

CHAPTER 10

General Offenses

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ARTICLE I

General Provisions

Sec. 10-1-10. Adopted.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., there is adopted by reference, in part, Title 18, C.R.S., officially approved, adopted and published by the State, of which three (3) copies are on file at the Town Hall and may be inspected during regular business hours, pursuant to the adopted ordinance. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-1-20. Legislative purpose.

It is the purpose of this Chapter to provide for the public health, safety and welfare of the Town. (Ord. 282 §1, 1995)

Sec. 10-1-30. Local question.

It is the intention of the Board of Trustees that the ordinances and provisions of this Chapter deal with matters of "local" and "mixed" state and local concern and that no provision of this Chapter is to be construed expressly or by implication to permit conduct that is illegal under state laws or to prohibit conduct that is expressly permitted by state laws. 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 state laws. (Ord. 282 §1, 1995)

Sec. 10-1-40. 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. 282 §1, 1995)

Sec. 10-1-50. Application of Chapter.

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

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

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

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

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

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

(c) *Town*, as used in this Section and in any summons, summons and complaint or complaint alleging a violation of this Chapter or any ordinance, includes both the area within the territorial limits of the Town of Mead, Colorado, and also those areas over which extraterritorial police power has been granted by the 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. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-1-60. Fines and penalties.

(a) Any person convicted of a noncriminal violation, as designated in Section 10-1-80(c) of this Chapter, may be fined by an amount not to exceed five hundred dollars (\$500.00).

(b) Any person convicted of a criminal violation, as designated in Section 10-1-80(d) of this Chapter, may be incarcerated for a period not to exceed one (1) year or fined by an amount not to exceed one thousand dollars (\$1,000.00), or both.

(c) Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all of the fines and/or penalties applicable to the original charge.

(d) Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-1-70. Application of penalties to juveniles.

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Chapter classified as noncriminal pursuant to Section 10-1-80(c) herein, shall be punished by a fine of not more than five hundred dollars (\$500.00). Every such juvenile who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Chapter classified as criminal pursuant to Section 10-1-80(d) herein, shall be punished by a fine of not more than one thousand dollars (\$1,000.00). Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. (Ord. 282 §1, 1995)

Sec. 10-1-80. Violations.

(a) Any act or omission declared to be a violation or to be unlawful or required or prohibited by the phrase "no person shall" or similar mandatory language in or by this Chapter or any ordinance of the Town or any rule promulgated thereunder constitutes a violation.

(b) Unless otherwise specifically provided in this Chapter or an ordinance of the Town or a rule promulgated thereunder, every day of a violation of this Chapter, ordinance or rule constitutes as separate violation.

(c) The following sections of this Chapter are designated noncriminal violations. Any person charged with violating any provision of this Chapter so designated shall not be subject to incarceration upon conviction. Further, such person shall not be entitled to a trial by jury.

- 10-2-10 Criminal attempt (where the violation attempted is noncriminal)
- 10-2-20 Conspiracy (where the conspiracy involves noncriminal violation)
- 10-2-30 Complicity
- 10-2-40 Accessory to crime (where violation is noncriminal)
- 10-4-30 Obtaining control over any stolen thing of value
- 10-4-50 Theft by receiving
- 10-4-100 Tampering with a utility meter
- 10-4-120 Defacing property; graffiti
- 10-4-130 Defacing posted notice
- 10-4-140 Littering of public and private property
- 10-4-150 Use of a noxious substance
- 10-5-10 Unlawfully using slugs
- 10-6-20 Possession of drug paraphernalia
 - 10-6-30 Possession of marijuana
 - 10-6-40 Substances releasing toxic vapors
- 10-8-40 Compounding
- 10-8-50 False reporting to authorities
- 10-9-20 Disrupting lawful assembly
- 10-9-50 Desecration of venerated objects
- 10-9-60 Hindering transportation
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- 10-9-80 Unreasonable noises prohibited
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- 10-10-20 Discharging weapons
- 10-11-20 License to manufacture, sell
- 10-11-50 Underage possession, consumption or sale of alcohol
- 10-11-60 Possession and consumption of alcoholic beverages in public prohibited
- 10-11-70 Alcohol selling establishments
- 10-11-80 Disturbances
- 10-12-10 Gambling
- 10-12-30 Curfew
- 10-12-40 Burning prohibited
- 10-12-50 Bottles, littering prohibited
- 10-12-60 Open containers; permits
- 10-12-70 Motorbike
- 10-12-80 Tobacco use by minors

10-14-30 Prohibited residency of certain sex offenders

(d) The following sections of this Chapter are designated criminal violations. Any person charged with violating any provision of this Chapter so designated may be subject to incarceration, in addition to fines and costs, upon conviction. Further, such person may be entitled to a trial by jury, if entitled to a jury trial upon meeting the requirements of Rule 223, Colorado Municipal Court Rules.

10-2-10	Criminal attempt (where the violation attempted is criminal)
10-2-20	Conspiracy (where the conspiracy involves criminal violation)
10-2-30	Complicity
10-2-40	Accessory to crime (where violation is criminal)
10-3-10	Menacing
10-3-20	Reckless endangerment
10-3-30	False imprisonment
10-3-40	Assault
10-4-10	Fourth degree arson
10-4-20	Theft
10-4-40	Motor vehicle theft
10-4-60	Criminal mischief
10-4-70	Second degree criminal trespass
10-4-80	Third degree criminal trespass
10-4-90	Second degree criminal tampering
10-4-110	Damaging public property
10-5-20	Fraud by check
10-7-10	Indecent exposure
10-8-10	Resisting arrest
10-8-20	Obstructing a peace officer or fireman
10-8-30	Refusing to aid a peace officer
10-8-60	Impersonating a peace officer
10-8-70	Escapes
10-9-10	Disorderly conduct
10-9-30	Harassment
10-9-40	Loitering
10-10-10	Carrying a concealed weapon
10-10-30	Discharging bow or sling shot
10-10-40	Unlawful use of weapons
10-10-50	Unlawful use of nunchaku or throwing stars
10-10-70	Possession of weapon by an intoxicated person

10-11-30	Sale of malt, vinous, spirituous liquors
10-11-40	Sale to minor
10-12-20	Child abuse

(Ord. 282 §1, 1995; Ord. 286 §1, 1995; Ord. 316 §1, 1997, Ord. 579 §1, 2006; Ord. 656 §5, 2009; Ord. 657 §1, 2009)

Sec. 10-1-90. Statute of limitations.

No person shall be prosecuted, tried or punished for any violation under this Chapter 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, the complaint or the summons and complaint that commence the prosecution are quashed or the proceedings thereon are set aside or reversed on appeal. (Ord. 282 §1, 1995)

Sec. 10-1-100. Penalties not released by repeal.

(a) The repeal, revision, amendment or consolidation of any section of this Chapter, as amended, does not constitute a bar to the prosecution and punishment of an act already committed in violation of the section so repealed, unless the repealing, revising, amending or consolidating ordinance expressly so provides.

(b) Any such section so repealed, amended, revised or consolidated shall remain in full force and effect for the purpose of sustaining all actions, suits, proceedings and prosecutions brought thereunder that arose before the effective date of the repeal, amendment, revision or consolidation. (Ord. 282 §1, 1995)

ARTICLE II

Attempt, Conspiracy, Complicity, Accessory

Sec. 10-2-10. Criminal attempt.

(a) A person commits criminal attempt if, acting with the kind of culpability other-wise required for commission of an offense, he or she engages in conduct constituting a substantial step toward the commission of the offense. A substantial step is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

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

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent. (Ord. 282 §1, 1995)

Sec. 10-2-20. Conspiracy.

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

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

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

(d) If a person conspires to commit a number of crimes, he or she is guilty of only one (1) conspiracy so long as such multiple crimes are part of a single criminal episode. (Ord. 282 §1, 1995)

Sec. 10-2-30. 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. 282 §1, 1995)

Sec. 10-2-40. Accessory to crime.

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

(b) *Render assistance* means to:

(1) Harbor or conceal the other;

(2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;

(3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;

(4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or

(5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person. (Ord. 282 §1, 1995)

ARTICLE III

Offenses Against the Person

Sec. 10-3-10. Menacing.

A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury. (Ord. 282 §1, 1995)

Sec. 10-3-20. Reckless endangerment.

A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment. (Ord. 282 §1, 1995)

Sec. 10-3-30. False imprisonment.

Any person who knowingly confines or detains another without the other's consent and without proper legal authority commits false imprisonment. This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties. (Ord. 282 §1, 1995)

Sec. 10-3-40. Assault.

A person commits the crime of assault if he or she intentionally, knowingly or recklessly causes bodily injury to another; except that this provision shall not apply if such bodily injury is inflicted by means of a deadly weapon. (Ord. 282 §1, 1995)

ARTICLE IV

Offenses Against Property

Sec. 10-4-10. Fourth degree arson.

A person who knowingly or recklessly starts or maintains a fire or causes an explosion, on his or her own property or that of another, and by so doing places any building or occupied structure of another in danger of damage, commits fourth degree arson. (Ord. 282 §1, 1995)

Sec. 10-4-20. Theft.

A person commits theft when he or she knowingly obtains or exercises control over anything of value less than five hundred dollars (\$500.00) of another without authorization, or by threat or deception, and:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;

(3) Uses, conceals or abandons the things of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or

(4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-4-30. Obtaining control over any stolen thing of value; conviction.

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. (Ord. 282 §1, 1995)

Sec. 10-4-40. Motor vehicle theft.

A person who knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception commits motor vehicle theft. (Ord. 282 §1, 1995)

Sec. 10-4-50. Theft by receiving.

A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on, or disposes of anything of value of another, knowing or believing that said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value. (Ord. 282 §1, 1995)

Sec. 10-4-60. Criminal mischief.

A person commits criminal mischief if he or she knowingly damages the real or personal property of one (1) or more other persons in the course of a single criminal episode. (Ord. 282 §1, 1995)

Sec. 10-4-70. Second degree criminal trespass.

A person commits the crime of second degree criminal trespass if he or she unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced or if he or she knowingly and unlawfully enters or remains in or upon the premises of a hotel, motel, condominium or apartment building. (Ord. 282 §1, 1995)

Sec. 10-4-80. Third degree criminal trespass.

A person commits the crime of third degree criminal trespass if he or she unlawfully enters or remains in or upon the premises of another. (Ord. 282 §1, 1995)

Sec. 10-4-90. Second degree criminal tampering.

Except as provided in Section 10-4-110, a person commits the crime of second degree 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 unauthorized connection with property of a utility. (Ord. 282 §1, 1995)

Sec. 10-4-100. Tampering with a utility meter; penalty.

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

(b) It is unlawful for any person who in any manner alters, obstructs or interferes with the action of any meter provided for measuring or registering the quantity of gas, water or electricity passing through said meter without the knowledge and consent of the person owning said meter.

(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. 282 §1, 1995)

Sec. 10-4-110. 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. 282 §1, 1995)

Sec. 10-4-120. Defacing property; graffiti.

It is unlawful for any person to deface or cause, aid in or permit the defacing of public or private property without the consent of the owner by painting, drawing or writing, by use of paint, spray paint or ink, or any other method of defacement. Upon conviction of this Section, the court may order the person so convicted to personally repair any property damaged or properties similarly damaged, if possible. In addition, upon conviction of a violation of this Section, the offender's driver's license shall be revoked as provided in Section 42-2-125, C.R.S. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-4-130. Defacing posted notice.

It is unlawful for any person who knowingly mars, destroys or removes any posted notice authorized by law. (Ord. 282 §1, 1995)

Sec. 10-4-140. Littering of public and private property.

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

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

(c) It shall be an affirmative defense that:

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

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

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

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

(e) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom. (Ord. 282 §1, 1995)

Sec. 10-4-150. Use of a noxious substance.

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

(b) It shall be an affirmative defense that a peace officer in the performance of his or her duties reasonably used a noxious substance. (Ord. 282 §1, 1995)

ARTICLE V

Offenses Involving Fraud

Sec. 10-5-10. Unlawfully using slugs.

(a) A person commits unlawfully using slugs if:

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

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

(b) *Slug* means any object or article which, by virtue of its size, shape or any other quality, is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token, and of thereby enabling a person to obtain without valid consideration the property or service sold through the machine. (Ord. 282 §1, 1995)

Sec. 10-5-20. Fraud by check.

(a) A person commits fraud by check if he or she issues or passes a check or similar sight order for the payment of money, knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders outstanding at the time of issuance.

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

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

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

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

(d) A bank shall not be civilly or criminally liable for releasing information relating to the issuer's account to a police officer investigating or prosecuting a charge under this Section. (Ord. 282 §1, 1995)

ARTICLE VI

Offenses Relating to Drugs

Sec. 10-6-10. Definitions.

As used in this Article:

Controlled substance means a drug or other substance or an immediate precursor which is declared to be a controlled substance under Section 18-18-101 et seq., C.R.S., and also includes marijuana and marijuana concentrate and cocaine.

Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state laws. *Drug paraphernalia* includes, but is not limited to:

a. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of state laws;

b. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

c. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

d. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

e. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

f. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; or

g. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs; or

13. Ice pipes or chillers.

Marijuana means all parts of the plant *cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. (Ord. 282 §1, 1995)

Sec. 10-6-20. Possession of drug paraphernalia.

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of state laws.

(b) Drug paraphernalia; determinations; considerations. In determining whether an object is drug paraphernalia, the court, in its discretion, may consider, in addition to all other relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) The proximity of the object to controlled substances;

(3) The existence of any residue of controlled substances on the object;

(4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he or she knows or reasonably should know, could use the object to facilitate a violation of state laws. (Ord. 282 §1, 1995)

Sec. 10-6-30. Possession of marijuana.

It is unlawful for any person to possess not more than one (1) ounce of marijuana. (Ord. 282 §1, 1995)

Sec. 10-6-40. Substances releasing toxic vapors.

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

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

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

(d) Exception - medical or dental use. This Section shall not apply to the inhalation of anesthesia for medical or dental purposes. (Ord. 282 §1, 1995)

ARTICLE VII

Offenses Relating to Morals

Sec. 10-7-10. Indecent exposure.

A person commits indecent exposure if he or she knowingly exposes his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 282 §1, 1995)

ARTICLE VIII

Offenses - Governmental Operations

Sec. 10-8-10. Resisting arrest.

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

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

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

(b) It is no defense to prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if he or she was acting under color of his or her official authority and in attempting to make the arrest he or she was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts *under color of his or her official authority* when, in the regular course of assigned duties, he or she is called upon to make and does make a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her. (Ord. 282 §1, 1995)

Sec. 10-8-20. Obstructing a peace officer or fireman.

(a) A person commits obstructing a peace officer or fireman 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 the 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 fire by a fireman, acting under color of his or her official authority.

(b) To assure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or fireman when, by using or threatening to

use violence, force, physical interference or obstacle, he or she knowingly obstructs, impairs or hinders any such animal.

(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 10-8-10(b) above. (Ord. 282 §1, 1995)

Sec. 10-8-30. Refusing to aid a peace officer.

A person, eighteen (18) years of age or older, commits refusing to aid a peace officer when, upon command by a person known to him or her to be a peace officer, he or she unreasonably refuses or fails to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense. (Ord. 282 §1, 1995)

Sec. 10-8-40. Compounding.

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

- (1) Refraining from seeking prosecution of an offender; or
- (2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime. (Ord. 282 §1, 1995)

Sec. 10-8-50. False reporting to authorities.

A person commits false reporting to authorities, if:

- (1) He or she knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;
- (2) He or she makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur; or
- (3) He or she makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false.
- (4) He or she knowingly provides false identifying information to law enforcement authorities. For purposes of this Section, *identifying information* means a person's name, address, birth date, social security number and driver's license or Colorado identification number. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-8-60. Impersonating a peace officer.

A person who falsely pretends to be a peace officer and performs an act in that pretending capacity commits impersonating a peace officer. (Ord. 282 §1, 1995)

Sec. 10-8-70. Escapes.

A person commits escape if, while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense, he or she knowingly escapes from said custody or confinement. (Ord. 282 §1, 1995)

ARTICLE IX

Offenses Against Public Peace, Order and Decency

Sec. 10-9-10. Disorderly conduct.

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

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

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

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

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

(5) Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm. (Ord. 282 §1, 1995)

Sec. 10-9-20. Disrupting lawful assembly.

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 282 §1, 1995)

Sec. 10-9-30. Harassment.

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

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

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

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

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

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

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

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

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

(c) Any act prohibited by paragraphs (4) and (5) of Subsection (a) of this Section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-9-40. Loitering; definition.

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

(b) A person commits loitering if he or she:

(1) Loiters for the purpose of begging;

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

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

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

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possession of a controlled substance, as defined in Section 10-6-10 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 a part of peaceful and orderly petition for the redress of grievance, either in the course of labor disputes or otherwise. (Ord. 282 §1, 1995)

Sec. 10-9-50. Desecration of venerated objects.

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

(b) The term *desecrate* means defacing, damaging, polluting or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his or her action or its result. (Ord. 282 §1, 1995)

Sec. 10-9-60. Hindering transportation.

A person commits hindering transportation if he or she knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person. (Ord. 282 §1, 1995)

Sec. 10-9-80. Unreasonable noises prohibited.

It is unlawful to intentionally, knowingly or recklessly make, permit or assist another to make unreasonable noise in a public place or near a private residence that a person has no right to occupy, which, under all of the circumstances presented, would cause a person of ordinary sensitivities significant annoyance and irritation. The following noises and circumstances shall be deemed as prima facie unreasonable in the context, however, of the above standards:

(1) Electrically amplified sound audible twenty-five (25) feet from the source of said sound or within a private residence that the person responsible for the sound has no right to occupy;

(2) Nonlicensed motor vehicle gasoline engines, nonvehicular gasoline engines and electric tools operated between 10:00 p.m. and 7:00 a.m. and audible twenty-five (25) feet from the source of the sound or within a private residence that the person responsible for the sound has no right to occupy;

(3) Repair or adjustment of a motor vehicle between 10:00 p.m. and 7:00 a.m. which is audible twenty-five (25) feet from the source of the sound or within a private residence that the person responsible for the sound has no right to occupy; or

(4) A gathering of persons engaged in loud and continuing activities continuing for a minimum of fifteen (15) minutes between 10:00 p.m. and 7:00 a.m. and audible twenty-five (25) feet from the source of the sound or within a private residence that the person responsible for the sound has no right to occupy. (Ord. 282 §1, 1995)

Sec. 10-9-90. Public urination.

No person shall urinate or defecate while in any park within the Town limits, or on any property zoned for residential uses without the express permission of the owner, or within any portion of the Town zoned for business, industrial or public uses, unless such voiding is made into a receptacle that has been provided for that purpose that stores or disposes of the wastes in a sanitary manner and that is enclosed from the view of the general public. (Ord. 282 §1, 1995)

ARTICLE X

Offenses Relating to Firearms and Weapons

Sec. 10-10-10. Unlawfully carrying a concealed weapon; unlawful possession of weapons.

- (a) A person violates this Section if such person knowingly and unlawfully:
 - (1) Carries a knife concealed on or about his or her person; or
 - (2) Carries a firearm concealed on or about his or her person.
- (b) It shall be an affirmative defense that the defendant was:
 - (1) A person in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying;
 - (2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of such person's or another's person or property while traveling;
 - (3) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to Section 18-12-105.1, C.R.S., to carry the weapon by the chief of police of a city or city and county, or the sheriff of a county;
 - (4) A peace officer, level I or level Ia, as defined in Section 18-1-901(3)(1)(I) or (3)(1)(II), C.R.S.;
 - (5) A peace officer level II, as defined in Section 18-1-901(3)(1)(III), C.R.S., while on duty; or
 - (6) A United States probation officer or a United States pretrial services officer while on duty and serving in the State under the authority of rules and regulations promulgated by the judicial conference of the United States. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-10-20. Discharging weapons.

It is unlawful to discharge a projectile from a firearm or gas-operated or mechanically operated gun, except:

- (1) At a target range designated by the Town for the specific type of weapon involved; or

(2) During the act of hunting on lands designated by the Town as being in agricultural production and subject to an annual permit issued by the Town to the property owner. Application for an annual migratory waterfowl and game bird hunting permit shall be made to the Town Clerk, together with the payment of the twenty-dollar permit fee. The designation of lands as being in agricultural production and the issuance of the permit shall be reviewed and approved on a case-by-case basis by the Board of Trustees. Permits issued shall be for the benefit of the property owner or his or her invitees and shall be only for the taking of migratory waterfowl and game birds in accordance with all state and federal regulations. (Ord. 282 §1, 1995, Ord. 579 §1, 2006)

Sec. 10-10-30. Discharging bow or slingshot.

It is unlawful to knowingly:

(1) Discharge any projectile from or possess any bow, slingshot or crossbow in any Town park or open space; or

(2) Discharge any projectile from a bow, crossbow or slingshot in a negligent manner. (Ord. 282 §1, 1995)

Sec. 10-10-40. Unlawful use of weapons.

It is unlawful to:

(1) Knowingly and unlawfully point a loaded or unloaded firearm or gas-operated or mechanically operated gun in the direction of another person;

(2) Knowingly display or flourish a deadly weapon in a manner calculated to alarm another person; or

(3) Knowingly set a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and leave it unattended by an immediately present competent person. (Ord. 282 §1, 1995)

Sec. 10-10-50. Unlawful use of nunchaku or throwing stars.

It is unlawful to knowingly aim, swing or throw a throwing star or nunchaku at another person, or knowingly possess a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed nonaccessible container. (Ord. 282 §1, 1995)

Sec. 10-10-60. Exemptions from Article.

Nothing in this Article shall be construed to forbid United States marshals, sheriffs and their deputies, police officers, any other peace officers or members of the United States Armed Forces or Colorado National Guard from having in their possession, displaying, concealing or discharging such weapons as are necessary in the authorized and proper performance of their duties. (Ord. 282 §1, 1995)

Sec. 10-10-70. Possession of a weapon by an intoxicated person.

(a) It is unlawful to knowingly possess a firearm while under the influence of any intoxicating liquor or substance.

(b) It is not a defense that the defendant had a concealed weapon permit or is a peace officer. (Ord. 282 §1, 1995)

Sec. 10-10-80. Seizure of weapons.

Any police officer who has probable cause for a violation of this Article shall, in addition to taking any other action, seize the weapon or items used in the violation. Any weapon or items so seized shall be secured by the police officer in accordance with the Police Department procedures. (Ord. 282 §1, 1995)

ARTICLE XI

Offenses Relating to Alcohol

Sec. 10-11-10. Definitions.

For purposes of this Article:

Alcoholic beverages or *alcoholic liquors* means malt, vinous or spirituous liquors; except that *alcoholic beverages* and *alcoholic liquors* shall not include confectionery containing alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S.

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 (.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight; except that *fermented malt beverage* shall not include confectionery containing alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S.

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

Possession of alcoholic beverages means that a person has or holds any amount of alcoholic beverages anywhere on his or her person, or that a person owns or has custody of alcoholic beverages within his or her immediate presence and control.

Spirituous liquors means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (.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 liquors means wine and fortified wines which contain not less than one-half of one percent (.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. 282 §1, 1995)

Sec. 10-11-20. License to manufacture, sell.

It is unlawful for any person to manufacture for sale, to sell, barter or trade, or to offer to do so, any fermented malt beverage, without first having obtained a license therefor in accordance with law. *Three point two percent (3.2%) beer* means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any combination thereof in water, containing not more than three point two percent (3.2%) of alcohol by weight. (Ord. 282 §1, 1995)

Sec. 10-11-30. Sale of malt, vinous spirituous liquors.

(a) It is unlawful for any licensed person to sell at retail malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years, to a habitual drunkard or to an intoxicated person, or to permit any malt or vinous liquors to be sold or dispensed by a person under eighteen (18) years of age, or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof. If a person who, in fact, is not twenty-one (21) years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this Section.

(b) It is unlawful for any person licensed to sell, serve or distribute any malt, vinous or spirituous liquors at any time other than the following:

(1) For consumption on the premises, on any Monday through Saturday and on any Sunday which falls on December 31, beginning each day at 12:00 midnight until 2:00 a.m. and from 7:00 a.m. until 12:00 midnight;

(2) For consumption on the premises, on any Sunday, other than any Sunday which falls on a December 31, and on Christmas, beginning at 12:00 midnight until 2:00 a.m. and from 8:00 a.m. until 8:00 p.m.;

(3) Notwithstanding subparagraphs (1) and (2) of this Section, for consumption on the premises on the day following Christmas, beginning at 7:00 a.m. until 12:00 midnight.

(4) Notwithstanding, hotel and restaurant licensees, beer and wine licensees, tavern licensees, club licensees and arts licensees, upon the payment of an additional annual fee of two hundred dollars (\$200.00) to the local licensing authority, may obtain a special license to sell, serve or distribute malt, vinous and spirituous liquors by the drink after the hour of 8:00 p.m. and until 12:00 midnight on any Sunday other than a Sunday which falls on a December 31, and Christmas. (Ord. 282 §1, 1995)

Sec. 10-11-40. Sale to minor.

(a) It is unlawful to sell fermented malt beverages with an alcoholic content of three point two percent (3.2%) or less to any person under the age of twenty-one (21) years, or to any person between the hours of 12:00 midnight and 5:00 a.m., or for any person under twenty-one (21) years to purchase or possess same; it is unlawful to permit any fermented malt beverages with an alcoholic content of three point two percent (3.2%) or less to be sold or dispensed by a person under the age of twenty-one (21) years or to permit any such person to participate in the sale or dispensing thereof.

(b) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be of the age of twenty-one (21) years or more for the purpose of purchasing within the Town any fermented malt beverage with an alcoholic content of three point two percent (3.2%) or less.

(c) It is unlawful for any person over the age of twenty-one (21) years to purchase or attempt to purchase three point two (3.2) beer for a person under the age of twenty-one (21) years.

(d) It is unlawful, on or after three years (3) from July 30, 1987, to fail to display at all times in a prominent place on premises licensed for retail sale a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches with each letter to be a minimum of one-half (½) inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL TO SELL 3.2 BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OVER FOR YOU TO PURCHASE 3.2 BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

(Ord. 282 §1, 1995)

Sec. 10-11-50. Underage possession, consumption or sale of alcohol prohibited.

(a) It is unlawful to knowingly:

(1) Sell, serve, give away, dispose of, exchange or deliver or permit the sale, serving, giving or procuring of any vinous, spirituous or malt liquors or any fermented malt beverages, to or for anyone under the age of twenty-one (21) years;

(2) Obtain or attempt to obtain any vinous, spirituous or malt liquor or fermented malt beverages by misrepresentation of age or any other method in any place selling vinous, spirituous

or malt liquors or fermented malt beverages, when such person is under the age of twenty-one (21) years;

(3) Possess or consume any malt, vinous or spirituous liquor, or any fermented malt beverage, when such person is under the age of twenty-one (21) years of age; or

(4) Permit any person under twenty-one (21) years of age, of whom he or she may be a parent or guardian, to violate Subsections (1), (2) or (3) above.

(b) It shall be an affirmative defense that the person under the age of twenty-one (21) years was practicing in a religious ceremony or practice, or is participating in a supervised and bona fide investigation conducted by a law enforcement agency, or that the conduct was permitted by Article 46 or 47 of Title 12, C.R.S.

(c) Any person under the age of twenty-one (21) years convicted of this offense may be punished by a fine not to exceed five hundred dollars (\$500.00) and a term of probation not to exceed one (1) year.

(d) The Municipal Court is directed to notify the Department of Motor Vehicles of any conviction under this Section, pursuant to Section 42-2-122(n), C.R.S.

(e) Prima facie evidence of a violation of Subsection (a)(3) of this Section shall consist of:

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

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

(f) During any trial for a violation of this Section, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of ethyl alcohol. (Ord. 282 §1, 1995)

Sec. 10-11-60. Possession and consumption of alcoholic beverages in public prohibited.

(a) Except as provided in Section 10-12-60 of this Chapter, no person within the Town limits shall possess an opened container of or consume any malt, vinous or spirituous liquor or fermented malt beverage in public, except upon premises licensed for consumption of the liquor or beverage involved.

(b) For purposes of this Section, *opened container* means any container other than an original closed container as sealed or closed for sale to the public by the manufacturer or bottler of the liquor or beverage. If an original container has been unsealed, undone or opened in any manner, it is an opened container for purposes of this Section.

(c) For purposes of this Section *in public* means:

(1) In or upon any public highway, street, alley, walk, parking lot, building, park or other public property or place, whether in a vehicle or not;

(2) In or upon those portions of any private property upon which the public has an express or implied license to enter or remain; or

(3) In or upon any other private property without the express or implied permission of the owner or person in possession and control of such property or such person's agent.

(d) It is an affirmative defense to a charge of violating this Section that the premises were licensed by the Town or by the State for the consumption of the liquor or beverage involved, and any judge shall take judicial notice of the official records of such license and dismiss forthwith any charge to which this defense applies. If such dismissal is *ex parte*, the judge shall notify the Town Attorney, who may petition the court for permission to refile the charge.

(e) It is a specific defense to a charge of violating this Section that:

(1) The owner of the property involved or the owner's agent gave express permission to the accused or to members of the accused's class to perform the acts complained of; or

(2) The accused was transporting the liquor or beverage from one (1) place where it could be lawfully consumed directly and without delay to another such place, and the container was at all times during the transportation capped, corked or otherwise reclosed with a firmly affixed waterproof lid. When the liquor or beverage was being transported in a motor vehicle, this defense is only available if the container was in the trunk or was not otherwise immediately accessible to the driver or any passenger. (Ord. 282 §1, 1995)

Sec. 10-11-70. Alcohol selling establishments.

(a) Definitions. For purposes of this Section, the following definitions shall apply:

Lewd or indecent displays means performing acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

b. The touching, caressing or fondling of the breast, buttocks, anus or genitals;

c. The displaying of the pubic hair, anus, vulva or genitals;

d. The displaying of the post-pubertal human female breast below a point immediately above the top of the areola or the displaying of the post-pubertal human female breast where the nipple only, or the nipple and areola only, are covered.

Nudity means uncovered or less than opaquely covered post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only, or the nipple and the areola only, are covered.

(b) Conduct of establishments generally. Each licensee shall conduct his or her establishment in a decent, orderly and respectable manner, and shall not permit within or upon the licensed premises the loitering of habitual drunkards or intoxicated persons, lewd or indecent displays, profanity, rowdiness, undue noise or other disturbance or activity offensive to the senses of the average citizen or to the residents of the neighborhood in which the establishment is located.

(c) Conduct of establishments; begging drinks or beverages. No licensee, manager or agent shall permit, upon any licensed on-sale premises, anyone to loiter in or about the premises for the purpose of begging and soliciting any patron or customer of or visitor in such premises to purchase any drinks or beverages, of any type or nature whatsoever, for the one soliciting or begging.

(d) Conduct of establishments; consumption when sale unlawful. No licensee shall permit the consumption of malt, vinous or spirituous beverages or 3.2% beer on the licensed premises at any time when the sale of such beverages is prohibited by laws.

(e) Conduct of establishments; employee solicitation of drinks or beverages. No licensee, manager or agent shall employ or permit, upon any liquor licensed on-sale premises, any employee waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg, procure or solicit the purchase or sale of drinks or beverages for the use of the one begging, procuring or soliciting, or for the use of any other employee.

(f) Conduct of establishments; gambling. No licensee for the sale of spirituous, vinous or malt beverages or 3.2% beer shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine, apparatus or other thing contrary to this Article or to state laws, or which is kept or used for the purpose of gambling, either directly or indirectly. This Article shall not be construed to prohibit the use of bona fide amusement devices which do not and cannot be adjusted to pay anything of value, and which may not be used for gambling, directly or indirectly, and for the scoring, achievement, use or operation of which no prize, reward or thing of value is offered or paid by any person.

(g) Conduct of establishments; nudity. No licensee for retail sale by the drink of spirituous, vinous or malt beverages or 3.2% beer shall permit any person or persons to appear in a state of nudity within or upon the premises.

(h) Conduct of establishments; showing depictions of prohibited acts. No licensee for retail sale by the drink of spirituous, vinous or malt beverages or 3.2% beer shall permit the showing of film,

still pictures, electronic reproductions or other visual reproductions depicting any act or live performance prohibited by this Article. (Ord. 282 §1, 1995)

Sec. 10-11-80. Disturbances.

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

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

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

(d) It shall not be a defense that the licensee, agent or employee thereof 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. 282 §1, 1995; Ord. 316 §1, 1997)

ARTICLE XII

Miscellaneous Offenses

Sec. 10-12-10. Gambling.

It is unlawful for any person to engage in gambling; namely, the risking of any money, credit, deposit or other thing of value for gain, contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but not including:

(1) Any game, wage or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only and in which no person is participating, directly or indirectly, in professional gambling;

(2) Bona fide contests of skill, speed, strength or endurance in which the awards are made only to entrants or owners of the entries;

(3) Bona fide business transactions which are valid under the law of contracts;

(4) Other acts or transactions nor or hereafter expressly authorized by law. (Ord. 282 §1, 1995; Ord. 362 §§1, 2, 1998)

Sec. 10-12-20. Child abuse.

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

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

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

(d) No person, other than the perpetrator, complicitor, coconspirator or accessory, who reports an instance of child abuse to law enforcement officials shall be subjected to criminal or civil liability for any consequence of making such report unless he or she knows at the time of making it that it is untrue. (Ord. 282 §1, 1995)

Sec. 10-12-30. Curfew.

(a) It is unlawful for any parent, guardian or other person having care or custody of any child under the age of eighteen (18) years to allow or permit any such child to loiter or remain upon any street, alley or other public place, on foot or in or upon a vehicle, subsequent to the hour of 10:00 p.m. on Sunday through Thursday, and 11:00 p.m. Friday and Saturday, or prior to 6:00 a.m. Sunday through Saturday, except for lawful employment, school, church or other organized activity, or unless such child is accompanied by the parent, guardian or other person of the age of twenty-one (21) years having permission of the parent or guardian to have the custody or care of such child.

(b) It shall be unlawful for any child under the age of eighteen (18) years to loiter or remain upon any street, alley or other public place, on foot or within or upon a vehicle, subsequent to the hour of 10:00 p.m. on Sunday through Thursday, and 11:00 p.m. Friday and Saturday, or prior to 6:00 a.m. Sunday through Saturday, 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) Any person found guilty of violating this Section shall be fined not less than ten dollars (\$10.00) but not more than one hundred dollars (\$100.00) for each violation. (Ord. 282 §1, 1995; Ord. 316 §1, 1997)

Sec. 10-12-40. Open burning prohibited.

(a) No person shall kindle or maintain in the outdoors any bonfire or burn or permit to be burned any trash, paper, rubbish, wastepaper, wood, weeds, brush, leaves, plants or other combustible or flammable material within the Town limits or on Town property outside the Town limits, except when:

(1) The burning is in the course of an agricultural operation in the growing of crops as a gainful occupation and presents no fire hazard to other property in the vicinity.

(2) The burning is for the noncommercial cooking of food for human beings in a portable or permanent grill, barbecue pit or similar fixture.

(3) The burning is a smokeless flare or a safety flare used to indicate some danger to the public.

(4) The burning is a training fire conducted by the Fire Department, or a training fire conducted by another fire department and approved in writing by the Town or District.

(5) The burning is on Town property, is conducted by employees of the Town, is expressly authorized by fire officials, and for which an open burning permit from the Colorado Air Quality Control Commission or its authorized local agency has been issued.

(6) The burning is of wetlands where it is normal wetlands management practice to burn plant cover from time to time in order to promote the growth of native wetlands species and inhibit the growth of inappropriate species; subject, however, to such burning being allowed as part of a wetlands management plan or permit approved or issued by the U.S. Army Corps of Engineers or other agency having jurisdiction, if applicable.

(b) Open burning activities allowed in Subsections (a)(1), (a)(5) and (a)(6) of this Section must be attended by a responsible person at all times, shall not be conducted in such a manner so as to create a smoke visibility or other hazard on adjacent roadways, and shall require the issuance of a permit or written authorization by the appropriate fire department or district and the Weld County Health Department, as well as conformance with their instructions and regulations as applicable.

(c) Nothing in this Section shall be construed to prohibit the use of fireplaces, wood-burning stoves or similar fixtures for the burning of wood, or the use of gas-fired ceramic and artificial log fireplaces, as an indoor recreational activity.

(d) *Recreational burning*, defined as a small outdoor fire which is conducted as an ancillary aspect of socializing or entertaining, such as a picnic, is permitted subject to the following regulations:

(1) Only wood may be used in burning, which is generally seasoned or dry. No grass clippings, leaves, greenwood or similar plant materials shall be burned, and a minimal amount of paper may be used only for kindling purposes.

(2) Burning shall be conducted in a permanent or portable fireplace grill designed for outdoor use or upon an incombustible surface, such as concrete or stone.

(3) The fire circle of an open bonfire shall not exceed three (3) feet in diameter.

(4) A responsible person shall be in attendance at all times and an adequate method of fire extinguishment shall be readily available.

(5) All burning shall be conducted on private property only.

(6) There shall be a limit of one (1) recreational burn per property at any one (1) time. (Ord. 282 §1, 1995; Ord. 316 §1, 1997; Ord. 386 §1, 2000; Ord. 434 §1, 2002; Ord. 460 §1, 2003)

Sec. 10-12-50. Bottles, littering, prohibited.

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

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

(c) It shall be unlawful for any person utilizing the facilities of any park or other public area in the Town to leave such area or facility without first having completely extinguished fires, not before placing in disposal receptacles, where provided, all trash in the nature of boxes, papers, cans or other containers, garbage and other refuse in the possession of such person. If no disposal receptacle is available, then such person shall carry away said refuse or trash in his or her possession from the area, to be disposed of in a proper and legal manner elsewhere. (Ord. 282 §1, 1995)

Sec. 10-12-60. Open containers/permits.

(a) It shall be unlawful for any person to serve, consume or have any open container or keg of alcoholic beverage or fermented malt beverage in any municipal park in the Town, or any other public place, except by permit.

(b) Organized groups and family gatherings may obtain a one-day, 8:00 a.m. to 12:00 midnight, permit, excepting the prohibitions of Subsection (a) above, and of Sections 10-11-40 and 10-11-50, by making application for same, with payment of the required fee to the Town Clerk at least twenty-four (24) hours in advance of such use.

(c) For purposes of this Section, *opened container* means any container other than an original closed container as sealed or closed for sale to the public by the manufacturer or bottler of the liquor or beverage. If an original container has been unsealed, undone or opened in any manner, it is an opened container for purposes of this Section. (Ord. 282 §1, 1995)

Sec. 10-12-70. Motorbike.

The operation anywhere within the Town, whether on private or public property, of any so-called motorbike, mini bike or other such motorized vehicle not designed and equipped for operation on a public street or highway is hereby declared and deemed a public nuisance, and it shall be unlawful for any person to cause or maintain such public nuisance. (Ord. 282 §1, 1995)

Sec. 10-12-80. Tobacco use by minors.

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

Cigarette shall have the same meaning as set forth in Section 39-28-202(4), C.R.S.

Possession means that a person:

a. Has or holds any amount of cigarettes, tobacco or tobacco products anywhere on his or her person;

b. Owns or has custody of cigarettes, tobacco or tobacco products; or

c. Has cigarettes, tobacco or tobacco products within his or her immediate presence and control.

Tobacco shall have the same meaning as set forth in Section 25-14-203(17), C.R.S.

Tobacco products shall have the same meaning as set forth in Section 18-13-121(5), C.R.S.

(b) Possession of cigarette, tobacco or tobacco product by minor.

(1) Possession of a cigarette, tobacco or tobacco product by a person who is under eighteen (18) years of age is prohibited.

(2) It shall not be an offense under Paragraph (1) above if the person under eighteen (18) years of age was acting at the direction of an employee of a governmental agency authorized to enforce or ensure compliance with laws relating to the prohibition of the sale of cigarettes and tobacco products to minors. (Ord. 656 §§1, 2, 2009)

ARTICLE XIII

Noise Regulation

Sec. 10-13-10. Purpose.

This Article is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of the Town through the reduction, control and prevention of noise. It is the intent of this Article to establish standards that will eliminate and reduce unnecessary and excessive traffic and community noise which are physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life, property and conduct of business. (Ord. 350 §1, 1998)

Sec. 10-13-20. Definitions.

As used in this Article:

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

Commercial premises means any premises where offices, clinics, automobile service stations, shopping, financial, restaurant, entertainment and similar facilities and institutions exist.

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

Emergency vehicle means a motor vehicle authorized by this Code to have sound warning devices such as sirens and bells which can lawfully be used when responding to an emergency or during police activity.

Industrial premises means any premises where manufacturing, processing or a fabrication of goods or products takes place.

Motor vehicle means any vehicle driven or powered by any means other than muscular power.

Noise means sound that is measured as the sound pressure level in decibels.

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 includes yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

Property line means that real or imaginary line and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person and separates real property from the public premises.

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

Residential premises means any premises where single or multiple dwelling units exist and includes schools, churches, hospitals, nursing homes and similar institutional facilities.

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.

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 and is expressed in decibels.

Variance event means a racing event including all qualifying, practice and racing associated with the event for which a special permit has been granted by the Board of Trustees, at which the measured noise level may be greater than 103 dBA, but less than 113 dBA. (Ord. 350 §1, 1998; Ord. 418 §2, 2001)

Sec. 10-13-30. Noise sound pressure level measurement.

For the purpose of determining noise sound pressure levels as set forth in this Article, the following test procedures and measurements are applicable:

(1) The instrumentation for determining noise sound pressure levels shall be with a sound level meter of standard design. Sound pressure level measurements shall be made with the "A" weighting network.

(2) Noise sound pressure levels shall be measured at a linear distance of twenty-five (25) feet from the noise source or twenty-five (25) feet from the property line from which the noise is radiating as specified in this Article. Whenever it is impossible or impractical to measure the noise sound pressure levels at twenty-five (25), a greater distance shall be used to determine compliance with this Article.

(3) Noise sound pressure levels shall be measured when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour.

(4) In all sound pressure level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement. (Ord. 350 §1, 1998)

Sec. 10-13-40. Noises prohibited.

(a) General prohibitions. In addition to the specific prohibitions outlined in Subsection (b) below and Sections 10-13-50 and 10-13-60 of this Article, it shall be unlawful for any person to make, continue or cause to be made or continued any noise as defined in this Article within the Town's municipal limits.

(b) Specific prohibitions. The following acts are declared to be in violation of this Article:

(1) Animals. Owning, keeping, possessing or harboring any animal or animals, including birds, which by making noise, violate(s) Section 10-13-50. 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 pound;

(2) Horns and signaling devices. Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within the Town, except as a danger warning signal;

(3) Noisemakers. Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, tape player, compact disc player or other machine or device for the production or reproduction of sound, including such devices located within a motor vehicle, in such a manner to violate Section 10-13-50;

(4) Periodic, impulsive or shrill noises. Periodic, impulsive or shrill noises at a sound level of five (5) dB(A) less than those set forth in Section 10-13-50;

(5) Public loudspeakers. Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any vehicle in or upon any street, alley, sidewalk, mall, park, place or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures or transmitting music to any person or assemblages of persons

in such a manner as to violate Section 10-13-50, unless a permit as provided in Section 10-13-80 is first obtained. (Ord. 350 §1, 1998)

Sec. 10-13-50. Noise levels for specific premises.

It shall be unlawful for any person to emit or cause to be emitted any noise which leaves the premises on which it originates and crosses the property line of such premises at a distance of twenty-five (25) feet in excess of the sound pressure levels during the time periods as specified in Table A. It is further unlawful for any person to emit or cause to be emitted any noise within the public premises in excess of the noise sound pressure level during the time period as specified in Table A.

TABLE A
Maximum Allowable Noise Sound Pressure Levels for Specific Premises

<i>Premises Where Noise Originated</i>	<i>Time Period</i>	<i>Maximum Allowable Sound Pressure Level</i>	<i>Location of Sound Pressure Level Measurement</i>
Residential premises	7:00 a.m. to 7:00 p.m.	55 dB(A)	25 feet from property line
	7:00 p.m. to 7:00 a.m.	50 dB(A)	25 feet from property line
Commercial premises	7:00 a.m. to 7:00 p.m.	60 dB(A)	25 feet from property line
	7:00 p.m. to 7:00 a.m.	55 dB(A)	25 feet from property line
Industrial premises	7:00 a.m. to 7:00 p.m.	80 dB(A)	25 feet from property line
	7:00 p.m. to 7:00 a.m.	75 dB(A)	25 feet from property line
Public premises	7:00 a.m. to 7:00 p.m.	75 dB(A)	25 feet from noise source
	7:00 p.m. to 7:00 a.m.	70 dB(A)	25 feet from noise source

(Ord. 350 §1, 1998)

Sec. 10-13-60. Motor vehicle noise.

(a) No person shall drive, operate or move or cause or knowingly permit to be driven or moved a motor vehicle or combination of vehicles at any time in such a manner as to exceed the following noise limits for the category of motor vehicles shown below in Table B. Noise shall be measured at a distance of at least fifty (50) feet from the center of the lane of travel or fifty (50) feet or more from a vehicle designated for off-highway use with the sound level meter at least four (4) feet above the immediate surrounding surface.

TABLE B

<i>Category of Motor Vehicle</i>	<i>Sound Pressure Speed Limit of 35 mph or Less</i>	<i>Sound Pressure Speed Limit of Over 35 mph</i>
Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) of 6,000 pounds or more, or any combination of vehicles towed by such motor vehicle	86	90
Any other motor vehicle or any combination of vehicles towed by such motor vehicle	82	86

(b) Racing events, time trials, driver instruction or vehicle testing sound control. The operator of any motor vehicle racing venue shall have in place one (1) or more certified sound stations complying with the current Sports Car Club of America, General Competition Rules, Section 15, Sound Control. The sound station shall be fully functional and in operation during any racing event, time trial, driver instruction or period of vehicle testing at the track. No vehicle shall be operated on the track, pit area or paddock area at a measured noise level greater than 103 dBA frequency weighted measured on the fast response setting at fifty (50) feet (+/- two [2] feet) from the edge of the track pavement, and/or artificial markers indicating the track edge, or from the vehicle when it is in the pit or paddock area. The sound level meter shall be laboratory certified annually and field calibrated at least every four (4) hours while in use. Records of laboratory certification and field calibration of the sound level meter shall be permanently maintained at the track office and open to inspection by the Town.

(c) The operator of any motor vehicle racing venue shall be responsible for the enforcement of sound control measures at the track, including but not limited to the prohibition of motor vehicles violating the maximum allowable noise level from operating at the track. The operator of the racing venue shall have in place a method of notifying on-track drivers of violations of the maximum allowable noise level. Each motor vehicle participating in a racing event, time trial, driver instruction or period of vehicle testing at the track shall be same-day tested for sound level, prior to participating in an event. Sound level records for each motor vehicle participating in a racing event, time trial, driver instruction or period of vehicle testing at the track shall be maintained at the track office for a period of twenty-four (24) months from the date of the event and shall be open to inspection by the Town.

(d) The Board of Trustees may by special permit grant not more than three (3) "variance events" at which the measured noise level may be greater than the 103 dBA standard set by Subsection (b) above, but less than 113 dBA. Application for a variance event shall be made not less than thirty (30) days in advance of the event, on forms provided by the Town and accompanied by an administrative fee, and considered by the Board of Trustees at a regular or special meeting prior to the date of the event. A special permit for a variance event may be approved, approved with conditions or denied at the discretion of the Board of the Trustees. (Ord. 350 §1, 1998; Ord. 418 §1, 2001)

Sec. 10-13-70. Exceptions.

(a) Emergencies. Noise caused in the performance of emergency work for the immediate safety, health or welfare of the community or individuals of the community, or to restore property to a safe condition following a public calamity shall not be subject to the provisions of this Article. Nothing in this Section shall be construed to permit law enforcement, ambulance, fire or other emergency

personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary.

(b) Public improvement. Noise caused in the maintenance, construction, repair or improvement of any public road or public facility by public employees, by any person acting pursuant to a public works contract, or by any person acting under the direction or control of any employee of any public agency, shall be exempt from the provisions of this Article. (Ord. 350 §1, 1998; Ord. 418 §3, 2001)

Sec. 10-13-80. Hardship permits.

Any person responsible for noise limitations may petition the Board of Trustees or its designee for a temporary hardship permit setting forth the basis of the undue hardship in writing, the anticipated duration of the condition creating hardship and any other relevant matters in the issues set forth below. A temporary hardship permit shall be granted if it is found that the activity, operation or noise source will be of temporary duration, and that compliance with the sound pressure standards of this Article cannot reasonably be obtained. No temporary permit may be issued for a period exceeding ninety (90) days, and the Board of Trustees or its designee reviewing the application shall set any conditions, limitations or requirements necessary to minimize adverse effects upon the impacted area of the noise. (Ord. 350 §1, 1998)

Sec. 10-13-90. Penalty.

Any person convicted of a violation of this Article shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense, but shall not be subject to imprisonment or a jail sentence. Each day any violation of this Article shall continue shall constitute a separate offense. (Ord. 350 §1, 1998)

Sec. 10-13-100. Court-ordered abatement.

Violations of this Article are deemed and declared to be a nuisance and, as such, may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction. (Ord. 350 §1, 1998)

ARTICLE XIV

Prohibited Residency of Certain Sex Offenders

Sec. 10-14-10. Definitions.

For the purposes of this Article, the following terms have the following meanings:

Permanent residence means a place where a person abides, lodges or resides for fourteen (14) or more consecutive days.

Prohibited Residency Map means the map prepared and maintained by the Town and available for public inspection that depicts a one-thousand-foot radius from each park, playground, school, school bus stop, designated walk-to-school route, ball field, licensed day care center, recreation center, public swimming pool and public recreation trail.

School bus stop means a pick-up or drop-off location designated by the appropriate school officials.

Sexual offender means:

- a. *Sexually violent offender* means a sex offender as defined in Section 18-3-414.5, C.R.S.;
- b. Any person required to register under the Colorado Sex Offender Registration Act, Section 16-22-101, et seq., C.R.S., who:
 1. Has been convicted of a felony for an offense requiring registration;
 2. Has multiple convictions for offenses requiring registration; or
 3. Whose offenses requiring registration involved multiple victims.

Temporary residence means a place where a person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where a person routinely abides, lodges or resides for a period of five (5) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Walk-to-school route means a route officially designated by the Town for use by children walking to or from a public or private school, as shown on the maps maintained by the Town and available for public inspection. (Ord. 657 §1, 2009)

Sec. 10-14-20. Findings and intent.

(a) The Board of Trustees finds that sexually violent predators, as defined in Section 18-3-414.5, C.R.S., and as defined in Section 10-14-10 above, present an extreme threat to the public safety and have a high rate for the repeat commission of sex offenses, making the risk of sex offender victimization to society extremely high.

(b) The Board of Trustees further finds that removing such persons herein designated from regular proximity to places where children are located and limiting the frequency of contact between such offenders and children is likely to reduce the risk of an offense. (Ord. 657 §1, 2009)

Sec. 10-14-30. Prohibitions.

It is unlawful for:

(1) Any person who is required to register under the Colorado Sex Offender Registration Act, Section 16-22-101, et seq., C.R.S., and who has been adjudicated a sexually violent predator as defined in Section 18-3-414.5, C.R.S.;

(2) Any person required to register under the Colorado Sex Offender Registration Act, Section 16-22-101, et seq., C.R.S., who:

- a. Has been convicted of a felony for an offense requiring registration;

- b. Has multiple convictions for offenses requiring registration; or
- c. Whose offenses requiring registration involved multiple victims;

to establish a permanent residence or temporary residence within one thousand (1,000) feet of any parks, playgrounds, schools, school bus stops, designated walk-to-school routes, ball fields, licensed day care center, recreation centers, public swimming pools and public recreation trails.

(3) Any person to let or rent any portion of any property, room, place, structure, trailer or other vehicle within one thousand (1,000) feet of any parks, playgrounds, schools, school bus stops, designated walk-to-school routes, ball fields, licensed day care centers, recreation centers, public swimming pools and public recreation trails to a person required to register under the Colorado Sex Offender Registration Act, Section 16-22-101, et seq., C.R.S., with the knowledge that it will be used as a permanent or temporary residence in violation of this Article. (Ord. 657 §1, 2009)

Sec. 10-14-40. Exceptions.

A person is not guilty of a violation of this Article if:

(1) The person established the permanent or temporary residence prior to the effective date of the ordinance codified in this Article; provided, however, that this exception shall not apply if the individual committed the offense for which registration under the Colorado Sex Offender Registration Act is required after the effective date of the ordinance codified in this Article;

(2) The person is under the age of eighteen (18) and resides with his or her parents, step-parents or guardians;

(3) The person is placed in the residence pursuant to a State of Colorado foster care program;

(4) The parks, playgrounds, schools, school bus stops, designated walk-to-school routes, ball fields, licensed day care centers, recreation centers, public swimming pools or public recreations trails were opened after the person established the permanent or temporary residence and is not replacing a parks, playgrounds, schools, school bus stops, walk-to-school routes, ball fields, licensed day care centers, recreation centers, public swimming pools or public recreation trails at the same location; or

(5) The person has attempted to register as a Colorado sex offender but has been granted only a temporary registration because such person is prohibited from establishing a permanent or temporary residence within the area defined in Section 10-14-30 above; provided that this exception shall expire in ten (10) calendar days after the attempted registration. During the said ten (10) calendar days, such person must obtain a permanent or temporary residence as authorized pursuant to this Article and register under the Colorado Sec Offender Registration Act, Section 16-22-101, et seq., C.R.S., if such person is to reside in the Town. (Ord. 657 §1, 2009)

Sec. 10-14-50. Measurement.

For the purpose of determining the minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the parks, playgrounds, schools, school bus stops, walk-to-school routes, ball fields, licensed day care centers, recreation centers, public swimming pools or public recreation trails are located, to the nearest point of the permanent or temporary residence structure. Geographic Information System (GIS) data regarding the locations in question shall be prima facie evidence of the actual distance. (Ord. 657 §1, 2009)

Sec. 10-14-60. Prohibited Residency Map maintained by Town.

The Town shall prepare and maintain a Prohibited Residency Map depicting a one-thousand-foot radius from each park, playground, school, school bus stop, designated walk-to-school route, ball field, licensed day care center, recreation center, public swimming pool and public recreation trail. Sex offenders are prohibited from living within the radii depicted on the map. The Prohibited Residency Map shall be available for inspection by the public during regular business hours. (Ord. 657 §1, 2009)