

Chapter 10

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ARTICLE I

General Provisions

Sec. 10-1-10. Local question.

It is the intention of the Board of Trustees that the 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. 11, 2002 §1)

Sec. 10-1-20. 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. 11, 2002 §1)

Sec. 10-1-30. Definitions.

The following definitions shall apply as the defined words are used in this Chapter unless the context manifestly makes such definitions inapplicable.

Abandoned vehicle means a vehicle which has been left on a public street or right-of-way for more than seventy-two (72) hours unattended and unmoved, has had its license plates or other identifying marks removed, has been damaged or is deteriorated so extensively that it has value only for junk or salvage, or the owner has been notified by a law enforcement agency to remove the vehicle from a public street or right-of-way and it has not been removed within seventy-two (72) hours after notification. A vehicle, whether on public or private property, is conclusively presumed to have been abandoned for purposes of this Chapter if it has been in nonoperating condition, or unattended and unmoved, for more than seven (7) days or if, after following all of the procedures set forth in Section 8-2-30, a police officer is authorized to tow or remove the vehicle. This definition shall not include antique vehicles, except for that part referring to the procedures set forth in Section 8-2-30.

Antique vehicle means any vehicle valued principally because of its early date of manufacture or historic character or design, and which if not operable is substantially intact. A *junked vehicle* shall not qualify as an *antique vehicle*.

Bodily injury means physical pain, illness or any impairment of physical or mental condition.

Conduct means an act or omission and its accompanying state of mind or, where relevant, a series of acts or omissions.

Container means, for purposes of Section 10-8-20 only, any enclosing structure or vessel, including, but not limited to, a decanter, flask, bottle, jar, thermos bottle, cup, can or jug.

Credit device means any credit number, telephone number or other number or designation, and any letter, certificate, form, plate or other tangible thing designed for use, or commonly used, as a means of obtaining credit or of obtaining goods or services on credit.

Destructive device means any material, substance or mechanism capable of being used, either by itself or in combination with any other substance, material or mechanism, to cause sudden and violent injury, damage, destruction or death.

Explosive or incendiary device means:

a. Dynamite and all other forms of high explosives, including, but not limited to, water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitrocarbon-nitrate, ammonium nitrate and fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, det-cord or primacord, picric acid explosives, T.N.T. and T.N.T. mixtures, and nitroglycerin and nitroglycerin mixtures;

b. Any explosive bomb, grenade, missile or similar device; and

c. Any incendiary bomb or grenade, fire bomb or similar device, including any device, except kerosene lamps, which consist of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound, and can be carried or thrown by an individual acting alone.

This definition shall not include rifle, pistol or shotgun ammunition or the components for hand-loading rifle, pistol or shotgun ammunition.

Forged instrument means a written instrument which has been falsely made, completed or altered.

Government means and includes any branch, subdivision, institution or agency of the government of the State or any political subdivision within it.

Governmental function means any activity which a public servant is legally authorized to undertake on behalf of a government.

Gravity knife means any knife that has a blade released from the handle or sheath thereof by force of gravity or the application of centrifugal force, that when released is locked in place by means of a button, spring, lever or other device.

Identification number means a serial or motor number or other mark placed by the manufacturer or owner upon an article as a permanent individual identifying mark.

Intentionally or with intent means all offenses defined in this Chapter in which the mental culpability requirement is expressed as *intentionally* or *with intent* are declared to be specific intent offenses. A person acts *intentionally* or *with intent* when his or her conscious objective is to cause the specific result proscribed by the section defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

Junk means scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc and all other scrap metals and alloys, bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, used tires

and other manufactured goods that are so worn, deteriorated, consumed or obsolete as to make them unusable in their existing condition, and like matters, materials, objects or substances.

Junked vehicle means any vehicle that is in a state of disrepair or disassembly, is inoperable, exhibits signs of physical deterioration, including rust or loss of exterior paint or parts, or is damaged to the extent that it has value only for parts or salvage.

Knowingly means that all offenses defined in this Chapter in which the mental culpability requirement is expressed as *knowingly* are declared to be general intent crimes. A person acts *knowingly* with respect to conduct or to a circumstance described by a section defining an offense when he or she is aware that his or her conduct is of such nature or that such circumstance exists. A person acts *knowingly* with respect to a result of his or her conduct when he or she is aware that his or her conduct is practically certain to cause the result.

Loiter means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry.

Nonoperating condition means a vehicle which is not capable of travel under its own power in its existing mechanical condition or not bearing valid, current registration license plates.

Occupant, when applied to a building or land, means any person who occupies all or part of such building or land, whether alone or with others.

Pecuniary benefit means a benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

Performance means a play, motion picture, dance or other exhibition performed before an audience.

Potential conflicting interest means the public servant, or a relative in the first, second or third degree is a director, president, general manager or similar executive officer, or owns or controls, directly or indirectly, a substantial interest in any non-governmental entity participating in the transaction.

Primary benefit or primarily for the benefit means that not less than fifty-five percent (55%) of the gross receipts are distributed to the beneficiaries or used for the purpose or use of the charitable organization rather than for administrative expense or costs of solicitation and collection.

Public place means any street, alley, road, highway, parking lot, public or community building, public park or sidewalk adjoining a public park, any private property open to a substantial number of the general public, or any place used by persons other than the owner or owner's agents without a special permit. *Special permit* shall include membership in an organization, whether or not represented by written credentials, and shall not include tickets, ticket stubs or receipts merely demonstrating that an admission fee or contribution has been paid when the premises are open to any member of the general public over the age of majority who has paid such fee or contribution.

Public record includes, without limitation, all official books, papers or records created, received or used by or in any governmental office or agency of the Town.

Public servant means any officer or employee of the government of the Town, or its agencies or special districts, all or part of which are in the Town, whether elected or appointed, and any person participating as an advisor or consultant engaged in the service of process, or otherwise performing a governmental function, not including witnesses, but including persons who have been elected, appointed or designated to become public servants although not yet occupying that position.

Separate building means each unit of a building consisting of two (2) or more units separately secured or occupied, as well as its usual meaning.

Serious bodily injury means bodily injury which involves a substantial risk of death, serious permanent disfigurement or protracted loss or impairment of the function of any part or organ of the body.

Sound amplifying equipment means any machine or device for the amplification of the human voice, music or any other sound; provided, however that, it does not include standard automobile radios or tape players when used and heard only by the occupants of the vehicle in which installed, warning devices on authorized emergency vehicles or horns or other warning devices on vehicles when used only for traffic safety purposes.

Sound truck means any vehicle, including vehicles drawn by animals, having mounted thereon, or attached thereto, any sound amplifying equipment.

Tamper means to interfere with something improperly, to meddle with it or to make unwarranted alterations in its condition.

Testimony includes oral or written statements, documents or any other evidence that may be offered by or through a witness in an official proceeding.

Thing of value includes real property, tangible and intangible personal property, contract rights, choses in action, services, confidential information, medical records information and any rights of use or enjoyment connected therewith.

Unlawfully enters or remains means a person *unlawfully enters or remains* in or upon premises when he or she is not licensed, invited or otherwise privileged to do so. A person who, regardless of his or her intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he or she defies a lawful order not to enter or remain personally communicated to him or her by the owner of the premises or some other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders does so with license and privilege unless notice against trespass is personally communicated to him or her by the owner of the land or some other authorized person or unless notice forbidding entry is given by posting with signs at intervals of not more than five hundred (500) feet or, if there is a readily identifiable entrance to the land, by posting with signs at such entrance to the private land or the forbidden part of the land.

Vehicle means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides to transport persons or property or pull machinery,

including, without limitation, automobiles, airplanes, trucks, trailers, motorcycles, motor scooters, tractors, buggies and wagons.

Willfully means that all offenses defined in this Chapter in which the mental culpability requirement is expressed as *willfully* are declared to be general intent crimes. A person acts *willfully* with respect to conduct or to a circumstance described by a section defining an offense when he or she is aware that his or her conduct is of such nature or that such circumstance exists. A person acts *willfully* with respect to a result of his or her conduct when he or she is aware that his or her conduct is practically certain to cause the result.

Written instrument means any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, credit card, token, stamp, seal, badge or trademark, or any evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person. (Ord. 7, 1984 §4; Ord. 11, 2002 §1)

Sec. 10-1-40. Application of Code.

(a) A person is subject to prosecution in Municipal Court for an offense 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 an offense and is committed either wholly or partly within the Town;
- (2) The conduct outside the Town constitutes an attempt, as defined in this Chapter, to commit an offense within the Town;
- (3) The conduct outside the Town constitutes a conspiracy to commit an offense 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 an offense prohibited under this Chapter and the laws of the Town and such other jurisdiction.

(b) An offense is committed partly within the Town if conduct occurs in the Town which is an element of an offense or if the result of conduct in the Town is such an element.

(c) Whether an offender is within or outside the Town is immaterial to the commission of an offense based on an omission to perform a duty imposed by the laws of the Town.

(d) The *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, and also those areas over which extraterritorial police power has been granted by state statutes. 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. 7, 1984 §2; Ord. 11, 2002 §1)

Sec. 10-1-50. Violations.

(a) The terms *offense* 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, required or prohibited by the phrase "no person shall" or similar mandatory language in this Code, 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. 11, 2002 §1)

Sec. 10-1-60. 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 commences the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal. (Ord. 11, 2002 §1)

Sec. 10-1-70. Penalty.

Any person convicted of a violation of any provision of this Chapter or any other provision of this Code shall be punished as set forth in the general penalty provisions of this Code. (Ord. 11, 2002 §1)

ARTICLE II

Attempt, Conspiracy, Complicity, Accessory

Sec. 10-2-10. General.

(a) Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, conspiring, soliciting, aiding, abetting, advising, suffering or concealing the fact of such act or omission, with intent to promote or facilitate the planning or committing of the offense, or being an accessory.

(b) A person is legally accountable for the behavior of another person if:

(1) He or she is accountable for the conduct of that person by this ordinance; or

(2) He or she acts with the culpable mental state sufficient for the commission of the offense in question and he or she causes an innocent person to engage in such behavior.

(c) As used in Subsection (b), *innocent person* includes any person who is not guilty of the offense in question, despite his or her behavior, because of duress, legal incapacity, exemption or unawareness of the criminal nature of the conduct in question or of the defendant's criminal purpose, or any other factor precluding the mental state sufficient for the commission of the violation in question. (Ord. 7, 1984 §3; Ord. 11, 2002 §1)

Sec. 10-2-20. 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 offense 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 offense or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent.

(d) Criminal attempt to commit an offense is a violation of this Code. (Ord. 11, 2002 §1)

Sec. 10-2-30. Conspiracy.

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

(b) No person may be convicted of conspiracy to commit an offense, unless an overt act in pursuit 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 an offense has conspired with another person or persons to commit the same offense, he or she is guilty of conspiring to commit an offense 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 offenses, he or she is guilty of only one (1) conspiracy so long as such multiple offenses are part of a single criminal episode.

(e) Conspiracy to commit an offense is a violation of this Code. (Ord. 7, 1984 §3; Ord. 11, 2002 §1)

Sec. 10-2-40. 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. 11, 2002 §1)

Sec. 10-2-50. Accessory to crime.

(a) A person is an accessory to an offense if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of an offense, 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, conviction or punishment of such person; or
- (5) Conceal, destroy or alter any physical evidence that might end in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

(c) Being an accessory to crime is an offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with an crime, or is suspected of or wanted for a offense. (Ord. 7, 1984 §3; Ord. 11, 2002 §1)

Sec. 10-2-60. Solicitation.

(a) Except as to bona fide acts of persons authorized by law to investigate and detect the commission of offenses by others, a person is guilty of criminal solicitation if he or she commands, induces, entreats or otherwise attempts to persuade another person to commit an offense, whether as principal or accomplice, with intent to promote or facilitate the commission of that offense, and under circumstances strongly corroborative of that intent.

(b) It is an affirmative defense to a prosecution under this Section that if the criminal objective were achieved, the defendant would be the sole victim of the offense, or the offense is so defined that his or her conduct would be inevitably incident to its commission, or he or she otherwise would not be guilty under this Chapter.

(c) It is no defense to a prosecution under this Section that a person solicited could not be guilty of the offense because of lack of responsibility or culpability, or other incapacity.

(d) It is an affirmative defense to a prosecution under this Section that the defendant, after soliciting another person to commit an offense, persuaded him or her not to do so or otherwise prevented the commission of the offense, under circumstances manifesting a complete and voluntary renunciation of the defendant's criminal intent. (Ord. 7, 1984 §3; Ord. 11, 2002 §1)

ARTICLE III

Government and Public Officers

Sec. 10-3-10. Resisting arrest.

(a) It is unlawful for any person knowingly to prevent or attempt to prevent a police officer, acting under color of his or her official authority, from effecting an arrest of that person or another, by:

- (1) Using or threatening to use physical force or violence against the police officer or another;
- (2) Using any other means which creates a substantial risk of causing physical injury to the police officer or another; or
- (3) Running from, eluding or hiding from a police officer attempting to make an arrest.

(b) It is no defense to a prosecution under this Section that the police officer was attempting to make an arrest which in fact was unlawful if the police officer was acting under color of his or her official authority and was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police 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 an offense. (Ord. 7, 1984 §38; Ord. 11, 2002 §1)

Sec. 10-3-20. Obstructing peace officer or firefighter.

(a) It is unlawful for any person in any way to interfere with, hinder or obstruct any peace 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 firefighter when, 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 firefighter, 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 10-3-10(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 an offense. (Ord. 11, 2002 §1)

Sec. 10-3-30. Refusing to aid peace officer.

It is unlawful for any person, eighteen (18) years of age or older, unreasonably to refuse or fail to aid a peace officer in effecting an arrest or preventing the commission of an offense by another upon command to do so. (Ord. 7, 1984 §41)

Sec. 10-3-40. Interference with firefighter.

(a) It is unlawful for any person present at a fire unreasonably to refuse or fail to obey any lawful order of a police officer or firefighter relating to extinguishing the fire, or removing or protecting property, or the preservation of the health and safety of any person (including the person to whom the order is directed), provided that the person giving the order is known by him or her to be a police officer or firefighter.

(b) It is 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. 7, 1984 §41; Ord. 11, 2002 §1)

Sec. 10-3-50. 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 offense or information relating to a offense.

(b) Compounding is an offense. (Ord. 11, 2002 §1)

Sec. 10-3-60. False reporting to authorities.

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

(1) Knowingly causes a false alarm of fire or other emergency involving risk or injury to persons or property, to be transmitted to or within a fire department, ambulance service, police department or any other government agency or employee empowered to deal with such emergencies involving danger to life or property;

(2) Makes a report or knowingly to cause causes the transmission of a report to law enforcement authorities an offense or other incident within their official concern when he or she knows that it did not occur; or

(3) 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 an offense. (Ord. 7, 1984 §43; Ord. 11, 2002 §1)

Sec. 10-3-70. Interference with alarm system; false alarm.

It is unlawful for any person to damage or interfere with any fire alarm system or appliance or any part of the same. It is unlawful for any person to make or give a false alarm of fire. (Ord. 11, 2002 §1)

Sec. 10-3-80. Disconnecting fire alarm.

It is unlawful for any person, other than the owner or a firefighter discharging his or her duties as such, to disconnect, cut or sever any wire, or otherwise tamper with any fire alarm, burglar alarm or robbery alarm, whether audible or silent, such that it no longer functions as originally intended by the manufacturer and installer. (Ord. 7, 1984 §42)

Sec. 10-3-90. Impersonating a police officer.

(a) It is unlawful for any person without due authority to exercise or attempt to exercise the authority of a police officer, or falsely to pretend to be a police officer and perform any act in that pretended capacity.

(b) It is unlawful for any person other than a police officer of the Town intentionally to wear the uniform, apparel or any other insignia of office or anything like or similar to, or a colorable imitation of, that adopted and worn by police officers of the Town.

(c) It is unlawful for any person to counterfeit, imitate or colorably imitate, or cause to be counterfeited, imitated or colorably imitated, the uniform, apparel or insignia of office used by the Police Department. (Ord. 7, 1984 §45)

Sec. 10-3-100. Impersonating a Town official.

It is unlawful for any person falsely to pretend to be an official or employee of the Town, other than a police officer, and to perform any act in that pretended capacity. It is no defense to a prosecution under this Section that the office or position the actor pretended to hold did not in fact exist. (Ord. 7, 1984 §46)

Sec. 10-3-110. Escapes.

(a) It is unlawful for any person while being in custody or confinement and held for or charged with but not convicted of an offense, to escape or attempt to escape from said custody or confinement.

(b) It is unlawful for any person knowingly to offer or endeavor to assist any person in the custody of a police officer, or in the lawful custody of any other person, to escape or attempt to escape from such custody. (Ord. 7, 1984 §39; Ord. 11, 2002 §1)

Sec. 10-3-120. Damage to emergency equipment.

It is unlawful for any person to damage, impair, obstruct or deface any fire protection, ambulance or police buildings, vehicles, equipment or apparatus. In addition to any penalties that may be imposed for violation of this Section, the defendant, if convicted, may be held liable for the replacement cost of such damage, either as a condition of deferred sentencing, suspended sentence, probation or otherwise. (Ord. 7, 1984 §18)

ARTICLE IV

Streets and Public Places

Sec. 10-4-10. Unlawful conduct on public property.

(a) It is unlawful for any person to enter or remain in any public building or on any public property owned, operated or controlled by the Town, or to conduct himself or herself in or on the same, in violation of any order, rule or regulation limiting or prohibiting the use, activities or conduct in such public building or on such public property, as adopted by the Board of Trustees or any officer or agency having control of such building or property. In addition to any other authority as vested in such officer or agency under this Code, each such officer or agency may issue such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of public buildings and property and specifically regarding the following matters:

(1) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings and grounds, other structures, river banks and any object of scientific, historic or scenic interest;

(2) Restriction or limitation of the use of such public buildings or property as to time, manner or permitted activities;

(3) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a nuisance;

(4) Reasonable sanitation, health and safety measures;

(5) Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted;

(6) Use of all vehicles as to place, time and manner of use; and

(7) Control and limitation of fires and designation of places where fires are permitted.

(b) No conviction may be obtained under this Section unless notice of such orders, rules or regulations is prominently posted in a manner such that the defendant saw or should have seen such notice, or unless such notice is actually first given to the defendant by a police officer or Town official and the defendant fails or refuses thereafter to take reasonable steps to cease violation. (Ord. 7, 1984 §73; Ord. 11, 2002 §1)

Sec. 10-4-20. Trespass or interference in public buildings.

(a) It is unlawful for any person so to conduct himself or herself at or in any public building owned, operated or controlled by the Town, the State or any of its political subdivisions, so as to willfully deny to any public official, public employee or invitee on such premises the lawful rights of such official, employee or invitee to enter, to use the facilities of or to leave any such public building.

(b) It is unlawful for any person, at or in any such public building, willfully to impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation, or by force and violence or threat thereof.

(c) It is unlawful for any person willfully to refuse or fail to leave any such public building upon being requested to do so by a person charged with maintaining order in such public building, if he or she has committed, is committing, threatens to commit or incites others to commit any act which did, or if completed would, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

(d) It is unlawful for any person, at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building, willfully to impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session, or by any act designed to intimidate, coerce or hinder any member of such body or any official engaged in the performance of duties at such meeting or session.

(e) It is unlawful for any person, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, willfully to impede, disrupt or hinder the normal proceedings of such body or official.

(f) The term *public building*, as used in this Section, includes any premises being temporarily used by a public officer or employee in the discharge of his or her official duties. (Ord. 7, 1984 §72; Ord. 11, 2002 §1)

Sec. 10-4-30. Obstructing streets or sidewalks.

It is unlawful for any person, without legal privilege, intentionally, recklessly or knowingly:

(1) To obstruct a highway, street, sidewalk, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial portion of the public has access, or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from his or her acts alone or from his or her acts and the acts of others; or

(2) To disobey a reasonable request or order to move issued by a person he or she knows to be a police officer, a firefighter or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway, or to maintain public safety by dispersing those gathered in dangerous proximity to a hazardous situation. (Ord. 7, 1984 §70)

Sec. 10-4-40. Damaging or destroying public property.

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner damage or destroy real property, improvements thereto or moveable or personal property belonging to the Town. (Ord. 11, 2002 §1)

Sec. 10-4-50. Damage or removal of street signs.

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or any sign erected or placed in or adjacent to any street indicating the name of such street. (Ord. 11, 2002 §1)

ARTICLE V

Public, Personal and Private Property

Sec. 10-5-10. Theft.

(a) It is unlawful for any person to knowingly obtain or exercise control over anything of another without authorization, or by threat or deception when the value of the thing is less than five hundred dollars (\$500.00), and:

(1) He or she intends to deprive the other person permanently of the use or benefit of the thing of value;

(2) He or she 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) He or she 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) He or she 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.

(b) It is unlawful for any person to commit theft of rental property by:

(1) Obtaining 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, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or

(3) Having lawfully obtained possession for temporary use of the personal property of another, which is available only for hire, knowingly failing to reveal the whereabouts of or to return such property to its owner 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 or after demand is made for its return, whichever is earliest. (Ord. 7, 1984 §8; Ord. 11, 2002 §1)

Sec. 10-5-20. Theft by receiving.

It is unlawful for any person to receive, to retain, to loan money by pawn or pledge on or to dispose of anything of another of a value less than five hundred dollars (\$500.00), knowing or believing that such thing of value has been stolen, and where he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value. (Ord. 7, 1984 §8; Ord. 11, 2002 §1)

Sec. 10-5-30. Shoplifting.

(a) It is unlawful for any person knowingly to take possession of any unpurchased goods, wares or merchandise of a value of less than five hundred dollars (\$500.00), owned or held by and offered or displayed

for sale by any store or other mercantile establishment, with the intent unlawfully to convert such goods, wares or merchandise to his or her own use without paying the purchase price.

(b) If any person knowingly conceals unpurchased goods, wares or merchandise of a value of less than five hundred dollars (\$500.00) 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 such store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit shoplifting and reasonable grounds for questioning as set forth in the following Subsection.

(c) If any person conceals upon his or her person or otherwise carries away any unpurchased goods, wares or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of shoplifting. Such questioning of a person by a merchant, merchant's employee or police officer shall not render the merchant, merchant's employee or police officer liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention. (Ord. 7, 1984 §9; Ord. 11, 2002 §1)

Sec. 10-5-40. Obtaining control over stolen thing of value.

(a) Every person who obtains control over any stolen thing of value, knowing the thing of value to have been stolen by another, may be tried, convicted and punished whether or not the principal is charged, tried or convicted.

(b) It is unlawful for any person to order and obtain any food, drink, goods, wares or merchandise, of less than five hundred dollars (\$500.00) value, under false pretenses, and refuse to pay for the same or depart without paying for or satisfying the person from whom he or she received the food, drink, goods, wares or merchandise. (Ord. 7, 1984 §§8, 10; Ord. 11, 2002 §1)

Sec. 10-5-50. False pretenses.

It is unlawful for any person to order and obtain any food, drink, goods, wares or merchandise, of less than five hundred dollars (\$500.00) value, under false pretenses, and refuse to pay for the same or depart without paying for or satisfying the person from whom he or she received the food, drink, goods, wares or merchandise. (Ord. 7, 1984 §10; Ord. 11, 2002 §1)

Sec. 10-5-60. Altering identification number.

It is unlawful for any person, with intent that identification of an article be hindered or prevented, to obscure an identification number, or in the course of business to sell, offer for sale, lease or otherwise dispose of an article knowing that an identification number thereon is obscured. Possession of an article on which an identification number is obscured is prima facie evidence that the person possessing it obscured the identification number with intent to hinder or prevent identification of the article, and that he or she knows that the identification number is obscured, unless, prior to his or her arrest or the issuance of a warrant for a search of the premises where the article is kept, whichever is earlier, he or she reports the possession to the police or other appropriate law enforcement agency. (Ord. 7, 1984 §37)

Sec. 10-5-70. Admission fees.

It is unlawful for any person to enter, without payment of the proper admission fee or waiver of the fee by an authorized person, any theater, museum, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein shall be deemed to prohibit or restrict the admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement. (Ord. 7, 1984 §11)

Sec. 10-5-80. Criminal mischief.

It is unlawful for any person to knowingly or recklessly cause damage to the real or personal property or improvements thereto of the Town or any other person in an amount up to five hundred dollars (\$500.00) in the course of a single criminal episode. (Ord. 7, 1984 §17; Ord. 11, 2002 §1)

Sec. 10-5-90. Criminal trespass.

It is unlawful for any person to enter or remain upon premises of another which are enclosed in a manner designed to exclude intruders or are fenced, to knowingly and unlawfully enter or remain in or upon the premises of a hotel, motel, condominium, apartment building, or to use or occupy any automobile, truck, motor home or other motor vehicle or towed vehicle without permission of the owner or person entitled to possession or control thereof. (Ord. 7, 1984 §14; Ord. 11, 2002 §1)

Sec. 10-5-100. Criminal tampering.

(a) It is unlawful for any person, with the intent to cause interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, to tamper with property of such a utility or institution.

(b) Except as provided in Section 10-5-90 hereof, a person commits criminal tampering if he or she 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 an unauthorized connection with property of a utility.

(c) It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or in any other manner with any part of any cable television or radio system, operating under any permit or franchise granted by the Town, whether or not such franchise is valid, for the purpose of enabling himself, herself or others to receive any television signal, radio signal, picture, program or sound without payment to the operator of such system.

(d) It is unlawful for any person, without consent of the owner, willfully to tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound. (Ord. 7, 1984 §13; Ord. 11, 2002 §1)

Sec. 10-5-110. Tampering with utility meter.

(a) It is unlawful for any person to connect any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or device 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.

(b) It is unlawful for any person, in any manner, to alter, obstruct or interfere with the action of any meter for measuring or registering the quantity of gas, water or electricity passing through such meter without the knowledge and consent of the person supplying such gas, water or electricity.

(c) 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. 7, 1984 §13; Ord. 11, 2002 §1)

Sec. 10-5-120. 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. 7 §21; Ord. 11, 2002 §1)

Sec. 10-5-130. Defacing or destroying landmarks.

(a) It is unlawful for any person knowingly to cut, fell, alter or remove any certain boundary tree, monument or other allowed landmark to the damage of any person, or intentionally to deface, remove, pull down, injure or destroy any location stake, side post, corner post, landmark, monument or any other legal land boundary monument, designating or intending to designate the location, boundary or name of any mining claim, lode or vein of mineral or the name of the discoverer or date of discovery thereof.

(b) It is unlawful for any person knowingly to remove or cause to be removed any public land survey monument or a restoration of any such monument or any bearing tree knowing such is a bearing tree, or other accessory, even if such person has title to the land on which such monument or accessory is located, unless, prior to such removal, such person has caused a Colorado registered land surveyor to establish at least two (2) witness corners or reference marks for each such monument or accessory removed and has filed or caused to be filed a monument record pursuant to Article 53 of Title 38, C.R.S. (Ord. 7, 1984 §20)

Sec. 10-5-140. Handbills, posters and placards.

(a) It is unlawful for any person to post, stick or paste any handbill, poster, placard or painted or printed matter upon any public or private house, store or other building, or upon any fence, power pole, telephone pole or other structure, without the permission of the owner, agent or occupant of the building or structure.

(b) It shall be the duty of any person who lawfully places any handbill, poster, placard or painted or printed matter which shall be posted, stuck or pasted upon any public or private house, store or other building, or upon any fence, power pole, telephone pole or other structure, to remove the same within a reasonable time after it has served its intended purpose, and failure or refusal to do so shall be unlawful. (Ord. 7, 1984 §16)

Sec. 10-5-150. Defacing posted notice.

It is unlawful for any person knowingly to mar, destroy or remove any posted notice or advertisement authorized by law. (Ord. 7, 1984 §22; Ord. 11, 2002 §1)

Sec. 10-5-160. Littering of public and private property.

(a) It is unlawful for any person to deposit, throw or leave any litter on any public or private property or in any waters.

(b) The term *litter*, as used in this Section, means all rubbish, waste material, refuse, garbage, trash, debris or other noxious or 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 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 consent of the owner or tenant in lawful possession, or the act is done under the personal direction of such 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 specified private property within the Town, with prior permission of the owner or tenant in lawful possession thereof, any litter found thereon, or upon any person who knowingly mars, destroys or removes any posted notice authorized by law commits an offense.

(f) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of such motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom. (Ord. 7, 1984 §23; Ord. 11, 2002 §1)

ARTICLE VI

Public Peace, Order and Decency

Sec. 10-6-10. Disorderly conduct.

(a) It is unlawful for any person, without significant provocation for his or her abusive or threatening conduct, intentionally, knowingly or recklessly:

(1) To make a coarse and obviously offensive utterance, gesture or display in a public place when such action is likely to incite an immediate breach of the peace;

(2) To abuse or threaten a person in a public place when such abuse or threat causes injury or tends to incite an immediate breach of the peace;

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

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

(5) Not being a police officer engaged in the performance of official duty, to discharge a firearm in a public place, except when engaged in lawful target practice or hunting, or to discharge a firearm in an area zoned for residential, business or commercial use; or

(6) Not being a police officer engaged in the performance of official duty, to display 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. (Ord. 7, 1984 §69; Ord. 11, 2002 §1)

Sec. 10-6-20. Disrupting lawful assembly.

It is unlawful for any person to knowingly prevent or significantly disrupt any lawful meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 7, 1984 §74; Ord. 11, 2002 §1)

Sec. 10-6-30. Harassment.

(a) It is unlawful for any person, with intent to harass, annoy or alarm another person, to:

(1) Strike, shove, kick or otherwise touch a person or subject him or her to physical contact;

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

(3) Follow a person in or about a public place;

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

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

(6) Make repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private property; or

(7) Repeatedly insult, taunt, challenge or makes communications in offensively coarse language to 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.

(c) Any act prohibited by Subsection (a)(4)above may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received. (Ord. 7, 1984 §35; Ord. 11, 2002 §1)

Sec. 10-6-40. 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) It is unlawful for any person to:

(1) Loiter for the purpose of begging;

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

(3) Loiter for the purpose of engaging or soliciting another person to engage in prostitution;

(4) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiter in a school building, 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) Loiter with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-8-10 of this Chapter.

(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 part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (Ord. 11, 2002 §1)

Sec. 10-6-50. Assault

(a) An assault is an unlawful attempt of a person, coupled with a present ability, to commit a bodily injury on another person.

(b) It is unlawful to assault, beat, strike, wound, imprison or inflict violence on another. (Ord. 11, 2002 §1)

Sec. 10-6-60. Menacing.

It is unlawful for any person to knowingly, by any threat or physical action, place or attempt to place another person in fear of imminent bodily injury. (Ord. 7, 1984 §31; Ord. 11, 2002 §1)

Sec. 10-6-70. Reckless endangerment.

It is unlawful for any person to recklessly engage in conduct which creates a substantial risk of serious bodily injury to another person. (Ord. 11, 2002 §1)

Sec. 10-6-80. False imprisonment.

It is unlawful for any person to knowingly confine or detain another without the other's consent and without proper legal authority. This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties. (Ord. 11, 2002 §1)

Sec. 10-6-90. Throwing missiles at vehicles.

It is unlawful for any person to throw or project any stone, rock or other missile at or against any vehicle, building, equipment or other public or private property, or at any person in any public way or place designed for the transportation of persons or property. (Ord. 7, 1984 §80; Ord. 11, 2002 §1)

Sec. 10-6-100. Abandoned containers and appliances.

It is unlawful for any person knowingly to leave or permit to remain outside of any dwelling, building or other structure, within any unoccupied or abandoned building, structure or dwelling under his or her control, or in any public or private place accessible to children, any abandoned, unattended, inoperable or discarded chest, closet, piece of furniture, refrigerator, ice box or similar device or equipment, having a compartment of a capacity of one and one-half (1½) cubic feet or more and having a door, lid, snap lock or other locking device which cannot be opened easily from the inside, without first removing said door, lid, snap lock or other locking device. (Ord. 7, 1984 §121; Ord. 11, 2002 §1)

Sec. 10-6-110. Disturbances at bars.

No alcoholic beverage licensee shall permit any disturbance, undue noise or unlawful or disorderly act or conduct by any person or group of persons upon the licensed premises. (Ord. 11, 2002 §1)

Sec. 10-6-120. Public urination.

It shall be unlawful for any person to urinate or defecate in or on a public place, except in an enclosed sanitary facility intended for such use. (Ord. 11, 2002 §1)

ARTICLE VII

Minors

Sec. 10-7-10. Curfew.

(a) It is unlawful for any parent, guardian or other person having legal care or custody of any child under the age of eighteen (18) years of age to cause, allow or permit any such child to loiter or remain upon any street, alley, park, playground, school yard or other public place in the Town, on foot or in or upon a vehicle, subsequent to the hour of 10:00 p.m., or prior to 5:00 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 is unlawful for any child under the age of eighteen (18) years of age to loiter or remain upon any street, alley, park, playground, school yard or other public place in the Town on foot or within or upon a vehicle, subsequent to the hour of 10:00 p.m., or prior to 5:00 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.

(c) It shall be an affirmative defense to Subsections (a) and (b) above that such child is accompanied on such street, alley, park, playground, school yard or public place by his or her parent, guardian or other person at least twenty-one (21) years of age who has permission of the parent or guardian to have the care and custody of such child; or that there exists a reasonable necessity for the child's presence on such street, alley, park, playground, school yard or public place; or that such child is taking a direct course from his or her residence to or from his or her place of employment; or that such child is taking a direct course between a school function and his or her residence; or that such child has in his or her possession written permission from his or her parent or guardian to be out during the prohibited hours for a specific lawful purpose. (Ord. 5, 1991 §§1—3; Ord. 11, 2002 §1)

Sec. 10-7-20. Parent or guardian aiding, abetting.

It is unlawful for any person to knowingly permit any minor child, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the Town. (Ord. 11, 2002 §1)

Sec. 10-7-30. False statement; false credentials.

It is 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 issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Ord. 11, 2002 §1)

Sec. 10-7-40. Services of others.

It is 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. 11, 2002 §1)

ARTICLE VIII

Alcoholic Beverages and Drugs

Sec. 10-8-10. Definitions.

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

Alcoholic beverage or *alcoholic liquor* means fermented malt beverage or malt, vinous or spirituous liquors.

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.

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 state law;
- b. To enhance the effect on the human body of any controlled substance under circumstances in violation of state law;
- c. To conceal any quantity of any controlled substance under circumstances in violation of state law; or
- d. To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of state law.

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.

Malt liquor 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.

Open container means any container that is open and would allow consumption.

Public place means any place commonly or usually open to the general public or into which members of the general public may enter, or accessible to members of the general public. By way of illustration, such public places include but are not limited to public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, places of business usually open to the general public, and automobiles or other vehicles in or upon any such place or places, but shall not include the interior or enclosed yard area of private homes, residences, condominiums or apartments.

Seal means the regular and original seal applied by the United States government over the cap on top of any beer, malt, vinous or spirituous liquor.

Spirituos liquor 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.

Vinous liquor 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. 11, 2002 §1)

Sec. 10-8-20. Open container.

(a) It is unlawful for any person to possess or have under his or her control any fermented beverage, malt, vinous and spirituous liquors in an open container, or in a container the seal of which is broken, whether such possession is actual or constructive, in any public place, as defined in Section 10-8-10 of this Article, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by the Town, or in any vehicle in a public place; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license.

(b) It is unlawful for any person, while operating a vehicle in any public place within the Town, to possess, have under his or her control or allow any fermented beverage, malt, vinous and spirituous liquors within the passenger area of the vehicle in an open container or in a container the seal of which is broken.

(c) Nothing in this Section shall prohibit drinking or having open containers of fermented beverage, malt, vinous and spirituous liquors:

- (1) In public places where authorized by a duly issued special event license or permit;
- (2) In public places where authorized by a resolution of the Board of Trustees; or
- (3) In public places consisting of private property by the owners or agents of the property. (Ord. 7, 1984 §26; Ord. 11, 2002 §1)

Sec. 10-8-30. Possession of drug paraphernalia.

It is unlawful for any person to possess drug paraphernalia if he or she possesses such drug paraphernalia for use under circumstances in violation of state law. (Ord. 11, 2002 §1)

ARTICLE IX

Fireworks

Sec. 10-9-10. Definitions.

As used in this Article, unless the context otherwise requires:

Fireworks means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy

canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, Roman candles, Day-Glo bombs and torches, 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. *Fireworks* does not include:

- a. Toy caps which do not contain more than twenty-five hundredths (0.25) of a grain of explosive compound per cap;
- b. Sparklers, trick matches, cigarette loads, trick noisemakers, toy smoke devices and novelty auto alarms;
- c. Highway flares, railway fuses, ship distress signals, smoke candles and other emergency signal devices; or
- d. Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two (2) ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means.

Manufacturer means any person who manufactures, makes, constructs or produces fireworks.

Retailer includes any person who sells, delivers, consigns or furnishes fireworks to another person not for resale.

Wholesaler includes any person, including a manufacturer, who is licensed as a wholesaler under state law and who sells, delivers, consigns, gives or otherwise furnishes fireworks to a retailer for resale. (Ord. 11, 2002 §1)

Sec. 10-9-20. Unlawful to sell fireworks.

It is unlawful in the Town for any person to offer for sale, expose for sale, sell, or have in his or her possession with intent to offer for sale, sell, or offer to sell, use or explode any fireworks. (Ord. 7, 1984 §79; Ord. 11, 2002 §1)

Sec. 10-9-30. Permits for display.

(a) The Board of Trustees has the power to grant permits within the Town for supervised public displays of fireworks by the Town, fair associations, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits.

(b) Application for a permit as provided for herein shall be filed with the Town Clerk, together with a license fee and a nonrefundable inspection fee as may be established from time to time by resolution of the Board of Trustees. The application shall contain at least the following information:

- (1) The name and address of the person or organization sponsoring the display, together with the names and addresses of the persons who will actually be in charge of the display;
- (2) The date and time of day at which the display is to be held;

(3) The address and detailed description of the exact location planned for the display, including a diagram of the location and surrounding area;

(4) The names and addresses of the competent fireworks operators who are to supervise the discharge of the fireworks, and written evidence regarding their competency as fireworks operators;

(5) The type and class of fireworks to be discharged;

(6) The manner and place of storage of such fireworks prior to and during the display;

(7) Proof that satisfactory compensation insurance is carried by the applicant for all of the applicant's employees who will be working at the display; and

(8) Proof that the applicant has public liability insurance with the limits and coverage as set forth in Section 10-9-40, protecting the Town, fire district, applicant, manufacturer, wholesaler, seller, supplier, property owner and operators of the display from any liability or claims of damages arising out of or as a result of or related to the fireworks.

(c) Any nonprofit or public organization may apply for a permit for supervised public displays of fireworks. Such application for a permit shall be made in writing at least fifteen (15) days in advance of the date of the display. Every display shall be under the control and supervision of a competent operator, and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person;

(d) No such permit shall be valid unless approved by the appropriate person designated by the fire protection district, the Chief of Police and the Board of Trustees. Each shall investigate to the extent necessary to make a determination based upon public health and safety of persons and property, and any disapproval shall state in writing the reasons therefor; no person displaying fireworks under this Section shall fail to dispose of any unfired fireworks in a safe manner after the display is concluded.

(e) No permit shall be transferable or assignable. No permit shall be required for such public display of fireworks at any county or district fair duly organized under the laws of the State and the ordinances of the Town. (Ord. 7, 1984 §79; Ord. 11, 2002 §1)

Sec. 10-9-40. Insurance.

The Board of Trustees shall require a certificate of insurance to protect persons and property from death or injury as a result of any fireworks display for which a permit is issued, in an amount not less than one hundred fifty thousand dollars (\$150,000.00) per person injured and six hundred thousand dollars (\$600,000.00) per incident. The insurance shall cover any liability of the Town or any employee or agent thereof arising out of or connected with the permit and the fireworks display permitted thereunder. (Ord. 11, 2002 §1)

Sec. 10-9-50. Bond.

Any permittee shall be required to obtain a performance bond in a sum not less than one thousand dollars (\$1,000.00) conditioned on compliance with the provisions of this Article; except that the Town shall not be required to file such bond. (Ord. 11, 2002 §1)

Sec. 10-9-60. Seizure of fireworks.

The Police Department may, for preservation of evidence or for destruction, seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this Article. (Ord. 11, 2002 §1)

ARTICLE X

Noise

Sec. 10-10-10. Definitions.

The following words and phrases, when used in this Article, shall have the meanings respectively ascribed to them:

Agricultural premises or district means any lot or parcel zoned for agricultural use under the Town's zoning regulations and which is being used for agricultural purposes.

Ambient sound level means the A-weighted sound level of all sound associated with a given environment, exceeded ninety percent (90%) of the time (L_{90}), measured and being a composite of sounds from many sources during the period of observation while the sound from the noise source of interest is not present.

A-weighted sound pressure or noise level means the sound pressure or noise level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A).

Business and/or commercial premises or district means any lot or parcel zoned for business or commercial use, respectively, under the Town's zoning regulations.

Commercial power equipment means any equipment or device rated at more than five (5) horsepower and used for building repairs or property maintenance, excluding snow removal and lawn care equipment.

Construction equipment means any device or mechanical apparatus operated by fuel, electric or pneumatic power in the excavation, construction, repair, maintenance or demolition of any building, structure, lot, parcel, street, alley, waterway or appurtenance thereto.

Decibel means a logarithmic unit of measure often used in measuring magnitude of sound. The symbol is dB.

Domestic power equipment means any equipment or device rated at five (5) horsepower or less and used for building repairs or grounds maintenance, excluding snow removal, tree maintenance and lawn care equipment.

Emergency power generator means the equipment used to generate electrical power in the event of an interruption, malfunction or failure of the electrical power supplied by a service provider.

Emergency vehicle means an authorized motor vehicle that has sound-warning devices such as whistles, sirens and bells which can lawfully be used when responding to an emergency or police activity, or which is required by state or federal regulations.

Emergency work means an activity made necessary to restore property to a safe condition following a severe weather incident, natural disaster or public calamity, or work required to protect persons or property from injury or exposure to imminent danger. It includes work by private or public entities for immediately providing or restoring necessary utility services, as well as all situations deemed necessary by the Town.

Engine compression braking device (commonly referred to as *Jacobs Brake* or *Jake Brake*) means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

Industrial premises or district means any lot or parcel zoned for industrial use under the Town's zoning regulations.

Lawn care equipment means equipment used to cut, vacuum or sweep grass, blow away lawn clippings or leaf debris, or aerate turf.

Motor vehicle means any vehicle which is self-propelled and used for transporting persons or property upon public roadways, inclusive of motorcycles. The term *motor vehicle* shall not include: aircraft, watercraft, mechanical street sweepers, self-propelled construction equipment, motor vehicles operated exclusively on private property for recreational or amusement purposes, vehicles used exclusively on stationary rails, or specialized utility vehicles normally used only on private property in the daily course of business such as forklifts and pallet movers.

Muffler-approved exhaust type means an apparatus consisting of a series of chambers, baffle plates or other mechanical devices designed for the purpose of receiving and transmitting exhaust gases and which reduces sound emanating from such an apparatus by at least twenty (20) dB(A) from the nonmuffled condition.

Noise means sound that is unwanted and which causes or tends to cause annoyance and/or adverse psychological or physiological effects on human beings, or disturbs the peace and quiet of persons on a receptor premises.

Person means any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner, and shall include any municipal corporation, state or federal governmental agency, district or any officer or employee thereof.

Premises means any building, structure, land, utility or portion thereof, including all appurtenances, and also includes yards, lots, courts, inner yards and properties without buildings or improvements owned or controlled by a person.

Property line means that real or imaginary line and its vertical or horizontal extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, inclusive of the lines that separate units in a multiple-unit building.

Public premises means all real property, including appurtenances thereon, which is owned or controlled by any governmental entity, and includes streets, alleys, sidewalks, parks and waterways.

Receptor premises means a premises which is receiving noise emitted from a source premises after crossing one (1) or more property lines.

Residential premises or district means any lot, parcel or premises zoned for residential use under the Town's zoning regulations.

Snow removal equipment means any equipment used for removing snow from land or building surfaces, and includes snowplows, snowblowers, snow sweepers, and snow shovels.

Sound means an oscillation in pressure, stress, particle displacement and particle velocity which induces auditory sensation.

Sound level meter means an apparatus or instrument, including a microphone, amplifier, attenuator, output meter and frequency-weighting networks, for the measurement of sound levels. The sound level meter shall be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute, publication S1.4-1971, entitled Specification for Sound Level Meters, or its current successor publication.

Sound pressure level means twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter (20×10^{-5} Newtons/meter²), and is expressed in decibels (dB).

Source premises means a premises (residential, business, commercial, agricultural, industrial or public) as listed in Table A in Section 10-10-20 below that is emitting noise that is crossing one (1) or more property lines and impacting the receptor premises.

Tree maintenance equipment means any equipment used in trimming or removing trees only, and shall not be limited to chainsaws, chippers and stump removers. (Ord. 11, 2002 §1)

Sec. 10-10-20. Excessive noise prohibited.

(a) It is unlawful and a public nuisance for any person to emit or cause to be emitted any noise in excess of the noise levels during the time periods as specified in Table A below. In determining whether a violation of this Article is occurring, the noise and/or noise source shall be measured at any point along the property line, or within the property line, of the receiving or receptor premises.

(b) Periodic, impulse or shrill noises shall be considered a public nuisance when such noises are at a sound level of five (5) dB(A) less than those listed in Table A below.

TABLE A
Maximum Permitted Noise Levels dB(A)

<i>Use District</i>	<i>7:00 a.m. to 9:00 p.m.</i>	<i>9:00 p.m. to 7:00 a.m.</i>
Residential Districts	55	50
Business/Commercial Districts	60	55
Agricultural/Light Industrial Districts	65	55
Public	55	50

(c) In a PUD overlay/zone district, except as otherwise provided for in the approved applicable PUD zoning, the maximum permitted noise level shall be in conformance with the underlying zone district, or that zone district listed in the "Maximum Permitted Noise Levels" table most similar to the PUD district as determined by the Town Administrator. (Ord. 11, 2002 §1)

Sec. 10-10-30. Exemptions to noise levels.

Notwithstanding the provisions of Section 10-10-20 above, the maximum allowable noise levels set forth in Table A shall not apply to sounds emitted from:

- (1) Any bell or chime from any building clock, school or church, but excluding any amplified bell or chime sounds emitted from loudspeakers.
- (2) Any siren, whistle, bell or audible warning device lawfully used by an emergency vehicle or on construction equipment, or any other alarm system used in case of fire, collision, civil defense, police activity or imminent danger; provided, however, that burglar alarms or construction equipment alarms or warning devices not terminated within fifteen (15) minutes after being activated shall be deemed a nuisance and unlawful.
- (3) Any aircraft in flight subject to federal law regarding noise control and any helicopter in the act of landing or taking off at a helipad licensed by the Town, so long as the helicopter is not landing or taking off in violation of any conditions or restrictions of the helipad's license.
- (4) Any tree maintenance or lawn care equipment operated during the time period between 7:00 a.m. and 9:00 p.m., and the operation of tree maintenance or lawn care equipment between the hours of 9:00 p.m. and 7:00 a.m.; provided, however, that during the latter time period noise generated shall not exceed the maximum noise levels as specified for the applicable use district in Table A in Section 10-10-20 above.
- (5) Any construction equipment or activities in compliance with Subsection 10-10-40(3) below.
- (6) Any domestic power equipment operated between 7:00 a.m. and 9:00 p.m.; provided that such equipment does not exceed a noise level of seventy (70) dB(A) when measured twenty-five (25) feet from the property line of the property on which the equipment is being operated; and further provided that between the hours of 9:00 p.m. and 7:00 a.m., such equipment does not exceed the maximum noise levels as specified in Table A in Section 10-10-20 above.

(7) Any commercial power equipment operated between 7:00 a.m. and 9:00 p.m.; provided that such equipment does not exceed a noise level of eighty (80) dB(A) when measured twenty-five (25) feet from the property line of the property on which the equipment is being operated; and further provided that between 9:00 p.m. and 7:00 a.m., such equipment does not exceed the maximum noise levels as specified for the applicable use district in Table A in Section 10-10-20 above.

(8) The musical instruments of any school marching band while performing at any sporting event or marching band competition, and the musical instruments of any school marching band practicing on school grounds that do not exceed sixty-five (65) dB(A) when measured at the property line of any receiving residential premises.

(9) Snow removal equipment operated on any premises following a snowstorm between the hours of 5:00 a.m. and 9:00 p.m.; provided that such equipment does not exceed the noise limits of eighty (80) dB(A) for commercial power equipment, or seventy (70) dB(A) for domestic power equipment, when measured at a distance of twenty-five (25) feet from the property line of the property on which the equipment is being operated.

(10) Any power generator providing emergency electrical power at any hospital, health clinic, nursing home or similar facility where the loss of electrical power poses an immediate risk to the health, safety or welfare of any person, or at any premises where such equipment is required by the Fire Department. Additionally, the noise emitted during the routine testing of emergency electrical power generators shall not exceed eighty (80) dB(A) at a distance of twenty-five (25) feet from the property line for the property on which the generator is operated. Routine testing shall not exceed one (1) hour in any one-week period, or two (2) hours in any six-week period, and shall be confined to the hours of 10:00 a.m. to 4:00 p.m., or as otherwise approved.

(11) Any noise specifically authorized by permit duly issued by the Town, inclusive of a parade permit, and noise created or caused by employees, contractors or agents of the Town or another government agency while performing emergency work or activities necessary to address a natural or man-made disaster, calamity or emergency. (Ord. 11, 2002 §1)

Sec. 10-10-40. Prohibited noise activities.

Notwithstanding the noise levels and/or limits permitted in Section 10-10-20 above, the following activities are prohibited everywhere in the Town:

(1) Vehicle horns and audible warning devices. No person shall at any time sound any horn or other audible signal device of a motor vehicle in excess of ten (10) seconds unless it is necessary as a warning to prevent or avoid a traffic accident, or is reasonably necessary to inform or warn of a vehicle presence, inclusive of audible back-up safety warning devices.

(2) Trash compacting and collection. No person shall operate any trash compacting mechanism on any motor vehicle or on any premises, nor shall any person engage in any trash, rubbish or garbage collection activity, between the hours of 9:00 p.m. and 6:30 a.m., when such compacting or collection activity takes place on any premises other than a public premises, adjacent to or across the street or alley from a residential premises.

(3) Construction equipment and activities. No person shall operate any construction equipment, nor conduct any construction activities, that exceed the noise limits contained in Table A in Section 10-10-20 above between the hours of 9:00 p.m. and 7:00 a.m., except that at no time shall construction noise exceed 80 dB(A). The Town may grant variances from the construction restrictions if it can be demonstrated that a construction project will interfere with traffic if completed during daytime hours, or that other extenuating circumstances exist requiring relief from this prohibition.

(4) Amplified sound devices in public parks, rights-of-way and recreation areas. Except for an authorized public address system utilized to announce a sporting or recreational event, no noise shall be emitted from any radio, tape/CD player, electronic sound system or similar electronic amplified sound reproduction or receiving device on or within any public park, right-of-way or recreational area in excess of 55 dB(A) or which is plainly audible at a distance of twenty-five (25) feet, whichever is more restrictive, unless authorized under a permit as obtained under Section 10-10-70 below.

(5) Engine compression brake devices. The operation or use of engine compression braking devices on trucks or other motor vehicles is prohibited within the Town except in circumstances of an emergency where the use of conventional braking equipment is insufficient to avoid a collision or other accident. (Ord. 11, 2002 §1)

Sec. 10-10-50. Motor vehicle noise.

(a) No person shall operate, nor shall the owner permit the operation of, any motor vehicle or combination of motor vehicles at any time or place when such operation exceeds the following noise levels for the category of motor vehicle as specified in Table B below. The standards in Table B shall apply to all noise emitted from a motor vehicle, including any and all equipment thereon, and under any condition of acceleration, deceleration, idle, grade or load, and whether or not in motion, excepting audible backup safety warning devices.

(b) It shall also be unlawful for any person to drive or move, or for the owner of any motor vehicle to permit to be driven or moved, any motor vehicle which is not equipped with an approved exhaust muffler satisfying the requirements of this Article; and/or to modify or change an approved exhaust muffler, air intake muffler or any other sound-reducing device in such a manner that the noise emitted from the motor vehicle exceeds the noise levels as established in Table B below, or is increased above the noise level of the vehicle as originally manufactured. Muffler cut-outs, by-passes or other devices which increase noise levels or change the original manufactured exhaust system of any motor vehicle shall be considered a violation of this Article. Additionally, all motor vehicles equipped with an engine compression brake device shall be required to have a muffler which will contain engine compression brake noise within the limits set forth in Table B.

TABLE B
Maximum Permissible Noise Levels for Motor Vehicles

<i>Motor Vehicle Type</i>	<i>Maximum dB(A) at speed limit 35 mph or less</i>	<i>Maximum dB(A) at speed limit greater than 35 mph</i>
Vehicles operating on a public highway or street and weighing 6000 pounds or more manufacturer's gross vehicle weight and manufactured before January 1, 1973	88	90
Vehicles operating on a public highway or street and weighing 6000 pounds or more manufacturer's gross vehicle weight and manufactured on or after January 1, 1973	86	90
Any motorcycle operating on a public highway or street and manufactured before January 1, 1973	88	90
Any motorcycle operating on a public highway or street and manufactured on or after January 1, 1973	86	90
Any other motor vehicle or self-propelled recreational vehicle primarily designed for off-highway use operating on a public highway or street	82	86
Any vehicle motor being operated on private or public property not designated as a highway or street	78	78

(c) For the purpose of this Section, a truck, truck tractor or bus that is not equipped with an identification plate or marking bearing the manufacturer's name and manufacturer's gross vehicle weight rating shall be considered as having a manufacturer's gross vehicle weight rating of six thousand (6,000) pounds or more if the unladen weight is more than five thousand (5,000) pounds. (Ord. 11, 2002 §1)

Sec. 10-10-60. Noise level measurements.

Noise level measurements made pursuant to this Article shall be made with a sound level meter of standard design using the A-weighting network/scale when wind velocity at the time and place of measurement is not more than five (5) miles per hour, or with a wind screen when wind velocity is greater than five (5) mph. (Ord. 11, 2002 §1)

Sec. 10-10-70. Noise permits.

(a) A permit to vary or temporarily waive the maximum allowable noise levels as specified in this Article may be applied for and obtained from the Town for special events or activities, including, without limitation, musical performances or other entertainment events, fireworks displays, parades and seasonal commercial activities. Applications for a permit shall be made on approved forms and submitted along with any application fee to the Town Clerk not less than seven (7) working days prior to the date for which the permit is sought. The application shall be promptly routed by the Town Clerk to the Town's zoning and police officials, who shall forward their comments concerning the same to the Mayor.

(b) The Mayor may grant or deny a permit application, taking into consideration the nature and duration of the noise/activity sought to be permitted, the location of the proposed noise/activity, the anticipated impact of the proposed noise/activity on surrounding properties and neighborhoods, and whether the public health and safety will be injured or served by the issuance of the permit. The Mayor may also waive the permit application deadline set forth in Subsection (a) above for good cause shown.

(c) The Mayor may conduct a public hearing to consider a permit application if he or she deems it necessary or appropriate. Notice of the hearing must be sent to the permit applicant at least three (3) days in advance thereof by either telephone, telefacsimile, electronic mail, regular mail or such other method as will likely and timely reach the applicant. Notice to the public of the hearing shall be timely posted at the place or location annually designated by the Board of Trustees under Section 24-6-402(2)(c), C.R.S., of the Colorado Open Meetings Law.

(d) The Mayor may prescribe such permit conditions or requirements as he or she may deem necessary to minimize the adverse impacts the proposed noise/activity may have upon the community or surrounding neighborhood, including, but not limited to, the hours of operation, maximum decibels, the type of any sound amplification equipment and the type of sound that may be amplified. A permit granted by the Mayor under this Article shall contain all conditions upon which the permit has been granted and shall specify the locations and times that the permit shall be effective.

(e) An applicant dissatisfied with a decision of the Mayor may seek an appeal of the same to a three-member panel of the Board of Trustees by submitting a written notice of appeal to the Town Clerk within five (5) days from the date of the decision sought to be appealed. The panel shall review the appeal and decision of the Mayor within seven (7) working days from the date on which the Town Clerk received the notice of appeal. The panel may reverse, modify or affirm the decision of the Mayor. The panel's decision shall be final. (Ord. 11, 2002 §1)

Sec. 10-10-80. Inspections.

(a) For the purpose of determining compliance with the provisions of this Article, the Chief of Police or other designated Town representative shall be authorized to make inspections of all noise sources and to take measurements and tests whenever necessary to determine the volume and character of noise. If any person refuses or restricts entry and free access to any part of a premises, or refuses to allow the inspection, testing or noise measurement of any activity, device, facility or motor vehicle where inspection is sought, the Town official seeking such access and/or testing may petition the Municipal Court for a warrant for inspection requiring that such person permit entry and free access to the subject premises without interference, restriction or obstruction at a reasonable time for the purpose of inspecting, testing or measuring noise. The Municipal Court shall have power, jurisdiction and authority to enforce all orders issued under the provisions of this Article.

(b) It shall be unlawful for any person to refuse to allow or permit Town officials charged with enforcing this Article free access to any premises when such official is acting in compliance with a warrant or court order issued by the Municipal Court.

(c) It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of noise or noise sources.

(d) No person shall hinder, obstruct, delay, resist, prevent in any way, interfere or attempt to interfere with any Town official performing his or her duties under this Article. (Ord. 11, 2002 §1)

Sec. 10-10-90. Animals.

It is 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 licensed for the treatment of small animals or to premises occupied or used by the Town animal shelter. (Ord. 11, 2002 §1)

Sec. 10-10-100. Sirens, whistles, gongs and red lights.

It is 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. 11, 2002 §1)

ARTICLE XI

Miscellaneous Offenses

Sec. 10-11-10. Disturbances; premises licensed to sell or serve alcoholic beverages.

(a) For purposes of this Section, licensee means a person holding any liquor license issued pursuant to this Code and Title 12, Articles 46, 47 and 48, C.R.S.

(b) For purposes of this Chapter, *premises* means the premises specified in the application for a license issued and granted pursuant to Title 12, Articles 46, 47 and 48, C.R.S.

(c) 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.

(d) 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.

(e) Any licensee shall immediately report to the Chief of Police any unlawful or disorderly act, disorderly conduct or disturbance committed on the premises.

(f) 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. (Ord. 11, 2002 §1)

Sec. 10-11-20. Bottles, littering.

(a) It is 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 is 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 is 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 or 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. 11, 2002 §1)

Sec. 10-11-30. Curfew in parks.

(a) Except as otherwise provided for in this Code with respect to any individual park, a curfew is established prohibiting anyone from being in the Town parks for any purpose between the hours of 10:00 p.m. and 5:00 a.m.

(b) Upon application to and approval by the Board of Trustees, this Section may be waived for special events. (Ord. 11, 2002 §1)

Sec. 10-11-40. Barbed wire fences.

Except as otherwise specifically provided for in the Town's zoning regulations or other provision in this Code, it is unlawful for any person to construct or maintain within the Town any fence, cellar or window guard containing barbs, barbed wire, sharpened nails or any other pointed or sharpened thing or metallic substance. (Ord. 11, 2002 §1)

Sec. 10-11-50. Motorbikes.

The operation anywhere within the Town, whether on private or public property, of any 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 is unlawful for any person to cause or maintain such public nuisance. (Ord. 11, 2002 §1)

Sec. 10-11-60. Operation of aircraft.

(a) Except for the operation of aircraft by a governmental entity or in cases of emergency, it shall be unlawful for any person to operate or refuel any aircraft within the Town except at locations specifically authorized under the Town's zoning regulations or by special use permit issued by the Board of Trustees.

(b) For purposes of this Section, *aircraft* means and includes any airplane, helicopter, balloon or other machine or device designed or used to transport persons or goods by flight in the air, and *emergency* means an unforeseen extraordinary event or condition, and may include the landing or take-off of a medical emergency response aircraft. (Ord. 10, 1998 §1)