

(4) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in a school building or on school grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific legitimate reason for being there, and having been asked to leave by a school administrator or his or her representative or by a peace officer; or

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-111(1) of this Code.

(c) It shall be an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievance, either in the course of labor disputes or otherwise. (Ord. 215 §1, 1993)

Sec. 10-195. Desecration of venerated objects.

(a) A person commits a misdemeanor if he or she knowingly desecrates any public monument, structure or place of worship or burial or desecrates in a public place any other object of veneration by the public or a substantial segment thereof.

(b) The term desecrate means defacing, damaging, polluting or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his or her action or its result. (Ord. 215 §1, 1993)

Sec. 10-196. Hindering transportation.

A person commits a misdemeanor if he or she knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person, association or corporation. (Ord. 215 §1, 1993)

Sec. 10-197. Throwing missiles at vehicles.

Any person who knowingly projects any missile at or against any vehicle or equipment designed for the transportation of persons or property commits a Class 1 petty offense. (Ord. 215 §1, 1993)

Sec. 10-198. Disturbance, breach of peace.

It is unlawful for any person in the Town to make, countenance or assist in the making of undue or unnecessary noise, riot, disturbance or breach of peace on public or private property so as to disturb or cause to be disturbed the lawful peace and quiet of another person or persons. (Ord. 215 §1, 1993)

Sec. 10-199. Fights at bar or disturbances.

No licensee shall permit any disturbance, undue noise or unlawful or disorderly act or conduct by any person or group of persons upon the premises. (Ord. 215 §1, 1993)

Sec. 10-200. Public urination.

No person shall urinate or defecate when in any park within the Town limits, or on any property zoned for residential uses without the express permission of the owner, or within any portion of the Town zoned for business, industrial or public uses, unless such voiding is made into a receptacle that has been provided for that purpose that stores or disposes of the wastes in a sanitary manner and that is enclosed from the view of the general public. (Ord. 215 §1, 1993)

Secs. 10-201—10-220. Reserved.

ARTICLE XI

Offenses Relating to Minors

Sec. 10-221. Child abuse.

(a) A person commits child abuse if he or she causes an injury to a child's life or health or permits a child to be unreasonably placed in a situation which poses a threat of injury to the child's life or health.

(b) In this Section, child means a person under the age of sixteen (16) years.

(c) The statutory privilege between patient and physician and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this Section.

(d) No person, other than the perpetrator, complicitor, co-conspirator or accessory, who reports an instance of child abuse to law enforcement officials, shall be subjected to criminal or civil liability for any consequence of making such report unless he or she knows at the time of making it that it is untrue.

(e) Deferred prosecution is authorized for a first offense under this Section.

(f) An act of child abuse is a misdemeanor. (Ord. 215 §1, 1993)

Sec. 10-222. Curfew – minors.

(a) It is hereby made unlawful for any parent, guardian or other person having care or custody of any child under the age of sixteen (16) years to allow or permit any such child to loiter or remain

upon any street, alley or other public place, on foot or in or upon a vehicle, subsequent to the hour of 10 p.m., or prior to 5 a.m., except for lawful employment, school, church or other organized activity, or unless such child is accompanied by the parent, guardian or other person of the age of twenty-one (21) years having permission of the parent or guardian to have the custody or care of such child.

(b) It shall be unlawful for any person under the age of sixteen (16) years to be or remain in or upon any street, alley or other public place, on foot or within or upon a vehicle, after the hour of 10 p.m., or prior to 5 a.m., unless such person is accompanied by a parent, guardian or other person having the legal custody of such minor person or is in the performance of an errand or duty directed by such parent, guardian or other person having the care of such minor person, or whose employment makes it necessary to be in or upon the streets or public places at night time after said specified hour; provided that this exception shall not apply when a person under such age shall be playing or unnecessarily loitering in or upon the streets, whether alone or accompanied by a parent, guardian or other person whosoever.

(c) The Chief of Police or designate thereof is hereby authorized to arrest any person or persons violating any of the provisions of Subsection (b), and the person or persons so arrested shall, for the first violation, be taken to the Town Hall and released to their parents or guardians then notified. Upon a subsequent violation of Subsection (b) and upon any violation of Subsection (a), the person or persons arrested shall be so charged. (Ord. 196 §1, 1971; Ord. 215 §1, 1993)

Sec. 10-223. Curfew – parks.

(a) A curfew is established prohibiting anyone from being in the town park for any purpose between the hours of 10:00 p.m. and 5:00 a.m., June 1 to August 31 and between the hours of 9:00 p.m. to 5:00 a.m., September 1 to May 31 of each year.

(b) Upon application to and approval by the Board of Trustees, this Section may be waived for special events.

(c) Anyone convicted of violating this Section shall be fined as set forth in Section 1-72 of this Code. (Ord. 215 §1, 1993)

Sec. 10-224. Parent or guardian aiding, abetting.

It shall be unlawful for any person to knowingly permit any minor child or children to aid, abet or encourage in or to approve, encourage, allow, permit, tolerate or consent to the violation by any minor child or children, of any provision of this Article or any ordinances of the Town. (Ord. 215 §1, 1993)

Sec. 10-225. Encouraging delinquency.

It shall be unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended. (Ord. 215 §1, 1993)

Sec. 10-226. False statement; false credentials.

It shall be unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages (3.2 beer). (Ord. 215 §1, 1993)

Sec. 10-227. Services of others.

It shall be unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase. (Ord. 215 §1, 1993)

Sec. 10-228. Loitering and other acts in or about schools.

It shall be unlawful for any person to loiter, idle, wander, stroll or play in, about or on any public, private or parochial school, college or seminary grounds or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout or in connection with such school or the employees thereof, or for any person to:

- (1) Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school;
- (2) Annoy, disturb, assault or molest any student or employee of any such school, college or seminary while in any such school building or on any school grounds;
- (3) Conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in or about any school building or school grounds; or
- (4) Park or move a vehicle in the immediate vicinity of or on the grounds of any such school, college or seminary for the purpose of annoying or molesting the students or employees thereof or in an effort to induce, entice or invite students into such vehicles for immoral purposes. (Ord. 215 §1, 1993)

Secs. 10-229–10-240. Reserved.

ARTICLE XII

Offenses Relating to Firearms and Weapons

Sec. 10-241. Definitions.

The following definitions shall apply to this Article:

- (1) *Blackjack* includes any billy, sandclub, sandbag, sap or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, of a strap or springy shaft which increases the force of impact, or any device or

article consisting of two (2) or more separate portions, linked together by a chain, strap or other fastener, which configuration is designed to increase the force or impact of the device or article.

(2) *Conceal* means the deliberate hiding of a weapon upon or near the person with the intent to avoid the lawful detection thereof. It shall be evidence of concealment that the weapon is hidden in such manner as to make it immediately available for use in the fashion in which the weapon is designed to be used.

(3) *Crossbow* includes any device resembling a rifle or handgun in configuration, having a bow or similar device mounted perpendicular to a stock, grip or frame, and usually equipped with a winch or similar device which draws back the bowstring and cocks the weapon, and which fires an arrow, bolt, quarrel, stone or similar shaft from a groove or depression in the stock, grip or frame by the manipulation of a trigger or similar mechanism.

(4) *Firearm* includes any pistol, revolver, self-loading pistol, rifle, shotgun or any other device designed to shoot, project, throw or hurl a projectile or projectiles by means of an explosion of gunpowder or other explosive substance.

(5) *Gas gun* means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device and includes projectiles designed for use in such devices.

(6) *Gravity knife* includes any knife, the blade of which is released from the handle or sheath thereof by a force of gravity or the application of centrifugal force, and which blade, upon release, becomes locked in place by means of a button, spring, plate, lever or other device.

(7) *Illegal weapon* is defined as a blackjack, gas gun, metallic knuckles, gravity knife or switchblade knife.

(8) *Knife* includes any dagger, knife, bayonet, straight razor, dirk, machete, stiletto, sword or cane with a blade over three and one-half (3 1/2) inches in length, or any other dangerous instrument designed to inflict cutting, stabbing or tearing wounds; but as used in this Section, does not include a knife or hatchet of the type customarily used in hunting, fishing or camping, when such is being carried out for sporting use, and does not include any instruments being used in pursuance of a lawful trade, occupation or profession or, otherwise lawful under federal or state statutes, used in displaying a collector's item in any home or place of business.

(9) *Switchblade knife* includes any knife, the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle. (Ord. 212 §5, 1989)

Sec. 10-242. Unlawfully carrying a concealed weapon.

(a) It shall be unlawful for a person to knowingly and unlawfully:

(1) Carry a knife concealed on or about his or her person;

(2) Carry a firearm concealed on or about his or her person; or

(3) Without legal authority, carry, bring or have in his or her possession a firearm or any explosive, incendiary or other dangerous device within any building in which the chambers, galleries or offices of the Town government are located, or in which a legislative hearing or meeting is being or is to be conducted.

(b) It shall be an affirmative defense to an offense charged under this Section that the defendant was:

(1) A person in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying;

(2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his, her or another's property, while traveling;

(3) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to state law to carry a concealed weapon and has the permit with him or her at the time; or

(4) A peace officer as defined in Section 18-1-901 C.R.S., so empowered by state law.

(c) It shall be unlawful for a person to knowingly carry or possess an illegal weapon.

(d) Every person convicted of any violation of this Section shall forfeit to the Town such dangerous or deadly weapon so concealed or displayed. (Ord. 212 §4, 1989; Ord. 215 §1, 1993)

Sec. 10-243. Disposition of confiscated concealed weapons.

It shall be the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the same to the Municipal Judge, to be held by him or her until the final determination of the prosecution for said offense, and upon the finding of guilt, it shall then be the duty of the Municipal Judge to deliver said weapon forthwith to the Chief of Police, who shall make disposition of the weapon. (Ord. 215 §1, 1993)

Sec. 10-244. Projecting missiles; exceptions.

It is unlawful for any person to willfully, maliciously or recklessly throw, shoot or project any stone, arrow, pellet, dart, ball bearing or other dangerous missiles at or against the person, animal, building, structure, personal property, fixture or vehicle of another, except that the provisions of this Section shall not apply to persons throwing, projecting or shooting any dangerous missile at any animal in order to protect his or her person or property or the person or property of another from physical injury. (Ord. 212 §2, 1989)

Sec. 10-245. Possessing, carrying or using dangerous or deadly weapons.

(a) It shall be unlawful for any person to have in his or her possession, except within his or her own domicile, or to carry or use a revolver or pistol of any description, shotgun or rifle which may be used for the explosion of cartridges, any air gun, gas-operated gun, spring gun or any instrument, toy, weapon or bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth above or by any other name;

provided that nothing contained in this Section shall prevent the use of any such instruments in shooting galleries or in any private grounds or residences under circumstances when such instrument can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence; and further provided that nothing herein contained shall be construed to prevent the carrying of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.

(b) Nothing in this Section shall be construed to forbid United States Marshals, sheriffs, constables and their deputies and any regular, special or ex officio police officer or any other law enforcement officer from discharging or causing to be discharged, while on duty, such weapons as shall be necessary in the proper discharge of their duties. (Ord. 215 §1, 1993)

Sec. 10-246. Selling weapons to intoxicated persons.

(a) It shall be unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, to any person in a condition of agitation and excitability, or to any minor under the age of eighteen (18) years.

(b) Further, such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the Town to such person. (Ord. 215 §1, 1993)

Secs. 10-247—10-260. Reserved.

ARTICLE XIII

Noise

Sec. 10-261. Noise, unreasonable.

No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable. (Ord. 215 §1, 1993)

Sec. 10-262. Animals.

It shall be unlawful for any person to use, keep, have in his or her possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals conducted for the treatment of small animals which are approved by the Health Department or to premises occupied or used by the Town pound. (Ord. 215 §1, 1993)

Sec. 10-263. Sirens, whistles, gongs and red lights.

It shall be unlawful for any person to carry or use upon a vehicle, other than Police or Fire Department vehicles or emergency vehicles for public use, any gong, siren, whistle or red light similar to that used on ambulances or vehicles of the Police and Fire Departments. (Ord. 215 §1, 1993)

Secs. 10-264—10-280. Reserved.

ARTICLE XIV

Miscellaneous Offenses

Sec. 10-281. Disturbances.

(a) It is unlawful for any licensee to permit any disturbance, undue noise or unlawful or disorderly act or conduct by any person or group of persons upon the premises.

(b) It is unlawful for any licensee, in any manner, to encourage or participate in any disturbance, unlawful act or disorderly conduct upon the premises; provided, however, that such licensee may use such lawful means as may be proper to protect his or her person or property from damage or injury.

(c) Any licensee shall immediately report to the police authority of the Town any unlawful or disorderly act, disorderly conduct or disturbance committed on the premises.

(d) It shall not be a defense that the licensee was not personally present on the premises at the time of any violation of this Section; provided, however, that an agent, servant or employee of the licensee shall not be liable under this Section when absent from the premises while not on duty.

(e) *Licensee* under this Section shall include any person holding any license issued by the State Licensing Authority under the rules of the Colorado Liquor Code or the rules pertaining to the licensing or sale of fermented malt beverages, the provisions of state law or the rules of the State Licensing Authority. (Ord. 215 §1, 1993)

Sec. 10-282. Bottles, littering prohibited.

(a) It shall be unlawful for any person to bring or to have in his or her possession any glass bottle in any park or other public area of the Town.

(b) It shall be unlawful for any person to bring in and dump, deposit or leave any bottles or other containers made of glass, any broken glass, ashes, papers, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash in or upon any park or other public area in the Town.

(c) It shall be unlawful for any person utilizing the facilities of any park or other public area in the Town to leave such area or facility without first having completely extinguished fires, nor before placing in disposal receptacles, where provided, all trash in the nature of boxes, papers, cans or other containers, garbage and other refuse in the possession of such person. If no disposal receptacle is available, then such person shall carry away said refuse or trash in his or her possession from the area, to be disposed of in a proper and legal manner elsewhere. (Ord. 215 §1, 1993)

Sec. 10-283. Motorbike.

The operation anywhere within the Town, whether on private or public property, of any so-called motorbike, minibike or other such motorized vehicle not designed and equipped for operation on a public street or highway, is hereby declared and deemed a public nuisance, and it shall be unlawful for any person to cause or maintain such public nuisance. (Ord. 215 §1, 1993)

Sec. 10-284. Traffic provisions.

The 2008 Title 42 and related Laws (CSP 13) Common Code Book, as issued and published by the Colorado Department of Public Safety, be adopted for the use of Law Enforcement and the Municipal Court for the Town. (Ord. 244, 2008)

Secs. 10-285—10-300. Reserved.

ARTICLE XV

Offenses Relating to Fireworks

Sec. 10-301. Casting, throwing or firing.

It shall be unlawful for any person to cast, throw or fire any fireworks of any kind within the corporate limits of the Town. (Ord. 244, 2009)

Sec. 10-302. Exhibition and possession.

It shall be unlawful for any person to exhibit or have in his or her possession with the intent to use, give away, sell or offer for sale any fireworks of any kind. (Ord. 244, 2009)

Sec. 10-303. Definition.

Fireworks, as used in Sections 10-301 and 10-302 above, shall mean any article, device or substance of a combustible or explosive composition, or any substance or device prepared for the purpose of producing a visual or audible effect by combustion, explosion, deflagration or detonation. (Ord. 244, 2009)

Sec. 10-304. Seizure of fireworks.

The Town's law enforcement and fire department are authorized to seize, destroy or otherwise disposed of all fireworks used or possess in violation of Sections 10-301 and 10-302 above. (Ord. 244, 2009)

Sec. 10-305. Exemptions.

The provisions of Sections 10-301, 10-302 and 10-304 above shall not apply to any public or private demonstration or display of fireworks of any kind, so long as a permit shall first be obtained from the Fire Chief. (Ord. 244, 2009)

Sec. 10-306. Penalty for violation.

Any person in violation of Sections 10-301 or 10-302 shall be issued a summons by the Town Marshal and subject to a fine not to exceed three hundred dollars (\$300.00) plus court costs imposed by the rulings of the Municipal Judge. (Ord. 244, 2009)