

CHAPTER 2

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ARTICLE I

Police

Sec. 2-1-1. Creation; composition.

There is hereby created a Police Department for the Town, which shall consist of one (1) Police Chief and as many policemen deputies as may from time to time be deemed necessary by the Town Council for the safety and good order of the Town. (Prior code 42-1)

Sec. 2-1-2. Departmental rules and regulations.

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Town Council. Police officers of the Town shall have the powers, including arrest powers, granted by the Statutes and Constitution of the State and this Code. (Prior code 42-2)

ARTICLE II

Animal Control and Licensing Regulations

Sec. 2-2-1. Intent.

It is the intent of the Town in adopting this Article that the pet animal owners be responsible for their pet animals' conduct, that they exercise control with respect to their pet animals in a manner which recognizes the rights, health and safety of others in the community and that they be held strictly liable for the conduct of their pet animals which violates the provisions of this Article. (Ord. 2005-03 §1)

Sec. 2-2-2. Definitions.

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

Abandon means: a) to fail to provide any necessary care for any pet animal, whether on public or private property, for any period of twenty-four (24) hours or longer; or b) to deposit, leave, drop off or otherwise dispose of any pet animal on public or private property without providing necessary care. For the purposes of this Article, any pet animal is presumed to be abandoned if, after the posting or personal service of written notice describing deficiencies, such deficiencies are not corrected within twenty-four (24) hours of such notice by any person other than an Animal Control officer.

Animal means any warm-blooded mammal (except *Homo sapiens*), pet bird, snake, lizard, other reptile.

Animal Control means the personnel and equipment of the Town officer acting as *Animal Control* or an officer of the Summit County Animal Control and Shelter Department assigned primarily to duties related to the enforcement of this Article. Regular police officers may perform any of the functions of *Animal Control*.

Animal shelter means any and all facilities and premises authorized by the Town to care for animals impounded pursuant to the provisions of this and other applicable laws enforced by the Town or Summit County Animal Control.

Attack means aggressive behavior resulting in bodily injury, serious bodily injury or death to a person or another animal.

Bite means the piercing, laceration or breaking of the skin by the teeth or jaws of any animal.

Bodily injury means any physical injury that results in severe bruising, muscle tears, skin lacerations or physical pain requiring professional treatment.

Cat means any animal of the species *Felis catus* or any hybrid thereof.

Control means supervision of, or influence over, any animal sufficient to prevent such animal from being in violation of any of the provisions of this Article.

Conviction means a finding of guilt by a court or acknowledgement of guilt by payment of a fine pursuant to the penalty assessment procedure.

County means the County of Summit, State of Colorado.

Dangerous animal means any animal that has inflicted bodily injury or serious bodily injury upon or has caused the death of a person or animal.

Dog means any animal of the family Canidae, regardless of sex and including but not limited to those related to the wolf, fox, coyote or any other domestic canid hybrid thereof.

Habitual offender means any animal owner who has pled guilty to or been found guilty of violating any provision of this Article three (3) times within any eighteen-month period. For the purposes of this Article, any disposition of charges involving probation or deferred judgment and sentencing shall be considered a conviction.

Humane trap means any live trap which is designed not to cause bodily harm to the animal intended to be captured or bodily harm to any animal or person coming in contact with such trap.

Kennel - commercial means any location or premises where more than four (4) dogs, six (6) cats or any combination of more than eight (8) dogs and cats, all of which are of the age of three (3) months or more, are kept, owned, possessed or otherwise allowed to reside for the purpose or outcome of compensation, gain or a profit. A *kennel - commercial* must be licensed as a pet animal facility pursuant to Part 1, Article 80 of Title 35, C.R.S., and shall apply for and obtain a license as such under this Article and pay an annual licensing fee as determined by the Town. Any veterinary hospital which boards pet animals for the purpose of veterinary care only and does not actively solicit boarding in any way is exempt from this licensing requirement.

Kennel - noncommercial means any location where more than four (4) dogs, six (6) cats or any combination of more than eight (8) dogs and cats, all of which are of the age of three (3) months or more, are kept, owned, possessed or otherwise allowed to reside, for the purpose or outcome of the personal recreation, enjoyment or use by the owner not resulting in compensation, profit or gain for

a business venture. A *kennel - noncommercial* under such definition must be licensed as a pet animal facility pursuant to Part 1, Article 80 of Title 35, C.R.S., and shall apply for and obtain a license as such under this Article and pay an annual licensing fee as determined by the Town.

Mistreatment means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

Necessary care for a pet animal includes but is not limited to providing food, water, protection from the weather, socialization and removal of waste.

Neglect means failure to provide food, water, protection from the weather, opportunity for exercise, socialization, removal of waste or other care consistent with the needs of the species of the animal in question.

Owner means a person, firm, corporation or organization possessing, keeping, having financial or property interest in, or having control or custody of any animal, including any parent, guardian or legal custodian of any unemancipated minor child under eighteen (18) years of age who owns, possesses or keeps any animal.

Pet animal means dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds, fish, reptiles, amphibians, invertebrates or any species of wild, domestic or hybrid animals sold, transferred or retained for the purpose of being kept as a household pet, except livestock, and includes any other animal specified in Section 35-80-102(10), C.R.S. As used herein, *livestock* includes cattle, horses, mules, burros, sheep, poultry, swine, llama, goats and any other animal, when used for working purposes or raised for food or fiber production on a farm or ranch. *Pet animal* does not include an animal used for working purposes on a farm or ranch or a working dog in the process of being worked.

Pet animal facility means any facility licensed as such pursuant to the provisions of Part 1, Article 80 of Title 35, C.R.S., not including those kennels as otherwise defined herein.

Physical control means control of an animal by means of a tether, or a leash no longer than eight (8) feet in length, attached to the animal and held by a responsible person; or confinement within a locked vehicle or locked enclosure sufficient to prevent the animal from escaping or making contact with other persons or animals.

Potentially dangerous animal means any pet animal or working dog that, when unprovoked:

- a. Inflicts any laceration or bruising upon a human or another animal;
- b. Chases or approaches a person on any property other than the owner's in a menacing fashion or apparent attitude of attack;
- c. Is a venomous animal; or
- d. Is an animal possessing physical characteristics or demonstrated tendencies that would cause a reasonable person to conclude that the animal is likely to inflict injury or cause the death of any person or another animal.

Premises means property owned, leased, or expressly permitted for use by an owner. *Premises* includes any confined area or locality such as a residence, business, room, shop, building or motor vehicle, including the open bed of a truck when the animal's presence is authorized by the owner of such confined area or locality.

Protective custody means the taking of an animal into custody by the Police Department or Animal Control to prevent the mistreatment, neglect or abandonment of such animal; or impoundment of an animal because of the owner's inability to care for the animal due to the owner's or keeper's incarceration, incapacitation, or transport to a medical treatment facility.

Provocation means harassment, teasing, threatening, tormenting, abusing, striking at, attacking or inflicting injury upon an animal, or its owner in the animal's presence, by either a person or another animal.

Public nuisance means an animal infected with rabies, a stray pet animal; a repeatedly or continuously barking dog which disturbs the peace of humans, a dangerous or potentially dangerous dog not properly enclosed or restrained; an unconfined female dog in estrus; a dog or cat that deposits excrement on public or private property other than that of the owner and such excrement is not promptly removed by the owner or person responsible for the dog or cat; or any dead pet animal left by the owner or keeper on public or private property for a twenty-four-hour period.

Quarantine means the confinement of an animal for observation to detect symptoms of communicable disease.

Rabies registration means the vaccination of an animal with an anti-rabies vaccine administered under the supervision of a licensed veterinarian, and the retention of a certificate of rabies vaccination by the animal owner.

Secure animal enclosure means a structure which is suitable to prevent the escape of the animal and prevents the entry of persons, including children, and other animals; having a top, bottom and all sides, and is locked. A *secure animal enclosure* for a dangerous animal shall be posted with signs on all sides which are visible and legible to passersby, warning of the presence of a dangerous animal.

Serious bodily injury means such injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures or burns of the second or third degree.

Socialization means activities that enable a pet animal to develop or improve its ability to get along well with other pet animals, the owner or other people.

Tether means to tie, chain or leash any pet animal upon an owner's property, or on any inanimate object upon other than the owner's own property.

Trespass means the entry of an animal upon any private property other than that of the animal's owner or upon public property which is posted as not permitting pet animals.

Working dog means a dog which is actually in the process of working livestock, locating or retrieving wild game in season for a licensed hunter, assisting law enforcement officers, assisting in rescue efforts, is a recognized service dog or is actively in the process of being trained for these purposes. (Ord. 2005-03 §2)

Sec. 2-2-3. Vaccination of pet animals required.

(a) Owners of pet animals and working dogs which are harbored, kept or maintained in the County (pursuant to Resolution 89-17 by the Summit County Board of Health requiring rabies vaccination for cats and dogs), for which animals the United States Department of Agriculture has licensed a rabies vaccine, shall: (i) have such animals vaccinated by or under the supervision of, a licensed veterinarian; (ii) maintain the duration of effectiveness of the vaccination; and (iii) maintain proof of current rabies registration for their pet animals and working dogs.

(b) Pet animals and working dogs shall be vaccinated when the animal reaches the age of three (3) months or is licensed (if applicable), whichever occurs first, and the vaccination shall be repeated as necessary in accordance with the recommendations of the United States Department of Agriculture or vaccine manufacturer to maintain duration of the vaccination as determined valid by a licensed veterinarian. (Ord. 2005-03 §3)

Sec. 2-2-4. Annual licensing of dogs and kennels.

All dogs owned, harbored, kept or maintained in the Town shall be individually licensed, except for those dogs kept as part of the operation of a licensed pet animal facility under the State of Colorado Pet Animal Care and Facilities Act or a kennel as defined herein.

(1) All dogs over the age of three (3) months shall have a valid Summit County pet animal license after the dog has been owned, kept, maintained or harbored in the County for any consecutive fourteen-day period or immediately upon citation for any violation of this Article.

(2) A dog license shall be valid for one (1) year or three (3) years and is to be specified at the time of the purchase of said license. An owner shall obtain the renewal of said dog license or kennel license prior to the expiration of the current dog license or kennel license.

(3) A valid dog license tag shall be attached to a collar or harness and shall be worn by the dog at all times. If any dog is unable to wear a collar or harness because of a permanent medical condition certified by a veterinarian, or because a dog is worked in a capacity that makes the wearing of a collar or harness hazardous to the dog, the owner of the dog must have the animal tattooed for identification purposes, or identified by implanted microchip or in a manner approved by the Animal Control.

(4) A dog license shall be comprised of and evidenced by a written license form and a current dog license tag. A kennel license shall be comprised of a written approved license form issued by the Town and posted on the premises.

(5) The Animal Control Officer/Department and/or any agency or person designated by the Town may issue a dog license upon the receipt of the executed application and evidence of current rabies registration and payment of any license fees as applicable.

(6) A kennel license may be issued upon receipt of the proper application, proof of current rabies registration for all pet animals kept, owned or maintained at the premises, and receipt of payment of applicable fees as determined by the Town for the type of kennel operated. Prior to issuance of the kennel license, the applicant's premises and kennel areas or locality where pet animals are maintained shall be inspected by an agent of the Animal Control or Police Department for the purpose of determining that there is compliance with this Code and this Article. In the event of noncompliance, the Town may refuse to issue or revoke any kennel license. (Ord. 2005-03 §4)

Sec. 2-2-5. Voluntary cat identification.

Owners of cats harbored, kept or maintained in the Town are entitled, but not required, to obtain an identification tag suitable to be worn on a collar or harness. Cat identification tags will be available from the Animal Control Department, and/or any agency or person designated by the Town upon the receipt of the executed application and payment of the identification tag fee. (Ord. 2005-03 §5)

Sec. 2-2-6. Failure to control a pet animal.

It shall be unlawful and considered a failure to control a pet animal when:

- (1) A pet animal is off the owner's premises without the presence of a person having physical control thereof;
- (2) A pet animal becomes a hazard or causes damage to any person or property;
- (3) A pet animal is tethered upon any public or private property without the permission of the person owning, leasing or otherwise controlling the property;
- (4) Any pet animal reaches past the perimeter of the owner's premises, with its teeth or claws causing or threatening bodily injury or property damage to another;
- (5) A pet animal is allowed to defecate on public or private property and the owner or responsible person does not remove the waste in a timely manner;
- (6) A female pet animal, during estrus, is not under physical control, confined indoors or confined within a secure animal enclosure;
- (7) A pet animal is not under physical control;
- (8) Any pet animal is kept or left in circumstances which constitute mistreatment, abandonment or in any circumstance requiring protective custody; or
- (9) Any pet animal is otherwise determined to be a public nuisance. (Ord. 2005-03 §6)

Sec. 2-2-7. Interference with an owner's control of a pet animal.

It shall be unlawful for any person to perform any act which interferes with, prevents or hinders the efforts of an owner to control any of the owner's pet animals. (Ord. 2005-03 §7)

Sec. 2-2-8. Interference with an animal control officer.

(a) No person shall interfere with, molest, hinder, prevent or obstruct an Animal Control or police officer in his or her performance of duty pursuant to this Article.

(b) No person shall remove any animal from the police or Animal Control custody without the consent of the police or an Animal Control officer. (Ord. 2005-03 §8)

Sec. 2-2-9. Designation of dangerous and potentially dangerous animals.

(a) Animal Control officers or the Municipal Court shall have the authority to and shall designate any pet animal or working dog as dangerous or potentially dangerous when the preponderance of evidence is that the animal displays any of the characteristics of a dangerous animal or a potentially dangerous animal as defined in Section 2-2-2 above.

(b) When an animal has been designated by an Animal Control officer as a dangerous or a potentially dangerous animal, the owner has the right to request an administrative hearing to show cause as to why the animal should not be considered a dangerous or potentially dangerous animal. Such request must be made in writing within thirty (30) days after the designation. The burden of proof shall be on the owner to demonstrate that the behavior of the animal does not support the designation of dangerous or potentially dangerous. The Town shall designate a hearing officer to preside at such hearing. Written requests must be made in writing and submitted by mail or personal delivery to: The Town of Silverthorne, P.O. Box 1167, 601 Center Circle, Silverthorne, Colorado 80498.

(c) Affirmative defenses. Except with respect to an animal trained for or that has engaged in animal fighting as described in Section 18-9-204, C.R.S., an affirmative defense to the declaration of a potentially dangerous or dangerous animal shall be that:

(1) The animal attacked was trespassing upon the premises of the owner, and the attack began, although it did not necessarily end, upon such premises;

(2) The animal attacked was biting or otherwise threatening or attacking the owner or the owner's animal;

(3) The person attacked was committing or attempting to commit a criminal offense other than a petty offense, not including third degree criminal trespass as defined in Section 18-4-504, C.R.S., against a person on the owner's premises or against the premises itself; the attack did not cause serious bodily injury; and the attack began, although did not necessarily end, upon such premises;

(4) The person attacked had tormented, provoked, abused or inflicted injury upon the animal.

(d) When an animal control officer or police officer reasonably believes that an animal is potentially dangerous or dangerous and is not under proper control, that officer may use any available means to prevent the endangerment of any person or other animal. Such means shall include impounding the animal or immediate destruction of the animal after making every reasonable attempt to seize and impound the animal, including solicitation of assistance from the owner if such owner is known and available. If the officer reasonably determines that said animal cannot be seized and impounded without exposing the officer or other persons to danger of bodily injury or serious bodily

injury, it shall be lawful for the officer to destroy said animal without notice to the owner. (Ord. 2005-03 §9)

Sec. 2-2-10. Control of dangerous and potentially dangerous animals.

Owners of dangerous animals or potentially dangerous animals shall at all times exercise proper control over such animals.

(1) Proper control of a dangerous animal is:

a. While on the owner's premises, a dangerous animal shall be confined indoors or in a secure animal enclosure; and

b. While off the owner's premises, a dangerous animal shall be under the physical control of the owner or other responsible person and such dangerous animal shall be muzzled.

(2) Proper control of a potentially dangerous animal is:

a. While on the owner's premises, a potentially dangerous animal shall be controlled by a chain, leash or other confinement suitable to prevent the animal from leaving or reaching outside the owner's premises; and

b. While off the owner's premises, a potentially dangerous animal shall be under the physical control of the owner or other responsible person. (Ord. 2005-03 §10)

Sec. 2-2-11. Pet animal bans.

It shall be unlawful for a pet animal to be present in any area that has been posted for the purpose of banning pet animals by an agency or authorized designee of the federal government, the State, the County or the Town. (Ord. 2005-03 §11)

Sec. 2-2-12. Duty to report animal bites and injury caused by animals.

It shall be unlawful for any medical personnel who provide treatment to a person or animal for an animal bite or injury caused by a pet animal to fail to report to the Police Department or Summit County Animal Control Department any information known regarding the animal bite or injury. The report shall be made within twenty-four (24) hours after such information is received, and should include with the report the name, address and telephone number of the person making the report. The report may be made by telephone to the Animal Control office, left on voice mail or communicated by other electronic means. (Ord. 2005-03 §12)

Sec. 2-2-13. Duty to produce biting animal for inspection or quarantine.

Upon the request of an animal control officer, an owner shall make available for inspection and/or quarantine any pet animal or working dog which has bitten a person or is suspected of biting a person.

(1) If the quarantine of a pet animal is deemed necessary, the location and place of quarantine shall be determined by the Police Department or Animal Control officer.

(2) All costs of quarantine shall be the responsibility of the owner.

(3) If the quarantine of a pet animal is deemed necessary, the disposition of the animal will be at the discretion of the police or Animal Control officer in accordance with the requirements set forth in Section 2-2-16 of this Article. (Ord. 2005-03 §13)

Sec. 2-2-14. Reserved.

Sec. 2-2-15. Impoundment of animals.

(a) An Animal Control officer may impound any animal that is not under control as required by these regulations, or when it and/or its owner is in violation of any of the provisions of this Article.

(b) An Animal Control officer may impound any potentially dangerous or dangerous animal that is not under proper control. An Animal Control officer may perform such impoundment prior to notifying the owner, if such owner is not immediately present to exercise proper control.

(c) As soon as practical after the impoundment of any animal, an Animal Control officer shall make a reasonable effort to notify the owner of the animal's location by telephone, posting of a notice at the owner's residence or written notice mailed to the owner's last known address, if the identity of the owner is known. If needed to establish the identity of the owner, information contained on any identification, microchip, rabies or license tag found attached to the animal shall be used. (Ord. 2005-03 §15)

Sec. 2-2-16. Owner's duty to redeem animal and pay fees.

(a) The owner of any impounded animal shall be held responsible for all the costs of impoundment, including medical treatment and boarding, and such costs shall be fully paid prior to the release of the animal. In addition, the owner shall provide proof of current rabies registration.

(b) Prior to release of any impounded dog, the owner shall pay for a Summit County dog license or provide proof of current licensure in the Town or County or from the place the animal regularly is kept.

(c) It shall be unlawful for any owner to fail to make arrangements for the redemption, surrender or disposition of any animal impounded pursuant to the provisions of this Article, or to fail to pay any fees associated with the redemption, surrender or disposition of such animal. (Ord. 2005-03 §16)

Sec. 2-2-17. Disposition of impounded animals.

(a) Any pet animal impounded pursuant to the provisions of this Article shall become the property of the Summit County Animal Control after five (5) days of impoundment, after which the Animal Control/Shelter Department may humanely euthanize the animal. For purposes of this Section, the animal shelter facility complies with Section 35-80-106.3, C.R.S., regarding animal holding periods.

(b) In the event an impounded pet animal, in the opinion of a veterinarian, or animal shelter supervisor, if a veterinarian is not available, is experiencing extreme pain or suffering, the animal may be disposed of immediately by the animal shelter through euthanasia after the animal shelter has

exhausted reasonable efforts to contact the owner; however, for pet animals with identification, the animal shelter shall exhaust reasonable efforts to contact the owner for up to twenty-four (24) hours.

(c) After the required time period, in lieu of having an animal destroyed, the Summit County Animal Control/Shelter may release to a bona fide humane society, rescue group or a person having no previous ownership interest in the animal, any pet animal which is not designated as dangerous or diseased. Upon release of the animal, the recipient may be required to pay a fee as established by the animal shelter, including but not limited to fees for adoption, rabies vaccinations, pet license and sterilization or other associated costs.

(d) Nothing in this Section or this Article shall be construed to prevent any Animal Control officer, animal shelter staff or peace officer from taking whatever action is reasonably necessary to protect themselves or others from bodily injury or serious bodily injury by any animal. (Ord. 2005-03 §17)

Sec. 2-2-18. Threatening livestock or wildlife.

(a) It shall be unlawful to fail to control any pet animal so as to prevent such animal from endangering, chasing, pursuing, biting, attacking or in any other way harassing, tormenting or threatening livestock or wildlife.

(b) Any animal threatening livestock or wildlife may be immediately destroyed at the discretion of any Animal Control officer or police officer. If not destroyed, the animal shall be immediately impounded.

(c) An alleged violation of this Section shall require a mandatory Municipal Court appearance by the owner. Upon conviction, if the animal was not destroyed at the time of the incident, the Court may order it destroyed under the supervision of the Animal Control Department; if the Court does not order the animal destroyed, the Court may deem the animal a dangerous or potentially dangerous animal, and possession shall be returned to the owner subject to the regulations applicable under this Article. Upon a second conviction of a violation of this Section with respect to a specific animal, the Court shall order the destruction of the animal under the supervision of the Animal Control officer or Police Department.

(d) Upon conviction of any violation of this Section, the owner shall be required by the Court to pay restitution for any livestock or wildlife injured or killed by the owner's animal. (Ord. 2005-03 §18)

Sec. 2-2-19. Nuisance; animal, noise and feces.

(a) It is unlawful for any owner to fail to prevent his or her pet animal from disturbing the peace of any other person by habitual or persistent barking, howling, yelping, whining or any other unprovoked noise, whether the animal is on or off the owner's property.

(b) It is unlawful for any owner to permit the accumulation of a pet animal's feces on the property on which the animal is kept such that it is detectable visually or odoriferously by others.

(c) It is unlawful for any owner to fail to confine pet animal feces within the perimeters of the property on which the animal is kept, regardless whether such failure to confine is the result of natural causes, such as surface water flow, or other causes.

(d) No person shall be charged with a violation of this Section unless a written warning for a separate violation has been given at least twenty-four (24) hours prior to the issuance of the citation. (Ord. 2005-03 §19)

Sec. 2-2-20. Habitual offender.

It shall be unlawful for any person to become a habitual offender as defined in this Article. Any person may be charged as a habitual offender in addition to any other charges brought pursuant to the provisions of this Article. Upon the conviction of an owner as a habitual offender, the owner's offending animals may be ordered removed from the Town, along with any other penalties imposed by the Court. (Ord. 2005-03 §20)

Sec. 2-2-21. Enforcement.

Animal Control officers have the authority to issue a summons and complaint or penalty assessment to any alleged violator of this Article. The provisions of this Article may be enforced by the Summit County Animal Control Officers, or by any police officer of the Town. The fine or other penalty shall be as provided in this Article or as otherwise provided by law. (Ord. 2005-03 §21)

Sec. 2-2-22. Penalties.

(a) The following fines shall apply to any such violation under this Article and shall be applied either through the penalty assessment procedure of Section 16-2-201, C.R.S., or by the Municipal Court after conviction, in which case the Court shall also assess the appropriate court costs:

(1) For all violations not involving a dangerous or potentially dangerous animal:

First offense:	\$ 50.00
Second offense within the 18 months:	\$100.00
Subsequent offense within the 18 months:	\$200.00

(2) For all violations involving potentially dangerous animal violations:

First offense:	\$150.00
Second offense within the 18 months:	\$300.00
Subsequent offenses within the 18 months:	Mandatory court appearance and minimum fine: \$500.00

(3) For all violations involving a dangerous animal, a habitual offender charge, failing to redeem an animal, failure to pay fines or fees, or threatening of livestock or wildlife:

Any offense: Mandatory court appearance; Minimum fine upon conviction of \$500.00 plus all associated costs and restitution.

(b) The above-stated fines are minimum penalties and all violations are subject to the general fine and imprisonment provisions of Section 30-15-102, C.R.S. (Ord. 2005-03 §22)

Sec. 2-2-23. Power of Court.

In addition to any penalties which may be provided for in this Article, the Court shall have the authority, upon making a finding that an animal constitutes a real and present danger to the citizens of the Town, to order that the animal be destroyed in a humane fashion. (Ord. 2005-03 §23)

Sec. 2-2-24. Liability for accident or subsequent disease from impoundment.

The Town, its employees, agents and persons authorized herein to enforce the provisions of this Article shall not be held responsible for any accident or subsequent disease which may be suffered by a person or an animal as a result of the administration or implementation of this Article. (Ord. 2005-03 §24)

Sec. 2-2-25. Notice and evidence of warnings.

An owner shall be deemed to have been issued and received an appropriate notice or warning if the warning is personally served upon the owner, posted on the owner's premises or placed in the U.S. mail, postage prepaid and addressed to the owner according to the last address given by the owner to obtain a dog license or cat identification tag, or to such other address as may be on file for the owner. (Ord. 2005-03 §25)

Sec. 2-2-26. Hot pursuit.

An Animal Control officer in hot pursuit of any animal in apparent violation of this Article may enter onto private property for the purposes of enforcing this Article, including for the purpose of effecting an impoundment, removing the animal from the property, ascertaining the identity of the animal and/or the current status or existence of a dog license, or issuing a citation. This Section, however, does not grant any Animal Control officer authority to enter into any dwelling without permission of the owner, a search warrant or order of the Court. (Ord. 2005-03 §26)

Sec. 2-2-27. Animal Control officers.

(a) There is hereby acknowledged the position of Animal Control officer who shall be employed by or contracted by the Town to administer the provisions of this Article at such compensation and such qualifications as from time to time shall be determined.

(b) Pursuant to Section 30-15-105, C.R.S., personnel engaged in animal control, however titled or administratively assigned, may issue citations or summonses and complaints enforcing this Article. Personnel so engaged shall be included in the definition of *peace officer* or *fireman* in Section 18-3-201 (2), C.R.S., and, to the extent such personnel are empowered to do so by the laws governing the State Bureau of Animal Protection, are hereby authorized to carry out the enforcement of the laws for the prevention of cruelty to animals pursuant to Section 35-42-101 et seq., C.R.S. Nothing herein is

intended to vest authority in any person so engaged to enforce any ordinance or statute other than in this Article. (Ord. 2005-03 §27)

Sec. 2-2-28. Disposition of fines and forfeitures.

All fines and forfeitures for violation of any provisions of this Article and all moneys collected by the animal shelter for licenses or other related costs shall be deposited in accordance with procedures approved by the Finance Director. (Ord. 2005-03 §28)

ARTICLE III

Littering

Sec. 2-3-1. Definitions.

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

Trash, garbage, rubbish, litter and debris shall be interchangeable and shall mean any waste, useless, unwanted, discarded, abandoned or worthless matters, materials, debris or discarded articles from the ordinary household; building rubbish, including but not limited to waste materials and scrap construction material from the construction of houses, buildings and other structures; and yard rubbish, including but not limited to tree branches, trunks and clippings. (Prior code 121-2)

Sec. 2-3-2. Littering.

It shall be unlawful to throw or deposit in or upon any private property or any street, alley, sidewalk or public grounds in the Town any trash, rubbish, refuse or litter of any kind. (Prior code 140-6)

Sec. 2-3-3. Transportation of loose materials.

It shall be unlawful for any person to move or convey any vehicle carrying trash or loose material of any kind on any highway or public way within the Town unless such vehicle is equipped with a tight receptacle or container or secure covering so as to prevent any load, contents or litter from being blown or deposited upon any roadway, street, highway, alley or public place within the Town. (Prior code 121-4)

Sec. 2-3-4. Applicability.

This Article shall apply within the boundaries of the Town, including public lands, as those boundaries are now in effect and as they may, from time to time, be changed. (Prior code 121-5)

Sec. 2-3-5. Enforcement; jurisdiction in prosecution of violations.

It is the duty of the Police Chief to enforce the provisions of this Article. The Municipal Court shall have jurisdiction in prosecution of violations of this Article. Any summons and complaint brought in the Municipal Court shall be filed in the name of the Town by and on behalf of the people of the State. (Prior code 121-7)

ARTICLE IV

Offenses Against Town

Sec. 2-4-1. Injury to or destruction of public property.

It shall be unlawful for any person to willfully, maliciously, wantonly, negligently or in any manner injure or destroy real property or improvements thereto, or moveable or personal property, belonging to the Town or to other local government, special districts or the State. (Prior code 140-1; Ord. 1995-1 §1)

Sec. 2-4-2. Injury to or destruction of private property.

It shall be unlawful for any person to willfully, maliciously, wantonly, negligently or in any manner injure or destroy real property or improvements thereto, or moveable or personal property, belonging to any person in the course of a single criminal episode where the aggregate damage to the real or personal property is less than four hundred dollars (\$400.00). (Prior code 140-10; Ord. 1995-1 §1)

Sec. 2-4-3. Injury to or removal of street signs.

It shall be unlawful for any person without proper authorization to remove, deface, injure or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street. (Prior code 140-2)

Sec. 2-4-4. Streets, streams and water bodies.

It shall be unlawful to throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance, any dead animal, excrement, garbage or other offensive matter whatever, upon any street, avenue, alley, sidewalk or public grounds. No person shall throw or deposit, or cause or permit to be thrown or deposited, anything specified in any foregoing part of this Section, or any other substances that would tend to pollute, into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute such water. (Prior code 140-3)

Sec. 2-4-5. Damaging ditches.

It shall be unlawful for any person to willfully, maliciously, wantonly or negligently fill up, obstruct or otherwise damage any ditch lawfully constructed in the Town. (Prior code 140-4)

Sec. 2-4-6. Vehicles injurious to pavement.

It shall be unlawful for any vehicle injurious to pavement to be permitted upon any public thoroughfare unless the operator of such vehicle shall adequately protect such paved streets from damage. (Prior code 140-8)

Sec. 2-4-7. Reserved.

Sec. 2-4-8. Reserved.

Sec. 2-4-9. Trespassing.

It shall be unlawful for any person to trespass in or on the property of another without the consent of the owner, occupant or person in charge thereof. (Prior code 140-9)

Sec. 2-4-10. Accumulation of manure or animal waste prohibited.

It shall be unlawful for any person to cause or permit the accumulation on his or her property of manure or other animal waste for more than one (1) week. All manure or other animal waste shall be disposed of in appropriate disposal sites. (Prior code 140-10.1)

Sec. 2-4-11. Shoplifting; retail theft.

(a) It shall be unlawful for any person to take, conceal, exercise control over or knowingly aid another to take, conceal or exercise control over any goods, wares or merchandise of another which is in any manner offered for sale, whether displayed or not, and which has an aggregate value of less than one thousand dollars (\$1,000.00), when the person intends to avoid payment for the merchandise or knowingly deprives the person entitled to possession of the property of the use and benefit of the property.

(b) For purposes of this Section, the test of value shall be the reasonable market value of the item or items at the time of the commission of the alleged offense. The retail price of the item or items shall be prima facie evidence of the reasonable market value.

(c) For purposes of this Section, goods, wares or merchandise are that of another if anyone other than the defendant has a possessory or proprietary interest therein.

(d) For purposes of this Section, in addition to their common definitions and meanings, the words *goods*, *wares* and *merchandise* shall include petroleum products and also food or beverages sold either in restaurants or in other food-dispensing establishments or by a vendor.

(e) Concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Prior code 140-10.2; Ord. 1995-1 §1; Ord. 2007-12 §1)

Sec. 2-4-12. Price switching.

(a) It shall be unlawful for any person knowingly to remove, alter or switch or to knowingly aid another to remove, alter or switch the price of any goods, wares or merchandise of another, which is in any manner offered for sale, whether displayed or not, with the intent to avoid all or partial payment. This Section shall apply only where the aggregate difference between the altered or switched price and the untampered or unaltered price is less than one thousand dollars (\$1,000.00).

(b) For purposes of this Section, the test of value shall be the reasonable market value of the item or items at the time of the commission of the alleged offense. The retail price of the item or items shall be prima facie evidence of the reasonable market value.

(c) For purposes of this Section, goods, wares or merchandise are that of another if anyone other than the defendant has a possessory or proprietary interest therein.

(d) For purposes of this Section, in addition to their common definitions and meanings, the words *goods*, *wares* and *merchandise* shall include petroleum products and also food or beverages sold either in restaurants or in other food-dispensing establishments or by a vendor. (Prior code 140-10.3; Ord. 2007-12 §2)

Sec. 2-4-13. Petty theft.

(a) It shall be unlawful for any person to commit theft.

(b) A person commits theft when he or she knowingly obtains or exercises control or knowingly aids another to obtain or exercise control over anything of value of another without authorization, or by threat and 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 permanently deprive the person entitled to possession of the thing of value's use or benefit.

(3) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will permanently deprive the person entitled to possession of the thing of value's use and benefit.

(4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the person entitled to possession.

(c) This Section shall apply only where the value of the thing involved is less than one thousand dollars (\$1,000.00). For purposes of this Section, the test of value shall be the reasonable market value of the item or items at the time of the commission of the alleged offense. The retail price of the item or items shall be prima facie evidence of the reasonable market value.

(d) For purposes of this Section, a thing of value is that of another if anyone other than the defendant has a possessory or proprietary interest therein. (Prior code 140-10.4; Ord. 2007-12 §3)

Sec. 2-4-14. Theft of rental property.

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

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

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

(3) The value of the property involved is less than one thousand dollars (\$1,000.00). (Ord. 1995-1 §1; Ord. 2007-12 §4)

Sec. 2-4-15. Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of the thing of value is less than one thousand dollars (\$1,000.00). (Ord. 1995-1 §1; Ord. 2007-12 §5)

Sec. 2-4-16. Tampering and unauthorized connection.

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

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

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

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 1995-1 §1)

Sec. 2-4-17. Assault and battery.

It shall be unlawful to commit an assault or battery upon the person of another. An assault shall be any expression of intent, coupled with a present apparent ability, to commit a violent injury on the person of another. A battery shall be any intentional and unlawful use of force or violence upon the person of another. (Prior code 140-11)

Sec. 2-4-18. Harassment.

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

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

(2) In a public place, direct obscene language or make an obscene gesture to or at another person where such language or gesture causes injury or tends to invite an immediate breach of the peace;

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

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

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

(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 subparagraph (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

(d) In addition to the circumstances described in Subsection (a) above, a person commits harassment by stalking if such person:

(1) Makes a credible threat to another person and, in connection with such threat, repeatedly follows that person; or

(2) Makes a credible threat to another person and, in connection with such threat, repeatedly makes any form of communication with that person, whether or not a conversation ensues.

(e) For the purposes of Subsection (d), *credible threat* means a threat that would cause a reasonable person to be in fear for the person's life or safety, and *repeatedly* means on more than one (1) occasion. (Ord. 1995-1 §1; Ord. 1995-8 §2)

Sec. 2-4-19. Disturbing the peace; offensive language.

It shall be unlawful for any person to disturb or tend to disturb the peace of others by violence, offensive or obstreperous conduct, by loud or unusual noises or by unseemly, profane, obscene or offensive language, calculated to provoke a breach of the peace; or for any person to permit any such conduct upon any premises owned or possessed by him or her or under his or her management or control, when within his or her power to prevent, so that others in the vicinity are or may be disturbed thereby. (Prior code 140-12)

Sec. 2-4-20. Assembling to commit unlawful acts.

It shall be unlawful for any three (3) or more persons to assemble together in this Town with an intent to do an unlawful act or, being assembled, to mutually agree to act in concert to do an unlawful act with force or violence against the property of the Town or the person or property of another or against the peace and to the terror of others or to make any move or preparation therefor; or, being present at such meeting or assembly, to fail to endeavor to prevent the commission of or perpetration of such unlawful act. (Prior code 140-14)

Sec. 2-4-21. Loitering.

It shall be unlawful for any person to be in any public place in such a manner as to interfere with the free and unobstructed use of such place by any other person or persons or to be profane, lewd or wanton in speech or behavior in such place. (Prior code 140-15)

Sec. 2-4-22. Issuance of bad checks.

(a) As used in this Section, unless the context otherwise requires, the following terms shall have the meanings indicated:

Check means a written, unconditional order to pay a sum certain in money drawn on a bank, payable on demand, and signed by the drawer.

Drawee means the bank upon which a check is drawn.

Drawer means a person, either real or fictitious, whose name appears on a check as a primary obligor, whether the actual signature be that of the person or of a person authorized to draw a check on himself or herself.

Insufficient funds. A drawer has *insufficient funds* with the drawee to pay a check when the drawer has no checking account with the drawee, or has funds in a checking account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance or when presented for payment; and a check dishonored for "no account" shall also be deemed to be dishonored for *insufficient funds*.

Issue. A person *issues* a check when he or she makes, draws, delivers or passes it, or causes it to be made, drawn, delivered or passed.

(b) Any person, knowing he or she has insufficient funds with the drawee, who issues a check for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits the offense of issuance of bad check.

(c) 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) The issuer has no account upon which the check or order is drawn with the bank or other drawee at the time of issuance of the check or order; or

(2) The issuer has insufficient funds upon deposit with the bank to pay the check or order on presentation or within thirty (30) days after issue.

(d) Notwithstanding any other provisions of the Section, no violation of this Section occurs if:

(1) The check alleged to be bad was for the sum of one thousand dollars (\$1,000.00) or more;

(2) Prior to the issuance of the allegedly bad check, the defendant has been convicted of fraud by check or issuance of bad check involving the issuance of two (2) or more checks within any sixty-day period in the State totaling one thousand dollars (\$1,000.00) or more in the aggregate;

(3) The person issuing the check has been twice previously convicted under Section 18-5-205 or 18-5-512, C.R.S., or any former state statute of similar content and purpose; or

(4) The allegedly bad check was drawn on an account which did not exist or which has been closed for a period of thirty (30) days or more prior to the issuance of said check.

(e) It shall be unlawful for any person to open a checking account using false identification or an assumed name for the purpose of issuing bad checks.

(f) If deferred prosecution or sentencing is ordered, the court as a condition of such disposition may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the deferred period in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

(g) A bank shall not be civilly or criminally liable for releasing information relating to the drawer's account to a police officer, Town Attorney or authorized investigator for a Town Attorney investigating or prosecuting a charge under this Section. (Prior code 140-15.1; Ord. 3, 1994 §1; Ord. 1995-1 §1; Ord. 2007-12 §6)

Sec. 2-4-23. Explosives.

It shall be unlawful for any person to store within the Town limits or within one (1) mile thereof any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high explosive in excess of one (1) fifty-pound box or in excess of five hundred (500) caps or other devices used for the detonation of such high explosives. (Prior code 140-18)

Sec. 2-4-24. Carrying concealed weapons; sale or possession of pocket knives.

(a) It shall be unlawful for any person to conceal on or about his or her person or to display in a threatening manner any dangerous or deadly weapon, including, by way of illustration but not by way of limitation, any pistol, revolver, slingshot, cross-knuckles or knuckles of lead, brass or other metal or any bowie knife, dirk, dagger or any knife resembling a bowie knife or any dangerous or deadly weapon unless such person has a valid permit authorizing him or her to do so issued by the State in accordance with State law.

(b) It shall be unlawful for any person to sell, offer to sell, display, use, possess or carry any knife having the appearance of a pocket knife, the blade of which can be opened by pressing a button, pressure in the handle or other mechanical contrivance. Any such knife is hereby declared to be a dangerous or deadly weapon within the meaning of Subsection (a) above.

(c) Every person convicted of any violation of this Section shall forfeit to the Town such dangerous or deadly weapon so concealed or displayed.

(d) Nothing in this Section shall be construed to forbid United States Marshals, sheriffs, constables and their deputies and any regular, special or ex officio police officer, or any other law enforcement officer, from carrying or wearing, while on duty or off duty, such weapons as shall be necessary in the proper discharge of their duties.

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

(f) Violation of this Section shall be a misdemeanor, and conviction will carry a fine as set forth in Article I, Chapter 1. (Prior code 140-19; Ord. 1995-1 §1; Ord. 2003-19 §1)

Sec. 2-4-25. Throwing stones and other missiles.

No person shall throw or shoot any stone, arrow, pellet or other missile at any person, animal, public or private property, building or structure. (Prior code 140-20; Ord. 1995-1 §1)

Sec. 2-4-26. Sale of weapons to intoxicated persons or minors.

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

(b) Further, conviction for any unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the Town to such person. (Prior code 140-21; Ord. 2003-19 §2)

Sec. 2-4-27. Discharge of firearms.

It is unlawful for any person, other than a law enforcement officer, to discharge or cause to be discharged any firearm within or into the limits of the Town. (Prior code 140-22)

Sec. 2-4-28. Resisting an officer; escaping or assisting others in escaping.

(a) It shall be unlawful for any person to resist the Police Chief, any Town police officer, any Town animal control officer or any other person duly empowered with police authority, while in the discharge or apparent discharge of his or her duty, or in any way to interfere with or hinder him or her in the discharge of his or her duty.

(b) It shall be unlawful for any person to offer or endeavor to assist any person in the custody of the Police Chief, any Town police officer, any Town animal control officer or any other person duly empowered with police authority to escape or to attempt to escape from such custody. (Prior code 140-23)

Sec. 2-4-29. Assisting police officers.

It shall be the duty of all persons when called upon by any police officer or other law enforcement officer to promptly aid and assist such officer in the discharge of his or her duties. (Prior code 140-24)

Sec. 2-4-30. Impersonating police officers.

It shall be unlawful for any person other than an official police officer to wear, display or present the uniform, apparel or any other insignia of office like, similar to or a colorable imitation of that adopted and worn by any official police officer within the State. (Prior code 140-25; Ord. 1995-1 §1)

Sec. 2-4-31. Obstructing a peace officer or fireman.

(a) No person shall willfully fail or refuse to comply with any lawful order, signal or direction of a police officer made or given in the discharge of the police officer's duties.

(b) No person shall, in any way, interfere with or hinder any police officer who is discharging or apparently discharging the duties of the position.

(c) It is unlawful to obstruct a peace officer or fireman.

(d) A person commits obstructing a peace officer or fireman when, by using or threatening to use violence, force or physical interference or obstacle, such person knowingly obstructs, impairs or hinders the enforcement of the 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.

(e) It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if the peace officer was acting under color of his or her official authority.

(f) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Ord. 1995-1 §1)

Sec. 2-4-32. False reporting to authorities.

It is unlawful for a person to falsely report 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. (Ord. 1995-1 §1)

Sec. 2-4-33. Aiding and abetting commission of offenses.

Every person who commits, attempts to commit, conspires to commit or aids and abets in the commission of any act in violation of the ordinances of the Town, whether individually or in connection with one (1) or more other persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of any ordinance of the Town is likewise guilty of such offense. (Prior code 140-27)

Sec. 2-4-34. Unnecessary noises.

(a) Noises generally prohibited. The enumeration of the particular offenses hereinafter particularly defined shall not be construed as limiting the generality of this Section or limiting the offenses hereunder to the particular offenses hereinafter enumerated. It shall be unlawful for any person to make, continue or cause to be made or continued any unnecessary or unusual noise which either annoys, injures or endangers the comfort, repose, health or safety of others, whether in the operation of any machine or the exercise of any trade or calling or for any other reason, unless the making and continuing of the same is necessary for the protection or preservation of property or health, safety, life or limb of some person.

(b) Vehicle sound systems, loud speakers, radios and sound-amplifying equipment. It shall be unlawful for any person to use or operate any sound system, loud speaker, radio or any other sound-amplifying device in or on a motor vehicle in an excessive manner, which can or does annoy, injure or endanger the comfort, repose, health or safety of others.

(c) No person shall operate equipment that amplifies sound and/or emits vibrations that can be heard or felt away from the immediate vicinity of the vehicle, or other place of use of such equipment, unless the person shall have first applied for and received a permit from the Chief of Police or the Community Development Director.

(d) Mufflers. It shall be unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it shall be unlawful for any person operating any motor vehicle to use a cutout, bypass or similar muffler-elimination appliance.

(e) Sirens, whistles, gongs and red lights. It shall be unlawful for any person to carry or use upon any vehicle other than Police or Fire Department vehicles or emergency vehicles for public use any gong, siren, whistle or red light or other warning device similar to that used on ambulances or other emergency vehicles or vehicles of the Police and Fire Department.

(f) Outdoor speakers, loud speakers and public address systems and any other device to make and/or amplify sound. It shall be unlawful for any person, business or organization to use outdoor speakers, loud speakers, public address systems or any other device to make and/or amplify sound in an excessive manner which can or does annoy, injure or endanger the comfort, repose, health or safety of others and emits sounds or vibrations that can be felt or heard outside of the property boundary, unless the person, business or organization has applied for and received a permit from the Chief of Police or the Community Development Director.

(g) Any person desiring to use sound amplification equipment for a special event must apply for and receive a permit from the Chief of Police or the Community Development Director. No permit shall be valid for more than two (2) days or valid prior to 9:00 a.m. or after 12:00 a.m. (midnight) on the dates for which the permit is issued for. The Chief of Police or the Community Development Director may grant with conditions, deny or revoke any permit once issued.

(h) Permit application. The permit application shall include the following information:

(1) The name, address and telephone number of both the owner of the property where the event is to be held and user of the sound-amplifying equipment.

(2) The general description of the sound-amplifying equipment to be used.

(3) The location where the sound-amplifying equipment will be operated.

(4) The date and times upon which the sound-amplifying equipment will be used. (Prior code 140-28; Ord. 1994-4 §1; Ord. 1995-1 §1; Ord. 2001-10 §1)

Sec. 2-4-35. Possession or use of marijuana.

(a) It shall be unlawful for any person to knowingly possess or to openly or publicly display, consume or use not more than one (1) ounce of marijuana.

(b) For purposes of this Section, *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. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination, if these items exist apart from any other item defined as *marijuana* in this Section. *Marijuana* does not include *marijuana concentrate* which is defined as hashish, tetrahydrocannabinols or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols. (Prior code 140-28.3)

Sec. 2-4-36. Indecent exposure.

It is unlawful for a person to knowingly expose 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. 1995-1 §1)

Sec. 2-4-37. Adoption and incorporation of definitions.

Definitions provided in Section 12-47-103, C.R.S., for the phrases *alcoholic beverage*, *malt liquor*, *spirituous liquor* and *vinous liquor* are hereby adopted and incorporated by reference for purposes of this Code. The definition provided in Section 12-46-103, C.R.S., for the phrase *fermented malt beverage* is hereby adopted and incorporated by reference for purposes of this Code. (Prior code 140-29.1)

Sec. 2-4-38. Alcoholic beverages; unlawful acts.

(a) It shall be unlawful for any person to sell, service, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any alcoholic beverage or fermented malt beverage to or for any person under the age of twenty-one (21) years.

(b) It shall be unlawful for any person under twenty-one (21) years of age to purchase, attempt to purchase, possess or consume any alcoholic beverage or fermented malt beverage.

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

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

(e) It shall be unlawful for any person under twenty-one (21) years of age to make false statements or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited articles, including alcoholic beverages or fermented malt beverages.

(f) Any liquid found in any container which, in the sensory perception of the investigation officer, either looks or smells of alcohol shall constitute in evidence a prima facie presumption that the liquid is an alcoholic beverage or a fermented malt beverage.

(g) It shall be unlawful to sell, serve, give away, dispose of, exchange or deliver, or permit the sale, serving, giving or procuring of any alcoholic beverage or fermented malt beverage to a visibly intoxicated person or to a known habitual drunkard. All violations and/or subsequent incident reports that show evidence or indicate selling or serving to intoxicated individuals shall be copied and forwarded to the Municipal Court Clerk to be filed with liquor licenses.

(h) If a person is convicted of an offense pursuant to Subparagraph (a) or (g) of this Section for serving, giving away, disposing of, exchanging or delivering, or permitting the sale, servicing, giving or procuring of any alcoholic beverage or fermented malt beverage to a person under the age of twenty-one (21) years, to a visibly intoxicated person or to a known habitual drunkard, the Court shall consider the following in mitigation:

(1) Whether, after consuming the alcohol, the underage person, visibly intoxicated person or known habitual drunkard was in need of medical assistance as a result of consuming alcohol; and

(2) Whether, within six (6) hours after the underage person, visibly intoxicated person or known habitual drunkard consumed the alcohol, the defendant contacted the police or emergency medical personnel to report that the underage person, visibly intoxicated person or known habitual drunkard was in need of medical assistance as a result of consuming alcohol. (Prior code 140-30, 140-31, 140-32, 140-35; Ord. 1995-1 §1; Ord. 2006-15 §1)

Sec. 2-4-39. Minors in taverns prohibited; posting of signs.

It shall be unlawful for any person who is the proprietor or keeper of a tavern or other establishment serving alcoholic beverages to employ or permit any minor under the age of twenty-one (21) years to frequent or be in or about such place unless accompanied by a parent, to drink any intoxicating liquors or beer or any other fermented malt beverage in or about the same, or to engage or participate in any game of billiards, or any game, bet or wager with cards or any other gambling device, in or about such place. It shall be the duty of any person who is the proprietor or keeper of such establishment to post conspicuously in his or her place of business the following sign: MINORS UNDER THE AGE OF TWENTY-ONE (21) YEARS NOT ALLOWED HERE UNLESS ACCOMPANIED BY PARENTS. Failure to so post such sign shall constitute an unlawful act. (Prior code 140-33)

Sec. 2-4-40. Loitering in or about schools.

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

- (1) Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school.
- (2) Annoy, disturb, assault or molest any student or employee of any such school while in any such school building or on any school grounds.
- (3) Conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in or about any school building or school grounds.
- (4) Park or move a vehicle in the immediate vicinity of or on the grounds of any such school, for the purpose of annoying or molesting the students or the employees thereof; or in effect to induce, entice or invite students into such vehicle for immoral purposes. (Prior code 140-34)

Sec. 2-4-41. Parent or guardian aiding, abetting.

It shall be unlawful for any person to knowingly permit any minor child or children to aid, abet or encourage in or to approve, encourage, allow, permit, tolerate or consent to the violation by any minor child or children, of any provision of this Article or any ordinances of the Town. (Ord. 1995-1 §1)

Sec. 2-4-42. Encouraging delinquency.

It shall be unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended. (Ord. 1995-1 §1)

Sec. 2-4-43. Services of others.

It shall be unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase. (Ord. 1995-1 §1)

Sec. 2-4-44. Damage to or removal of barricades.

It shall be unlawful to damage, displace, remove or interfere with any barricade, warning light or any other safety appliance which is lawfully placed on private property or around or about any street, alley, sidewalk or other excavation or construction work in the Town. (Prior code 90-10; Ord. 1994-15 §3)

Sec. 2-4-45. Possession of drug paraphernalia.

(a) It shall be unlawful for any person to possess drug paraphernalia if he or she knows or reasonably should know that the drug paraphernalia could be used to facilitate the use of a controlled substance in violation of this Code or state statute.

(b) As used in this Section, unless the context otherwise requires, *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 the laws of the State. *Drug paraphernalia* includes, but is not limited to:

(1) 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 the laws of the State;

(2) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

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

(4) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

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

(6) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; or

(7) 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:

- a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. 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;
- e. Miniature cocaine spoons and cocaine vials;
- f. Chamber pipes;
- g. Carburetor pipes;
- h. Electric pipes;
- i. Air-driven pipes;
- j. Chillums;
- k. Bongs; or
- l. Ice pipes or chillers.

(c) In the event a case brought pursuant to this Section is tried before a jury, the court shall hold an in-camera evidentiary hearing on issues raised pursuant to this Section. In all jury and court trial cases, the court, in determining whether an object is drug paraphernalia, 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 any owner, or of anyone in control of the object, or evidence that such person reasonably should know that the object could be used to facilitate the use of a controlled substance in violation of this Code or state statute;
- (5) Instructions, verbal or written, provided with the object concerning its use;
- (6) Descriptive materials accompanying the object which explain or depict its use;
- (7) The existence and scope of legal uses for the object in the community; or
- (8) Expert testimony concerning its use.

(d) Any violation of this Section shall be punishable in accordance with the general penalty provisions of the Municipal Court. (Ord. 2000-9 §1)

Sec. 2-4-46. Unlawful use of property of another.

It shall be unlawful for any person intentionally to use or cause to be used, in any manner, the real property of another, or in lawful possession of another, for any purpose, including advertising, storage, refuse disposal or recreation, without the permission of the owner or person in possession thereof. (Ord. 2003-12 §1)

Sec. 2-4-47. Open carrying of firearms prohibited.

(a) Except as provided in Subsection (g) hereof, where signs are posted in accordance with paragraph (b) of this Section, it shall be unlawful for any person to openly carry a firearm in or upon any real property owned or used by the Town to which the general public has access, including but not limited to, the following buildings and locations, all within the Town of Silverthorne, Summit County, Colorado:

- (1) Silverthorne Town Hall, 601 Center Circle
- (2) Cottonwood Park, 772 Blue River Parkway
- (3) Arctic Placer Park, 599 Polar Court
- (4) Rainbow Park, 590 Rainbow Drive
- (5) Trent Park, 100 Willowbrook Road
- (6) Joint Sewer Authority, 26452 North Colorado Highway 9
- (7) Silverthorne Recreation Center, 430 Rainbow Drive
- (8) Silverthorne Public Works, 264 Brian Avenue
- (9) Silverthorne Pavilion, 400 Blue River Parkway
- (10) All Town-owned trails and open space areas.

(b) The Chief of Police, or his or her designee, shall post signs at the public entrances of each building and location listed in paragraph (a) above to notify the public that the open carrying of firearms is prohibited within or upon the property.

(c) The provisions of this Section shall not apply to the open carrying of a firearm by a peace officer while in the lawful performance of his or her duties.

(d) It shall not be a defense to a charge of violating this Section that the firearm was unloaded or inoperable when carried.

(e) It shall not be a defense to a charge of violating this Section that the person possessed a permit to carry a concealed weapon issued pursuant to Part 2, Article 12, Title 18, C.R.S.

(f) For purposes of this Section, to openly carry shall mean to carry a firearm in a person's hand, in a holster, or otherwise on or about a person's body or clothing in such a manner as to be plainly visible, in whole or in part, to a reasonably observant person.

(g) The Chief of Police is authorized to grant permission for the open carrying of firearms at the locations listed at (a) above for the purpose of firearms education classes, trade shows and special events of a like nature which, in the opinion of the Chief of Police, can be conducted without risk to the public. The Chief of Police may impose such terms and conditions and limit the duration of such events as necessary to protect the public. In the event a special events permit is required under Chapter 4 of this Code, the action of the Chief of Police under this Section may be combined with that process. (Ord. 2003-19, §3)

Sec. 2-4-48. Fireworks.

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

Fireworks means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, and which meets the definition of *consumer (Explosives 1.4G)*, *theatrical and novelty (Explosives 1.4S)* or *display (Explosives 1.3G) fireworks* as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulations, Title 49 Code of Federal Regulations, Parts 171—180, as amended from time to time. *Fireworks* does not include:

a. Toy caps for use in toy pistols, toy canes or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT Regulations 49 C.F.R. § 173.100(p), and packed and shipped according to said regulations.

b. Model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models.

c. Highway flares, railroad fuses, ship distress signals, smoke candles and other emergency signal devices.

(b) Except as provided for in Subsection (c) of this Section, it shall be unlawful for any person to sell, expose for sale, offer for sale, transfer, give away, possess, use, discharge or explode any fireworks within the Town.

(c) Nothing in this Section shall prevent or regulate:

(1) The sale, transportation, handling or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical, marine flares or smoke signals.

(2) The sale or use of blank cartridges for use in a show or theater, for signal or ceremonial purposes in athletics or sports or legal power tools.

(3) The transportation, handling, or use of any pyrotechnic device by the armed forces of the United States.

(4) The use of pyrotechnics in training by the fire service, law enforcement or similar governmental agencies.

(5) The sale, purchase, possession or use of fireworks for use in connection with a fireworks display for which a permit has been issued by the Town.

(d) Any Town police officer may seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this Section.

(e) Violations of this Section shall be punished by the Municipal Court as a noncriminal infraction under a penalty assessment of one hundred fifty dollars (\$150.00) for the first offense, five hundred dollars (\$500.00) for the second offense and nine hundred ninety-nine dollars (\$999.00) for all subsequent offenses. (Ord. 2007-07 §1)

Sec. 2-4-49. Fire bans.

(a) The Police Chief is hereby authorized to declare emergency fire bans on open fires, as necessary from time to time, to protect the health, safety and welfare of the citizens of the Town. For purposes of this Section, an *open fire* shall be defined as any outdoor fire, including but not limited to campfires, warming fires, bonfires or the prescribed burning of fence rows, fields, wild lands, trash and debris. The following fires shall be exempt from any ban imposed under this Section:

(1) Fires contained within liquid-fueled or gas-fueled stoves or chimineas;

(2) Fires in fireplaces or stoves within all buildings;

(3) Charcoal-fueled fires contained with-in grills;

(4) Fires within permanent fire pits on privately owned property if such contained fire is under constant supervision and is not overly large to cause alarm to the residents or neighbors of the property containing the fire pit;

(5) Pre-approved public fireworks displays;

(6) Fires used to inflate and propel hot air balloons; and

(7) Fires authorized by a Fire Protection District, United States Forest Service or the Summit County Environmental Health Department pursuant to a properly issued burn permit or equivalent U.S. Forest Service administrative approval.

(b) Violations of this Section shall be punished by the Municipal Court as a noncriminal infraction under a penalty assessment of one hundred fifty dollars (\$150.00) for the first offense, five hundred dollars (\$500.00) for the second offense and nine hundred ninety-nine dollars (\$999.00) for all subsequent offenses. (Ord. 2007-07 §2)

ARTICLE V

Smoking Regulations

Sec. 2-5-1. Adoption of state law by reference.

Subject to the exceptions incorporated herein, smoking is hereby prohibited in any indoor area in the Town which is generally open to the public, in the manner set forth in the "Colorado Clean Air Act" as codified in Sections 23-14-201 et seq., C.R.S., which Act is hereby adopted by this reference in its entirety, with an amendment as set forth in Section 2-5-2 below. (Ord. 2006-13 §1)

Sec. 2-5-2. Smoking prohibited in entryways.

Smoking shall be prohibited in the entryway of any building in which smoking is otherwise prohibited. *Entryway* means the outside of the front or main doorway leading into a building or facility that is not exempted from these regulations. *Entryway* also includes the area of public or private property within a specified radius outside of the doorway. The specified radius shall be zero (0) feet. (Ord. 2006-13 §1)

Sec. 2-5-3. Violations and penalties.

(a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this Article to condone smoking in public places within such premises, or to otherwise fail to comply with any of the provisions of this Article.

(b) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Article.

(c) Any person who violates any provision of this Article shall be guilty of an infraction, punishable by:

(1) A fine not exceeding two hundred dollars (\$200.00) for a first violation within a calendar year;

(2) A fine not exceeding three hundred dollars (\$300.00) for a second violation within a calendar year; and

(3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation within a calendar year.

(d) Each day of continuing violation shall be deemed to be a separate violation. (Ord. 2006-13 §1)

ARTICLE VI

Snowmobiles

Sec. 2-6-1. Application of provisions.

The provisions of this Article shall apply to all of the territory within the corporate limits of the Town. (Prior code 165-1)

Sec. 2-6-2. Definitions and word usage.

(a) Definitions. As used in this Article, unless the context otherwise requires, the following terms shall have the meanings indicated:

Operate means to ride in or on and control the operation of a snowmobile.

Operator means every person who operates or is in actual physical control of a snowmobile.

Owner means a person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.

Person includes an individual, partnership, corporation, the state and its agencies and subdivisions and any body of persons, whether incorporated or not.

Roadway means that portion of a highway improved, designed or ordinarily used for vehicular travel.

Snowmobile means a self-propelled vehicle primarily designed for travel on snow or ice and supported in part by skis, belts or cleats.

(b) Word usage.

(1) The terms *street* and *road*, unless the context otherwise requires, shall be deemed synonymous and interchangeable.

(2) The terms *freeway* and *highway*, unless the context otherwise requires, shall be deemed synonymous and interchangeable.

(c) Whenever any words or phrases used in this Article are not defined herein but are defined in Ordinance No. 19, Series 1976, or in any code adopted therein regulating the operation of motor vehicles, any such definition therein shall be deemed to apply to such words or phrases used in this Article. (Prior code 165-2)

Sec. 2-6-3. Snowmobile routes.

Pursuant to Article 7 of Title 33, C.R.S., every street and highway within the corporate limits of the Town, except any street or highway which is part of the state highway system, is hereby designated a snowmobile route. No snowmobile may be operated on any snowmobile route within the corporate limits of the Town except as provided in this Article. No snowmobile may be operated at any time on

Town-owned property, parks, openspace, parking lots or trails, with the exception of snowmobile routes designated by the Chief of Police. (Prior code 165-3; Ord. 2003-13 §1)

Sec. 2-6-4. Restrictions on young operators.

(a) No person under the age of ten (10) years may operate a snowmobile, except upon lands owned or leased by his or her parent or guardian, unless he or she is accompanied by or under the immediate supervision of a person over sixteen (16) years of age or by a person over fourteen (14) years of age who holds a snowmobile safety certificate issued by the Division of Parks and Outdoor Recreation, upon the successful completion of a snowmobile safety and education and training course conducted by said Division.

(b) Except when accompanied or supervised in the manner provided in Subsection (a) above, no person ten (10) years of age or older who has not reached his or her sixteenth birthday shall operate a snowmobile within the corporate limits of the Town, except upon lands owned or leased by his or her parent or guardian, unless he or she has received a snowmobile safety certificate, upon successful completion of a snowmobile safety education and training course conducted by the Division of Parks and Outdoor Recreation. (Prior code 165-4)

Sec. 2-6-5. Operation on private property.

No snowmobile shall be operated on private property except that owned or leased by the operator or except when prior permission has been obtained from the owner, lessee or agent of the owner or lessee. (Prior code 165-5)

Sec. 2-6-6. Possession and display of identification.

Every person operating a snowmobile within the corporate limits of the Town shall, upon demand of any peace officer authorized to enforce this Article, produce for inspection the certificate of registration and shall furnish to such officer any information necessary for the identification of such snowmobile, its operator and its owner. (Prior code 165-6)

Sec. 2-6-7. Operation on streets and highways.

(a) No snowmobile shall be operated on the right-of-way of any interstate highway or freeway.

(b) Snowmobiles may be operated on the roadway of an interstate highway or freeway only during emergency conditions declared by proper state authority.

(c) A snowmobile shall be operated on streets and highways as far as practicable from the roadway thereof.

(d) A snowmobile may be operated on the roadway of a street or highway only under the following conditions:

(1) To cross a street or highway in the manner provided in Section 2-6-8 of this Article.

(2) To traverse a bridge or culvert on such street or highway.

(3) During special snowmobile events lawfully conducted and for which a permit has been issued by the Town Council.

(4) During emergency conditions declared by proper authority.

(5) On the roadway of streets and highways which are not maintained for winter motor vehicle traffic. (Prior code 165-7)

Sec. 2-6-8. Crossing streets and highways.

A crossing of a street or highway by a snowmobile operator, when not prohibited by this Article, shall be made only in accordance with the following restrictions:

(1) The crossing shall be made at an angle approximately ninety degrees (90°) to the direction of the street or highway being crossed and at a place where no obstruction prevents a quick and safe crossing.

(2) The snowmobile shall be brought to a complete stop before crossing the shoulder or, if none, the roadway before proceeding to cross.

(3) The operator shall yield the right-of-way to all motor vehicle traffic on such street or highway which constitutes an immediate hazard to such crossing.

(4) A crossing of a divided street or highway, when permitted under this Article, shall be made only at an intersection of such street or highway with another street or highway. (Prior code 165-8)

Sec. 2-6-9. Operating restrictions and equipment.

(a) Except as otherwise provided in this Article, a snowmobile may be operated on the right-of-way of any street or highway in the Town.

(b) Whenever a snowmobile is being operated on the right-of-way of any street or highway in the Town, it shall be operated as far as practicable from the roadway thereof and on the right-hand side, in the same direction as vehicular traffic.

(c) All snowmobiles being operated on any street or highway within the Town shall travel in single file and shall not pass any other snowmobile being operated on any such street or highway.

(d) No person shall operate a snowmobile:

(1) At a rate of speed greater than reasonable or prudent under all the surrounding circumstances, and any speed in excess of any posted speed limit shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

(2) In a careless, reckless or negligent manner so as to endanger any person or the property of another or to cause injury or damages thereto.

(3) While under the influence of intoxicating liquor, fermented malt beverages, narcotics or habit-forming drugs.

(e) No snowmobile shall be operated within the Town before the hour of 7:00 a.m. or after the hour of 10:00 p.m.

(f) No snowmobile shall be operated upon any public street or highway unless it is equipped with the following:

(1) While being operated between the hours of sunset and sunrise and any other time when, due to insufficient light or unfavorable atmospheric conditions, persons in vehicles are not clearly discernible at a distance of one thousand (1,000) feet ahead, shall display at least one (1) lighted headlamp and one (1) lighted taillamp.

(2) Brakes in good working order, which shall be deemed to include such stoplights which may be prescribed by state law.

(3) An adequate muffler in constant operation and properly maintained to prevent excessive and unusual noise.

(g) When operating upon any street or highway as authorized by this Article during hours of darkness, a snowmobile shall be operated only in conformity with the flow of traffic on the nearest lane of the adjacent roadway.

(h) No owner of a snowmobile shall permit any operation of such snowmobile in violation of the provisions of this Article. (Prior code 165-9; Ord. 27, 1993 §1)

ARTICLE VII

Vehicles and Traffic

Sec. 2-7-1. Adoption of standards by reference; exceptions.

Pursuant to Title 31, Article 16, Parts 1 and 2, C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2003 edition of the Model Traffic Code for Colorado Municipalities, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and the nation. One (1) copy of the Model Traffic Code adopted herein is now filed in the office of the Town Clerk, and may be inspected during regular business hours. The 2003 edition of the Model Traffic Code is adopted as if set out at length, with additions and modifications as set forth in Section 2-7-2 below. (Prior code 184-1; Ord. 1995-1 §1; Ord. 1995-13 §1; Ord. 1996-11 §8; Ord. 2004-01 §§2, 3)

Sec. 2-7-2. Additions and modifications.

Said adopted 2003 edition of the Model Traffic Code for Colorado Municipalities is subject to the following additions or modifications:

(1) Section 1101 of the Model Traffic Code is hereby amended to add at the end thereof a new Subsection 12 to read as follows:

"(12) Pursuant to Article I, Subsection 1101(7) and notwithstanding the provisions of Subsections 1101(2), (4) and (5) above, it is hereby determined that the speeds set forth therein are greater than is reasonable or prudent under the best operating conditions when applied to the following streets and highways and portions thereof. Except when a special hazard exists that requires lower speed, the speed set forth below opposite the described street or highway or portion thereof shall be lawful on said street or highway or portion thereof, but any speed in excess thereof shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

"a. Interstate Highway 70 (I-70) within the corporate limits of the Town of Silverthorne as presently or hereafter constituted: sixty-five (65) miles per hour.

"b. Colorado State Highways Nos. 6 and 9 northbound from the Silverthorne town limits to one hundred thirty (130) feet north of 10th Street: thirty-five (35) miles per hour.

"c. Colorado State Highway No. 9 northbound from one hundred thirty (130) feet north of 10th Street to County Road 1900: forty-five (45) miles per hour.

"d. Colorado State Highway No. 9 northbound from County Road 1900 to the Silverthorne town limits: fifty-five (55) miles per hour.

"e. Colorado State Highway No. 9 southbound from the Silverthorne town limits to County Road 1900: fifty-five (55) miles per hour.

"f. Colorado State Highway No. 9 southbound from County Road 1900 to two hundred eighty (280) feet south of Annie Road: forty-five (45) miles per hour.

"g. Colorado State Highway No. 9 southbound from two hundred eighty (280) feet south of Annie Road to the Silverthorne town limits: thirty-five (35) miles per hour.

"h. Rainbow Drive from Colorado State Highway No. 9 to its northern intersection with Center Circle: twenty (20) miles per hour.

"i. Rainbow Drive from its northern intersection with Center Circle to the northern corporate limits of the Town of Silverthorne: thirty (30) miles per hour.

"j. Willowbrook Road, throughout its length: twenty (20) miles per hour.

"k. Upon every highway and street which is privately maintained in a mobile home park or recreational vehicle park: fifteen (15) miles per hour.

"No summons and complaint nor penalty assessment notice shall be issued to anyone who exceeds such prima facie speed until notice thereof is given by erection of appropriate signs along said streets or highways or portions thereof or, in the case of privately maintained streets or highways in mobile home parks or recreational vehicle parks, at the entrances to such streets or highways."

(2) Section 1208, Parking privileges for person with disabilities — applicability, subsection (5) is amended to read:

"(5) No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer in a zone that is designated as a handicapped parking area, in a manner which obstructs or may obstruct the use of the designated handicapped parking area by a vehicle with distinguishing license plates or by a vehicle with an identifying placard indicating that the occupant of said vehicle is a person with a disability as defined herein unless the vehicle has distinguishing license plates or an identifying placard indicating that the occupant of said vehicle is a person with a disability."

(3) Article II, Section 102 of the Model Traffic Code is hereby amended to add Subsections 36.1 and 57.1 to read as follows:

"(36.1) Mobile Home Park. Any land or property licensed under Town of Silverthorne Ordinance No. 2, Series 1968, or Town of Silverthorne Ordinance No. 15, Series 1972, as amended, as a mobile home park or which is used or intended to be used for renting of occupancy space for six (6) or more mobile homes.

"(57.1) Recreational Vehicle Park. Any land or property licensed as a recreational vehicle park under Town of Silverthorne Ordinance No. 15, Series 1972, as amended, or which is used or intended to be used as a recreational vehicle park as that term is defined in said Ordinance No. 15, Series 1972, as amended."

(4) Section 1701 Municipalities - traffic offenses classified — schedule of fines, is amended to read:

"(1) Except as set forth herein, it is a traffic infraction for any person to violate any of the provisions of this Code. Such a traffic infraction shall constitute a civil matter. The Colorado Rules of Municipal Procedure shall apply to traffic infraction proceedings, except that no warrant for arrest shall be issued for the defendant's failure to appear when the only violation charged would constitute a noncriminal traffic infraction and the defendant's driver's license is issued by the State of Colorado or any other state which participates in the Interstate Nonresident Violator Compact, as codified at C.R.S. Section 24-60-2101. Instead, the court may enter a judgment of liability by default against the defendant for failure to appear, assess any penalty and costs established by law and report the judgment to the appropriate state motor vehicle department which may assess points against the defendant's driver's license and may take appropriate action to ensure that the judgment is satisfied. There is no right to a trial by jury for any noncriminal traffic infraction.

"(a) A violation of Section 1101(1) involving driving twenty-five (25) or more miles in excess of the reasonable and prudent speed or in excess of the lawful speed limit is a criminal traffic offense.

"(b) A violation of Section 1101(8)(a) involving driving twenty (20) miles or more in excess of the speed limit on any interstate highway where the speed limit is sixty-five (65) miles per hour is a criminal traffic offense.

"(c) Any person who violates Section 607, 705, 1105, 1401, 1402(2), 1409, 1413, 1601, 1602, 1703 or 1903 of this Code commits a criminal traffic offense.

"(d) Traffic infractions as provided in this Code shall be subject to the following penalties:

"Minimum Penalty Maximum Penalty

"Fine of \$10.00 Fine of \$1,000.00

"Court costs as authorized by state law shall be added to the fine.

"(e) Criminal traffic offenses as provided in this Code shall be subject to the following penalties, which are authorized upon conviction:

"Minimum Sentence Maximum Sentence

"1 day imprisonment 1 year imprisonment or a fine of
or a fine of \$10.00, or both \$1,000.00, or both

"Court costs as authorized by state law shall be added to the fine."

(5) Section 1709 of the Model Traffic Code is amended by the addition of new subsections (6), (7) and (8) which subsections shall read as follows:

"(6) Payment of a penalty assessment notice by the person to whom the notice is tendered shall constitute an acknowledgment of guilt by such person of his or her violation of the offense stated in such notice.

"(7) Payment of the prescribed fine shall be deemed a complete satisfaction for the violation, and the Town, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt.

"(8) Should the defendant charged by a penalty assessment notice accept the notice but fail to pay the prescribed penalty thereon within twenty (20) days thereafter, he or she shall be allowed to pay such penalty thereon and up to the maximum court costs permitted for municipal courts under state law to the Clerk of the Silverthorne Municipal Court prior to the time for appearance as specified in the notice."

(Prior code 184-2; Ord. 1995-1 §1; Ord. 1995-13 §2; Ord. 2004-01 §§5, 6)

Sec. 2-7-3. Violations and penalties.

Every person convicted of a violation of any provision stated or adopted in this Article shall be subject to such penalties as are provided in Article I of Chapter 1, unless this Article provides a specific or different penalty. (Prior code 184-3; Ord. 1995-1 §1; Ord. 1995-13 §13)

Sec. 2-7-4. Application of provisions.

This Article shall apply to every street, alley, sidewalk area, driveway, park and to every other public way or public parking area, either within or outside the corporate limits of the Town, the use of which the Town has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402 and 1413 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving and eluding a police officer, shall apply not only to public places and ways but also throughout the Town. (Prior code 184-4; Ord. 1995-13 §4)

Sec. 2-7-5. Interpretation of provisions.

This Article shall be so interpreted and construed as to effectuate its general purpose to conform to the state's uniform system for the regulation of vehicles and traffic. Article and section headings of the Article and adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof. (Prior code 184-5)

Sec. 2-7-6. Reserved.

Sec. 2-7-7. Speed limits on Interstate Highway 70.

Whereas the State has authorized the State Department of Highways to adjust the speed limit as allowed by federal law or regulation, under Section 42-4-1001(7)(b) and (7)(j), C.R.S., the Town does hereby adopt the adjusted speed limit or limits of the State Department of Highways on the Interstate Highway within its corporate limits. (Prior code 184-7.1)

Sec. 2-7-8. Parking prohibited at all times.

(a) No person shall park any motor vehicle, trailer, recreational vehicle or camper, whether or not self-powered, on any street or right-of-way within the Town at any time. Motor vehicles owned or controlled by the Town while performing maintenance, and fire, ambulance and police vehicles responding to calls or performing enforcement shall be exempt from this Section.

(b) Notwithstanding Subsection (a) above, permits may be granted by the Town Manager allowing motor vehicle parking on a specified portion or portions of a street or right-of-way, upon a finding that all of the following conditions exist:

- (1) Adequate street or right-of-way exists;
- (2) The parking will not interfere with Town use of the street or right-of-way affected; and
- (3) The parking will not create a risk to public safety.

The Town Manager may impose any condition, including time limits, upon any permit granted pursuant to this Section.

(c) Parking restrictions on Marmot Circle, Woodchuck Court, Badger Court, East Rabbit Court, East Fox Court, East Coyote Court, West Coyote Drive, Bighorn Circle and North Chipmunk Circle. Notwithstanding Subsection (a) above, any fully licensed, operative motor vehicle, designed primarily

for public highway travel, may be parked for a period not to exceed seventy-two (72) hours on the following Town streets:

Marmot Circle, as shown on the plat of Willowbrook Meadows Subdivision, Filing No. 4, recorded on June 15, 1981 at Reception No. 224765

Woodchuck Court, as shown on the plat of Willowbrook Meadows Subdivision, Filing No. 1, recorded on November 30, 1976 at Reception No. 161004

Badger Court, as shown on the recorded plat of Willowbrook Meadows Subdivision, Filing No. 1, recorded on November 30, 1976 at Amended Reception No. 161004

Bighorn Circle, as shown on the recorded plat of Willowbrook Meadows Subdivision, Filing No. 4, recorded on June 15, 1981 at Reception No. 224765

West Coyote Drive, Block J, as shown on the recorded plat of Willowbrook Meadows Subdivision, Filing No. 4, recorded on June 15, 1981 at Reception No. 224765

West Coyote Drive, Block F, as shown on the recorded plat of Willowbrook Meadows Subdivision, Filing No. 3, recorded on October 23, 1979 at Reception No. 198525

East Coyote Court, as shown on the recorded plat of Willowbrook Meadows Subdivision, Filing No. 2, recorded on January 18, 1979 at Reception No. 186904

North Chipmunk Circle, as shown on the recorded plat of Willowbrook Meadows Subdivision, Filing No. 3, recorded on October 23, 1979 at Reception No. 198525

East Rabbit Court, as shown on the recorded plat of Willowbrook Meadows Subdivision, Filing No. 2, recorded on January 18, 1979 at Reception No. 186904

East Fox Court, as shown on the recorded plat of Willowbrook Meadows Subdivision, Filing No. 2, recorded on January 18, 1979 at Reception No. 186904

In no event shall any vehicle, trailer, boat, ATV, snowmobile, equipment or personal property of any kind or description other than a fully licensed, operative motor vehicle designed primarily for public highway travel be parked or stored, for any period of time, on the foregoing listed Town streets. The Town streets upon which parking is permitted by this Subsection may be further restricted by the posting by the Town of “no parking,” “parking only between signs,” or similar signs. In no event shall the seventy-two hour limitation or any other limitation of this Subsection be altered or waived by the use of such signs. Except as provided by this Subsection, all other requirements of the Town Code shall continue to apply. (Ord. 1994-35 §1; Ord. 1995-8 §3; Ord. 2002-14 §1)

Sec. 2-7-9. Towing and storage of motor vehicles.

(a) Definitions. As used in this Section, the following terms shall have the meanings indicated:

Abandoned motor vehicles means:

a. Any motor vehicle left unattended on private property for a period of twenty-four (24) hours or longer without the consent of the owner or lessee of such property or his or her legally authorized agent.

b. Any motor vehicle left unattended on public property, including any portion of a highway right-of-way, within the Town for a period of twenty-four (24) hours or longer.

c. Any motor vehicle stored in an impound lot at the request of its owner or the owner's agent or a law enforcement agency and not removed from the impound lot according to the agreement with the owner or agent or within seventy-two (72) hours of the time the law enforcement agency notifies the owner or agent that the vehicle is available for release upon payment of any applicable charges or fees.

d. Any motor vehicle parked in violation of Section 2-7-13 which, in the opinion of the enforcing agent, constitutes a nuisance or a threat to the public safety.

Appraisal means a bona fide estimate of reasonable market value made by a motor vehicle dealer licensed in the State or by any officer of the Police Department.

Department means the Department of Revenue of the State acting directly or through its duly authorized officers and agents.

Disabled motor vehicle means any motor vehicle which is stopped or parked, either attended or unattended, upon a public right-of-way and which is, due to any mechanical failure or any inoperability because of a collision, a fire or any other such injury, temporarily inoperable under its own power.

Impound lot means a parcel of real property which is owned or leased by a government or operator at which motor vehicles are stored under appropriate protection.

Operator means a person licensed by the Public Utilities Commission as a towing carrier.

Private property means any real property which is not public property.

Private tow means any tow of an abandoned motor vehicle not requested by a law enforcement agency.

Public property means any real property having its title, ownership, use or possession held by the federal government, the State, the County, the Town or any other governmental entity of the State.

Public tow means any tow of an abandoned motor vehicle requested by a law enforcement agency.

Responsible law enforcement agency means:

a. In the case of a public tow, the law enforcement agency authorizing the original tow of an abandoned motor vehicle, whether or not the vehicle is towed to another law enforcement agency's jurisdiction.

b. In the case of a private tow, the law enforcement agency having jurisdiction over the private property where the motor vehicle becomes abandoned.

(b) Public tow; liability.

(1) No person shall abandon any motor vehicle upon public property or upon private property in violation of Section 2-7-13 and Subsection (a)(1)d of this Section. Any police officer or authorized official of the Community Development Department who finds a motor vehicle which he or she has reasonable grounds to believe has been abandoned shall require such motor vehicle to be removed or cause the same to be removed and placed in storage in any impound lot designated or maintained by the Police Department; and neither the police officer nor authorized official of the Community Development Department nor anyone acting under their direction shall be liable for any damage to such motor vehicle occasioned by such removal.

(2) Whenever any police officer finds a motor vehicle, attended or unattended, standing upon any portion of a highway right-of-way in such a manner as to constitute an obstruction to traffic or proper highway maintenance, such officer is authorized to cause the motor vehicle to be moved to eliminate any such obstruction; and neither the officer nor anyone acting under his or her direction shall be liable for any damage to such motor vehicle occasioned by such removal.

(c) Report of abandoned vehicles; stolen vehicles.

(1) Upon having an abandoned motor vehicle towed, the Police Department shall ascertain, if possible, whether or not the motor vehicle has been reported stolen, and, if so reported, such agency shall recover and secure the motor vehicle and notify its rightful owner and terminate the abandonment proceedings under this Section. The Police Department shall have the right to recover from the owner its reasonable costs to recover and secure the motor vehicle.

(2) As soon as possible, but in no event later than three (3) working days after having an abandoned motor vehicle towed, the Police Department shall report to the same to the Department by first-class or certified mail or by personal delivery, which report shall be on a form prescribed and supplied by the Department. The report shall contain the following information:

a. The fact of possession, including the date possession was taken, the location of storage of the abandoned motor vehicle and the location from which it was towed, the identity of the responsible law enforcement agency and the business address, telephone number and name and signature of a representative from the responsible law enforcement agency.

b. If applicable, the identity of the operator possessing the abandoned motor vehicle, together with his or her business address and telephone number and the carrier number assigned by the Public Utilities Commission.

c. A description of the abandoned motor vehicle, including the make, model, color and year, the number, issuing state and expiration date of the license plate and the vehicle identification number and a list of the names and addresses of any known drivers.

(d) Abandonment of motor vehicles; private tow.

(1) No person shall abandon any motor vehicle upon private property other than his or her own. Any owner or lessee, or his or her agent authorized in writing, may have an abandoned motor vehicle removed from his or her property by having it towed and impounded by an operator.

(2) Any operator having in his or her possession an abandoned motor vehicle from a private tow shall immediately notify the Police Chief if the motor vehicle is located in the Town, as to the name of the operator and the location of the impound lot where the vehicle is located and a description of the abandoned motor vehicle, including the make, model, color and year, the number, issuing state and expiration date of the license plate and the vehicle identification number. Upon such notification, the law enforcement agency shall ascertain, if possible, whether or not the vehicle has been reported stolen, and if so reported, such agency shall recover and secure the motor vehicle and notify its rightful owner and terminate the abandonment proceedings under this Section. The Police Department shall have the right to recover from the owner its reasonable costs to recover and secure the vehicle.

(3) Any operator shall, as soon as possible, but in no event later than seventy-two (72) hours after receipt of determination that such motor vehicle has not been reported stolen, report the same to the Department by first-class or certified mail or by personal delivery, which report shall be on a form prescribed and supplied by the Department. The report shall contain the following information:

a. The fact of possession, including the date possession was taken, the location of storage of the abandoned motor vehicle and the location from which it was towed, and the identity of the law enforcement agency determining that the vehicle was not reported stolen.

b. The identity of the operator possessing the abandoned motor vehicle, together with his or her business address and telephone number and the carrier number assigned by the Public Utilities Commission.

c. A description of the abandoned motor vehicle, including the make, model, color and year, the number, issuing state and expiration date of the license plate and the vehicle identification number and a list of the names and addresses of any known drivers.

(e) Any person requesting a hearing pursuant to the provisions of Section 42-4-1604, C.R.S., shall include, with such request, a filing fee of twenty-five dollars (\$25.00), which will be refunded to such person if it is determined at the hearing that the motor vehicle was illegally towed.

(f) Conduct of hearing.

(1) A hearing shall be conducted before a hearing officer designated by the Town Manager within forty-eight (48) hours of receipt of a written demand therefor from the person seeking the hearing, unless such person waives the right to a speedy hearing. Saturdays, Sundays and Town holidays are to be excluded from the calculation of the forty-eight-hour period. The hearing officer shall be someone other than the person who directed the impounding and storage of the vehicle. The sole issue before the hearing officer shall be whether there was probable cause to impound the vehicle in question. *Probable cause to impound* shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grant legal authority for the removal of the vehicle.

(2) The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vehicle. The Police Department shall carry the burden of establishing that there was probable cause to impound the vehicle in

question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The hearing officer's decision in no way affects any criminal proceeding in connection with the impound in question, and any criminal charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final. Failure of the registered or legal owner, or his or her agent, to request a hearing within the time set forth at Subsection (1) above or attend a scheduled postseizure hearing shall be deemed a waiver of the right to such hearing.

(3) Decisions of the hearing officers and their effect. The hearing officer shall only determine that as to the vehicle in issue either there was probable cause to impound the vehicle or there was no such probable cause. In the event that the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, copies of which shall be given to the possessor of the vehicle and the Police Department. Upon receipt of the possessor's copy of such certificate, the operator having custody of the vehicle shall release the vehicle to its possessor. Upon a finding of no probable cause, towing and storage fees shall be paid by the Town in accordance with arrangements made between the Town and the operator. If the possessor fails to present such certificate to the operator having custody of the vehicle within twenty-four (24) hours of its receipt, excluding such days when the operator is not open for business, the possessor shall assume liability for all subsequent storage charges. Such certificate shall advise the possessor of such requirement. (Prior code 184-10; Ord. 1995-1 §1; Ord. 1995-8 §§4, 5)

Sec. 2-7-10. Compulsory motor vehicle insurance.

(a) No owner of a motor vehicle required to be registered in the State shall operate the vehicle or permit it to be operated on a public street or highway of the Town when the owner has failed to have a complying certificate of insurance in full force and effect which covers said motor vehicle at the time of any accident, as required by the Colorado Auto Accident Reparations Act, Sections 10-4-701 to 10-4-724, C.R.S.

(b) No person shall operate a motor vehicle on a public street or highway of the Town without a complying certificate of insurance in full force and effect which covers said motor vehicle at the time of any accident, as required by the Colorado Auto Accident Reparations Act, Sections 10-4-701 to 10-4-724, C.R.S.

(c) When an accident occurs, or when requested to do so during any lawful traffic contact or during any traffic investigation by a police officer, no owner or operator of a motor vehicle shall fail to present to the requesting officer immediate evidence of a complying certificate or policy of insurance in full force and effect which covers said motor vehicle at the time of any accident, as required by Subsections (a) and (b) above.

(d) Testimony of the failure of any owner or operator of a motor vehicle to present immediate evidence of a complying certificate or policy of insurance as required by this Section shall constitute prima facie evidence that the owner or operator violated this Section.

(e) No person charged with violating this Section shall be convicted if the person produces in court a bona fide complying certificate or policy of insurance as required by Subsections (a) and (b) above which was in full force and effect at the time of the alleged violation.

(f) Any person who violates the provisions of Subsection (a), (b) or (c) above is guilty of a misdemeanor traffic offense and subject to the penalties set forth in Section 2-7-2(4)(1)(e) of this Chapter. (Ord. 1995-1 §1; Ord. 2000-10 §1)

Sec. 2-7-11. Parking, stopping or standing in fire lanes.

No person shall stop, stand or park a vehicle in a fire lane or in designated areas adjacent to any fire station except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer. (Prior code 140-28.1; Ord. 1995-1 §1)

Sec. 2-7-12. Solicitation at or near street or highway.

(a) The purpose of this Section is to prevent dangers to persons and property, to prevent delays and to avoid interference with pedestrian and motor vehicle traffic flow. Roadways that have center medians often are designed to deal with specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Sometimes persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights.

(b) It shall be unlawful for any person to solicit employment, business, contributions or sales of any kind, or collect monies for the same, from the occupant of any vehicle traveling upon any street or highway when such solicitation or collection:

(1) Causes the person performing the activity to enter onto the traveled portion of a street or highway;

(2) Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel; or

(3) The person performing the activity is located such that, or the person conducts the activity such that, vehicles cannot move into a legal parking area to safely conduct the transaction.

It shall not be a violation of this Subsection (b) for such activity to be conducted exclusively upon a public sidewalk, provided that none of the conditions described in Subsections (1), (2) or (3) are present or caused to occur.

(c) It shall be unlawful for any person to solicit or attempt to solicit employment, business or contributions of any kind from the occupant of any vehicle on any highway included in the interstate highway system, including any entrance to or exit from such highway.

(d) For purposes of this Section, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic. (Ord. 2004-07 §1)

Sec. 2-7-13. Prohibition of parking on private property.

(a) It shall be unlawful for a person to park a vehicle on any private property which has been designated and marked as provided in this Section.

(b) The owner or lessee of any private property within the Town may file a request in writing with the Community Development Department that such property be designated and marked as "NO PARKING." Upon approval of such request, the Town shall install "NO PARKING" signs on the property, and may ticket and/or tow vehicles parked thereon in the same manner as applicable to no parking areas on Town streets. If signs are stolen or damaged, the Town will replace them once only. Additional replacements shall be at the cost of the property owner; if not replaced within fourteen (14) days, the requirements of Subsection (c) of this Section shall apply.

(c) Unless the owner or lessee of property has applied for and received approval of the NO PARKING program permitted by this Section, such property shall be and remain subject to enforcement for compliance with all Town standards for private parking facilities, including those set forth in Section 4-6-25 of this Code.

(d) It is the duty of the Community Development Department and/or the Police Department and authorized officials thereof to enforce the provisions of this Section. (Prior code 184-11; Ord. 1994-21 §1; Ord. 1994-26 §1; Ord. 1995-8 §§6, 7)

Sec. 2-7-14. Driving through private property or driveways.

(a) It shall be unlawful for any person to drive from a public street or public way of the Town over, across or through any private property or driveway to avoid traffic control signals, stop signs or other traffic control devices or as a route or shortcut from one (1) public street or public way to another.

(b) As used in this Section, *private property* includes but is not limited to any property not dedicated as a public street or public way, alley, right-of-way or easement.

(c) It shall be an affirmative defense to a charge of violation of this Section that the person charged is the owner of the property or driveway through or across which the motor vehicle is driven or of leasehold or easement rights therein, or of the right to the possession or use thereof.

(d) Any person who violates any provision of this Section commits a traffic offense subject to the penalty provisions set forth in Section 2-7-2(4)(1)(d). (Ord. 2000-8 §1)

Sec. 2-7-15. Operation of motor vehicle on Town property.

(a) Unless otherwise provided, for the purposes of this Section, a *motor vehicle* includes any motorized vehicle or device capable of carrying one (1) or more persons, whether or not required to be registered or licensed by the State.

(b) It is unlawful:

(1) For any person to operate, park or leave unattended a motor vehicle, except for motorized scooters of no more than one-person capacity, within any Town-owned park, trail or open space except designated areas or as authorized by the Town. Notwithstanding any provision of this Section, the Recreation and Culture Director may further limit or prohibit any such use with respect to designated areas.

(2) For any person to park or leave unattended a motor vehicle within any Town-owned land other than ROW, unless the motor vehicle is parked in a designated parking area or that has been declared closed by the Town. Parks shall normally be open daily during the hours posted on signs located at each entrance to the park area, except for activities and events sponsored by or authorized by the Town.

(3) For any person to park or leave unattended any inoperable vehicle within any Town-owned property, other than ROW, unless the person is actively engaged in having the vehicle towed or started. *Inoperable vehicle* means a vehicle that is not capable of being promptly started and driven under its own power, does not have a current license plate or which lacks one (1) or more of the following items which are otherwise standard factory equipment on any particular vehicle model: windshield, side or rear window, door, fender, head/tail lamp, muffler, wheel or properly inflated tire.

(4) For any person to park or leave unattended a motor vehicle within any Town-owned property, for the primary purpose of displaying such vehicle for sale, campaign promotion or display of advertising in the form of a vehicular sign as defined by Section 4-9-4.

(5) For any person to park a motor vehicle within any Town-owned property, for the primary purpose of painting, repairing, stripping or salvaging any part of such vehicle.

(c) In any prosecution charging a violation of Subsection (b), proof that the particular vehicle described in the complaint was parked in violation of Subsection (b), together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where and for the time during which such violation occurred.

(d) Any vehicle parked in violation of any provision of Subsection (b), for a period of twenty-four (24) hours or more is subject to towing by the Police Department as provided for in Section 2-7-9. (Ord. 2004-2 §2)

ARTICLE VIII

Alcoholic Beverages

Sec. 2-8-1. Applicability of provisions.

In addition to any other rules or laws which may be applicable, this Article shall govern all proceedings before the Liquor Licensing Authority of the Town. Unless superseded by this Article, the provisions of Sections 12-46-101 *et seq.* and 12-47-101 *et seq.*, C.R.S., shall apply to fermented malt and alcoholic beverage licenses. (Ord. 1995-1 §1)

Sec. 2-8-2. Designation of Town Council as Liquor Licensing Authority; duties of Town Clerk.

(a) The Liquor and Fermented Malt Beverage Licensing Authority for the Town is the Town Council and shall be known as the "Liquor Licensing Authority."

(b) The Town Clerk shall assist the Liquor Licensing Authority by receiving all applications, coordinating with other Town officers and departments when relevant, scheduling public hearings required and exercising his or her discretion in forwarding renewals, change of ownership, change of officers, directors and stockholders, change of trade name, modification of premises, special event permits and change of manager matters to the Liquor Licensing Authority. (Ord. 1995-1 §1)

Sec. 2-8-3. Filing of application; fees.

(a) All applications for liquor and fermented malt beverage licenses, including new, renewal, change of location or ownership licenses, modification of premises and special event permits shall be filed with the Town Clerk. All applications shall be made under oath, on forms provided by the Town.

(b) The following shall be filed:

(1) A state license application form, which shall be filled out and completed in all material details. Incomplete application forms shall be rejected.

(2) A local license application form, if provided by the Town, which shall be filled out and completed in all material details. Incomplete application forms shall be rejected.

(3) If the applicant is a corporation, copies of the articles of incorporation, certificate of incorporation and corporate minutes showing current officers, directors and shareholders. In the case of a foreign corporation, the applicant shall also provide the name and address of the registered agent and proof of qualification to do business in the State. If the applicant is a limited liability company, copies of the articles of organization and operating agreement, and a list of managers and members. If the applicant is a partnership, a copy of the partnership agreement.

(4) A description of the kind of business and the nature of the proposed establishment.

(5) The name and address of the person managing or in charge of the establishment after the license has been issued, a copy of the management agreement, if any, and the names of other liquor or fermented malt beverage establishments managed by that person.

(6) Evidence showing that the proposed location will not violate any Town zoning laws.

(7) Evidence showing all financial interests in the proposed license including, but not limited to, copies of documents governing the contract for purchase, promissory notes, shares of stock, mortgages, leases, insurance binders, recorded and unrecorded security interests and assignments of any of the above.

(8) A survey of the adult residents of the Town inquiring whether they favor or do not favor approval of the application. The Town Clerk shall maintain survey forms for use by applicants. The completed survey must be submitted with the application, and no entry or signature on such survey shall be dated earlier than thirty (30) days prior to the date of the application.

(9) An application fee payable to the Town. Town application fees shall be set out in an administrative fee schedule available in the office of the Town Clerk. The application fee shall be collected to cover the costs of the preliminary investigation made by the Town, administrative checks, publication and posting costs and other necessary and incidental expenses.

(10) An application fee payable to the State Department of Revenue. The amount shall be as provided by the State Licensing Authority.

(11) A license fee payable to the Town. Town license fees shall be as set out in Sections 12-46-117(5) and 12-47-139(1), C.R.S.

(12) A license fee payable to the State Department of Revenue. The amount shall be as provided by Sections 12-46-109 and 12-47-123, C.R.S. (Ord. 1995-1 §1; Ord. 2006-16 §§1, 2)

Sec. 2-8-4. Application and hearing procedure.

Upon receipt of a complete application, the Town Clerk shall notify the Liquor Licensing Authority at its next meeting of the filing of the application, set a hearing date and give notice of the hearing according to the requirements of Section 12-46-117(3) or 12-47-136(1), C.R.S. This procedure shall apply to hearings concerning applications for new licenses and applications for a change of location. (Ord. 1995-1 §1)

Sec. 2-8-5. Preliminary investigation; findings.

(a) The Town Clerk shall, on behalf of the Liquor Licensing Authority, investigate the following:

(1) Whether any of the prohibitions contained in Section 12-46-106(11) or 12-47-138, C.R.S., apply to the applicant.

(2) The number and type of outlets of a nature similar to the applicant's within one (1) mile in any direction of the proposed location.

(b) The Police Chief's office shall, on behalf of the Liquor Licensing Authority, investigate the following:

(1) All pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

(2) Any financial interests, including notes, mortgages, leases, etc., in other licenses.

(3) The applicant's criminal records, if any, including all partners, principals or stockholders holding over ten percent (10%) of the outstanding and issued stock.

(4) Other matters as the Liquor Licensing Authority shall direct.

(c) A written report setting out the results of the investigations performed by the Town Clerk and the Police Chief shall be prepared and mailed by certified mail, return receipt requested by the Town Clerk to the applicant and, upon request, to other interested parties, as defined by Section 12-46-117(4)(b) or 12-47-136(5)(b), C.R.S., not less than five (5) days prior to the date of the hearing upon the application. The original report may be filed as a public record in the Town Clerk's office. (Ord. 1995-1 §1)

Sec. 2-8-6. Petitions, reports and statements prior to hearing.

(a) Petitions may be circulated by the applicant or any person opposing the issuance of the license. Each person signing a petition may sign only his or her own name and his or her address. The date when the signature is affixed to the petition shall be put on the petition by the party signing the same. No person may sign more than one (1) petition.

(b) All other petitions, remonstrances, surveys or statements in writing offered by the proponents, opponents or others interested in any application for a licensed outlet shall be filed in the office of the Town Clerk by 12:00 noon of the Wednesday preceding the day on which the hearing upon the application shall be held before the Liquor Licensing Authority. All notices of such hearings shall contain a statement that said petitions, remonstrances and statements in writing should be filed by 12:00 noon of the Wednesday preceding the hearing. (Ord. 1995-1 §1)

Sec. 2-8-7. Public hearing.

(a) On the date scheduled, a public hearing shall be held on the application. The hearing may be continued from time to time, not to exceed thirty (30) days, upon the request of any party in interest, as defined by Section 12-46-117(4)(b) or 12-47-136(5)(b), C.R.S., or upon motion of the Liquor Licensing Authority.

(b) All hearings before the Liquor Licensing Authority shall be public and shall be conducted in accordance with this Article and so as to ascertain facts affecting the substantial rights of the parties to the proceedings. The conduct of the hearing and the information to be presented shall be as set forth in Section 12-46-108, 12-47-106(2) or 12-47-137(2), C.R.S. The Liquor Licensing Authority shall consider the information contained in the report of the investigations of the Town Clerk and the Police Chief. Evidence and requirements of proof shall conform, to the extent practicable, with those in civil nonjury cases in the district courts; however evidence not admissible under such rules will be admitted if such evidence possesses probative value commonly accepted by reasonable and prudent men in the conduct of their affairs. Questions concerning the competency of witnesses to testify in behalf of or in opposition to the issuance of the license or the materiality, relevancy or competency of their testimony will be determined by the Liquor Licensing Authority as said questions arise. Objections to evidentiary offers may be made and shall be noted in the record. Incompetent and unduly repetitious evidence may be excluded. Documentary evidence may be received in the form of a copy; but, upon request, the party shall be given the opportunity to compare the copy with the original. The Liquor Licensing Authority may utilize its experience, technical competence and specialized knowledge in the evaluation of the evidence presented to it. The Liquor Licensing Authority may take administrative notice of general, technical or scientific facts within its knowledge, but only if the fact so noticed is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to controvert the fact so noticed. The Local Licensing Authority may limit the presentation of evidence tending to be repetitious, irrelevant, speculative or conjectural.

(c) Applicants or parties in interest, as defined in Section 12-46-117(4)(b) or 12-47-136(5)(b), C.R.S., may appear in person or be represented by counsel.

(d) The applicant shall introduce evidence with regard to the following:

(1) Qualifications of the applicant regarding his or her character, reputation, citizenship and other matters relating to the personal qualifications of the applicant or any other person whose

personal qualifications are relevant pursuant to state law (for new licenses and change of ownership).

(2) The neighborhood under consideration and the existing outlets located in or near the neighborhood under consideration (for new licenses and change of location).

(3) The reasonable requirements of the neighborhood and the desires of the adult inhabitants for the type of license for which application has been made (for new licenses and change of location).

(4) The sources of finances for the acquisition and outfitting of the establishment sought to be licensed (for new licenses, change of location or ownership).

(e) A party in interest, as defined in Section 12-46-117(4)(b) or 12-47-136(5)(b), C.R.S., may introduce evidence with regard to the following matters:

(1) The reasonable requirements of the neighborhood and the desires of the adult inhabitants for the type of license for which application has been made.

(2) Any pertinent matters affecting the qualifications of the applicant for the conduct and the type of business proposed.

(3) Evidence which would indicate that the building or location proposed for the operation of the license is not suited for the intended purpose.

(f) All testimony shall be sworn. The Town Clerk shall have the power to administer oaths and issue subpoenas on behalf of the Liquor Licensing Authority. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State. Upon failure of any witness to comply with such subpoena, the Town Attorney shall, at the direction of the Liquor Licensing Authority, petition the Municipal Court of the Town, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena. The court, after hearing evidence in support of or contrary to the petition, shall enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of the court. (Ord. 1995-1 §1)

Sec. 2-8-8. Decision by Liquor Licensing Authority.

(a) At the conclusion of the presentation of all the evidence, the Liquor Licensing Authority shall enter its decision or may take the application under advisement for a maximum of thirty (30) days, during which time it shall consider all the evidence.

(b) When the decision is made, the motion shall contain such findings of facts and conclusions of law as are relevant and necessary to support the decision. As appropriate for the type of license under consideration, the motion should specifically describe the neighborhood under consideration, the needs of the neighborhood for the outlet, the desires of the adult inhabitants and the qualifications of the applicant. The motion may be made orally or in writing. The Town Attorney may be requested to prepare a written motion of subsequent presentation and consideration by the Liquor Licensing Authority. Upon making of the motion and the reasons therefor, a vote shall be taken with the above,

including the ayes and nays, being entered into the minutes of the Liquor Licensing Authority. (Ord. 1995-1 §1)

Sec. 2-8-9. Issuance of licenses.

All licenses applied for shall be issued in accordance with the laws of the State and the Town and after the applicable requirements have been met for posting and publication of notice, the preliminary investigation, public hearing before the Liquor Licensing Authority and approval by the State Licensing Authority. In no event shall any approved license be issued until it is satisfactorily established that:

(1) The applicant, or any principal, partner, officer, director or stockholder holding over ten percent (10%) of the issued and outstanding stock, if any change since initial approval, meets the personal qualifications for holding a liquor license and has been approved.

(2) The applicant remains or will be entitled to possession of the premises for which the application is made under the lease or by virtue of ownership thereof and that the use of the premises at the proposed location does not violate the zoning laws or any other laws of the Town or the State.

(3) After approval of an application by the Liquor Licensing Authority and after the building in which the license is sought to be exercised has been made ready for occupancy with such furniture, fixtures and equipment as is necessary to comply with the provisions of these rules and the laws of the State, an inspection of the premises has been made to determine that the applicant has complied in every material detail with the plans and specifications submitted at the time of the filing of the application. (Ord. 1995-1 §1)

Sec. 2-8-10. License renewals.

(a) All applications for renewal of fermented malt beverage, malt, vinous and spirituous liquor licenses shall be on forms provided by the State Licensing Authority and the Liquor Licensing Authority and must be submitted in duplicate to the Town Clerk not less than forty-five (45) days prior to the license expiration date, together with the required license fees and renewal application fee.

(b) Upon receiving the renewal application, the Town Clerk shall assemble the file of the applicant, which file shall contain all of the various Town departments' records regarding the applicant or the premises dating back for a period of at least one (1) year. Unless there is evidence to the contrary, whether contained in the applicant's file or otherwise, it will be presumed that the occupied premises complies with the provisions of the statutes and applicable regulations, that the character of the applicant continues to be satisfactory and that such license, if granted, continues to meet the reasonable requirements of the neighborhood and the desires of the inhabitants. If these presumptions apply, the application for renewal shall be placed on the consent calendar.

(c) If there is evidence that the presumptions given in Subsection (b) above do not apply, the Town Clerk shall immediately notify the licensee in writing of the objections to approving the renewal application and that a public hearing will be held not less than ten (10) nor more than thirty (30) days after the date of such notice to determine if there is cause to deny the renewal application. The hearing shall be held only after notice of the hearing has been conspicuously posted on the premises for a

period of ten (10) days. The hearing shall be conducted in the same manner as provided for hearings on revocation or suspension of the type of license involved. (Ord. 1995-1 §1)

Sec. 2-8-11. Temporary license.

An applicant who has let his or her liquor license expire can obtain a temporary license pursuant to the terms of Section 12-46-106(13.5) or 12-47-106(1)(b.5), C.R.S. The temporary license shall contain the name of the licensee, the address of the licensed premises and the date of issuance. The license shall be posted in the licensed premises. (Ord. 1995-1 §1)

Sec. 2-8-12. Change of location.

(a) Before the location of a licensee is changed, the licensee shall submit an application, on forms provided by the State Licensing Authority and the Town, to the Town Clerk for such change. An application fee, as provided in Section 2-8-3 of this Article, shall accompany the application.

(b) All applications for a change in the location of a licensee shall be filed with the Town Clerk and shall be subject to Section 2-8-5 through 2-8-9 of this Article, except that the character of the applicant shall not be considered.

(c) The scheduling and notice of the hearing on a change of location shall be as provided in Section 12-46-117(3) or 12-47-136(1), C.R.S. (Ord. 1995-1 §1)

Sec. 2-8-13. Change of ownership.

(a) All applicants for the issuance of a license by reason of transfer of ownership of the business or of possession of the licensed premises shall file, with the Town Clerk, an application on forms provided by the State Licensing Authority and by the Town. The application form shall be accompanied by application fees and license fees as provided in Section 2-8-3 of this Article.

(b) The Police Chief shall conduct an investigation of the character of the applicant, including, when applicable, the principals, partners, officers, directors and shareholders holding over ten percent (10%) of the issued and outstanding stock.

(c) If the Police Chief recommends approval of the change of ownership after his or her investigation, no hearing is necessary and the Town Clerk shall recommend approval of the change as a consent calendar item on the Council's agenda.

(d) If the Police Chief does not recommend approval of the change of ownership after his or her investigation, the Liquor Licensing Authority shall hold a public hearing in accordance with Section 2-8-15 of this Article and after notice of the hearing pursuant to Section 12-46-117(3) or 12-47-136(1), C.R.S. The Liquor Licensing Authority shall consider only the character of the applicant, and the applicant shall not be required to submit information, except as it concerns his or her character, ability to conduct the business concerned according to law and source of finances.

(e) A temporary permit may be issued to an applicant pending approval by the Liquor Licensing Authority of a change in ownership pursuant to Section 12-46-106.5 or 12-47-106.5, C.R.S. (Ord. 1995-1 §1)

Sec. 2-8-14. Optional premises license.

Pursuant to Section 12-47-135.5, C.R.S., the Town adopts the following standards for issuance of an optional premises license and, upon meeting such standards by an applicant, authorizes the issuance of such license.

(1) The application for an optional premises license shall include all the requirements of Section 2-8-3 above.

(2) The application for an optional premises license shall include a legal description of the premises on which liquor is to be served.

(3) Optional premises licenses may be issued only to golf courses of at least forty (40) acres in size which charge a fee for use of the premises. (Ord. 1995-1 §1)

Sec. 2-8-15. Suspension and revocation of licenses.

(a) Proceedings for suspension or revocation of a liquor license shall be commenced (1) upon the filing of a complaint with the Liquor Licensing Authority and the Liquor Licensing Authority finding there is probable cause to believe the allegations contained in the complaint, or (2) upon the request of the Police Chief or Town Clerk. The Liquor Licensing Authority shall set a time and place for the hearing of the matter. Summary suspension shall be solely heard and decided by the Liquor Licensing Authority or a hearing officer.

(b) The Town Clerk shall give the licensee timely notice of the time, place and nature thereof, the Liquor Licensing Authority and jurisdiction under which the hearing is to be held, the violations asserted and/or the good cause generally asserted as the grounds. Such notice shall be served by certified mail to the last address furnished to the Town by the licensee, at least forty-eight (48) hours prior to the hearing.

(c) The Liquor Licensing Authority shall conduct the hearing, or a hearing officer appointed by the Liquor Licensing Authority may hold a separate hearing before himself or herself without the Liquor Licensing Authority's presence. The hearing officer may be a Council member or Municipal Judge or a special committee of the Liquor Licensing Authority to conduct such hearing.

(d) The Town Clerk or the hearing officer shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances.

(e) In all such proceedings, the Police Chief shall conduct the investigation, and the Town Attorney shall act on behalf of the Town during the hearing. The Liquor Licensing Authority may appoint a special counsel to conduct the investigation and/or act on behalf of the Town.

(f) All hearings before the Liquor Licensing Authority or the hearing officer, if any, shall be recorded stenographically or by electronic recording device.

(g) If the evidentiary hearing is before a hearing officer, a summary of the evidence shall be prepared, and the hearing officer shall make a recommendation in writing to the Liquor Licensing Authority within five (5) days after the close of the hearing. A copy of this summary and recommendation shall be transmitted to the licensee. At the next regular Council meeting following

the receipt of such summary and recommendation, the Liquor Licensing Authority shall consider same. In its discretion, the Liquor Licensing Authority may reject the hearing officer's recommendation, may refer the matter back for further proceedings, may adopt the recommendation, with or without modification or may order a new hearing, either before the original hearing body or person or before the entire Liquor Licensing Authority or a committee or member thereof.

(h) In the event of revocation, suspension or cessation of business, no portion of the license fee or occupation tax shall be refunded.

(i) Fine in lieu of suspension. Pursuant to Section 12-47-601, C.R.S., the Town Council hereby exercises the authority to provide that statute to permit the Council, sitting as the local licensing authority, to accept and act upon petitions for the payment of fines in lieu of suspension for suspension of a liquor license of fourteen (14) days or less. Such petitions shall be processed by the Council pursuant to the procedures set forth in Section 12-47-601, C.R.S. (Ord. 1995-1 §1; Ord. 1998-30 §1)

Sec. 2-8-16. Appeals; cost of transcript.

Any person seeking review of the Liquor Licensing Authority's decision on any matter shall apply to the District Court for review within thirty (30) days after the date of the decision and shall pay to the Town an administrative fee of twenty-five dollars (\$25.00) in addition to the cost of preparing a transcript of the proceedings before the Town whenever such transcript is demanded by the person seeking the review or furnished by the Town pursuant to an order of court. The cost of preparing a transcript of testimony before the Liquor Licensing Authority shall be charged at rates ordinarily charged by certified shorthand reporters. (Ord. 1995-1 §1)

Sec. 2-8-17. Duty to supply proof regarding licensed establishments.

The owner, licensee or operator of any establishment licensed by the Liquor Licensing Authority shall, upon request of the Town Clerk, furnish to the Town within thirty (30) days satisfactory evidence to demonstrate whether the establishment is operating as a hotel and restaurant license, tavern license or beer and wine outlet, as said terms are defined by state law. Such evidence shall consist of accounting records for a period of time to be specified by the Town Clerk and showing separately the gross receipts from the sales of food items and intoxicating liquors. It shall be unlawful for any owner, licensee or operator of any licensed establishment to refuse to comply with the request of the Town Clerk as herein required, and failure or refusal to do so shall be grounds for suspension or revocation of the license. (Ord. 1995-1 §1)

Sec. 2-8-18. Education requirements for licensees.

(a) Definitions. As used in this Article, the following words shall be construed to have the meanings defined below:

Licensee means a natural, legal person selling malt, vinous or spirituous beverages pursuant to and authorized by a license issued pursuant to Section 12-46-101 *et seq.*, C.R.S., (Colorado Beer Code) or Section 12-47-101 *et seq.*, C.R.S., (Colorado Liquor Code) by the Town and the State, including club licenses and special event licenses.

Manager or owner/operator means any person who manages or is the owner/operator preparing, serving, selling or otherwise providing alcoholic beverages pursuant to licenses issued

therefor, including persons who sell, serve or dispense alcoholic beverages in the capacity of volunteer.

Server means any person who is employed by a licensee to prepare, serve, sell or otherwise provide alcoholic beverages pursuant to the licensee's license, including persons who sell, serve or dispense alcoholic beverages in the capacity of volunteer.

(b) Education requirements.

(1) All managers or owners/operators registered with the State and the Liquor Licensing Authority are required to attend an educational liquor seminar approved by the Liquor Licensing Authority and received a certificate of completion within two (2) months after the date the license is approved by the Liquor Licensing Authority. A copy of the certificate of completion shall be filed with the Liquor Licensing Authority and shall be valid for a period of three (3) years.

(2) Except for volunteers serving alcoholic beverages pursuant to a special events permit, every licensee, including club licensees, shall ensure that one hundred percent (100%) of all servers currently employed or engaged by it shall have successfully completed within six (6) months of the effective date of the ordinance codified herein, and at all times thereafter, an educational liquor serving seminar approved by the Liquor Licensing Authority. When a new server is hired or begins to serve alcoholic beverages pursuant to a club license, the licensee shall have a two-month grace period to ensure that the new server has successfully completed an approved educational liquor serving seminar. The certificate received by servers who successfully complete the educational liquor serving seminar shall be valid for a period of three (3) years.

(3) At every event for which a special event liquor license is issued, the licensee shall ensure that at least one (1) server, manager or owner/operator, including volunteers, who has successfully completed an approved educational liquor serving seminar, is present at all times and is supervising the dispensing of alcoholic beverages.

(4) At the time an applicant files an application for issuance, renewal or transfer of a liquor or fermented malt beverages license, or to change the location or corporate structure of the licensed premises or entity, the applicant shall submit to the Town Clerk information to prove that the requisite percentage of servers, managers and/or owners/operators required to be certified under this Section have certificates in full force and effect as a condition of approval of the application. Required information shall include the names of all servers, the date of hire of all servers, the date each server attended training and the date of expiration of each server's certification. All licensees shall maintain a file of certificates on all managers and owners/operators employed by said licensee and shall exhibit said copies of certificates when requested to do so by the Town Clerk, the Police Chief, police employees or other appropriate officials of the Town.

(c) Course requirements.

(1) Every agency offering a course of instruction approved by the Liquor Licensing Authority shall issue a certificate to those enrollees who successfully complete the liquor educational seminar. The certificate shall be dated to show the date of completion of the training and the date of certificate expiration and shall be evidence that the person has been in actual attendance a minimum number of hours at the course and has achieved a reasonable mastery of the theories and facts presented. No agency approved by the Town Council to provide manager or owner/ operator

training shall issue a certificate unless the person has actually attended and achieved a reasonable mastery of the materials.

(2) The Liquor Licensing Authority shall establish by resolution the general criteria for courses and qualifications of instructors which shall satisfy the liquor educational requirements of this Section. These requirements shall be available in the office of the Town Clerk. Any qualified person may submit to the Liquor Licensing Authority a request that a particular seminar be deemed to meet the educational requirements. The Liquor Licensing Authority may make such determination.

(d) Costs of educational liquor seminar. All persons enrolled in an educational liquor seminar presented by the Town pursuant to this Section must pay to the Town Clerk an amount not to exceed the actual cost of the seminar to the Town.

(e) Penalties for noncompliance.

(1) Failure to comply with this Section shall be considered a violation of the conditions for the issuance of a license and a violation of this Code and may be punished accordingly.

(2) Failure to maintain continuous compliance with the educational requirements of Subsection (b) above may subject a licensee to suspension or revocation of a license as provided for in Section 12-46-107 or 12-47-110, C.R.S. (Ord. 1994-11 §1; Ord. 1995-1 §1)

Sec. 2-8-19. Mandatory reporting.

(a) All licensees and their employees shall immediately report to the Police Department all incidents involving assault or battery (as defined in Section 2-4-17 of this Code) or disturbances of the peace or use of offensive language (as defined in Section 2-4-19 of this Code) within or upon their premises.

(b) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the Town Clerk's office, which shall be in the following form:

WARNING: THE TOWN OF SILVERTHORNE POLICE MUST BE NOTIFIED OF ALL
INCIDENTS INVOLVING ASSAULT, BATTERY, DISTURBANCE OF THE PEACE OR USE OF
OFFENSIVE LANGUAGE THAT OCCUR IN THIS LICENSED ESTABLISHMENT.

(c) It shall not be a defense to a prosecution of a licensee under this Section that the licensee was not personally present on the premises at the time such incident involving assault, battery, disturbance of the peace or use of offensive language occurred; provided, however, that an agent, servant or employee of the licensee shall not be responsible hereunder when such agent, servant or employee is absent from the premises.

(d) Failure to comply with the requirements of this Section may be considered by the Liquor Licensing Authority in any action relating to revocation, suspension or nonrenewal of a license. A violation of this Section is also a criminal offense, punishable by a fine or imprisonment, or both, as provided in Section 1-1-19 of this Code. (Ord. 2006-15 §2)

ARTICLE IX

Skate Park Regulations

Sec. 2-9-1. Findings.

The Town Council finds and determines that:

(1) The Town has constructed and now operates a skate park ("Skate Park") which is located in Rainbow Park within the corporate limits of the Town and is open to residents and visitors for skateboarding and in-line skating.

(2) It is necessary and appropriate for the Town Council to adopt enforceable rules concerning the use of the Skate Park in order to attempt to provide, insofar as practicable, for the safe use of the Skate Park, to enhance the enjoyment of those using the Skate Park and to minimize the impacts of use at the Park to its neighbors.

(3) This Article is necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the order, comfort and convenience of the Town and the inhabitants thereof. (Ord. 1999-6 §1)

Sec. 2-9-2. Definitions.

Unless otherwise required by context or usage, words and terms used in this Article shall be defined as follows:

In-line skate means a shoe with a set of wheels attached in a straight line commonly used for skating over a flat surface, but not including a bicycle or tricycle.

Skate Park means the Rainbow Park facility owned and operated by the Town.

Skateboard means a short board mounted on small wheels which is used for coasting and often for performing athletic stunts.

User means any person who uses the Skate Park for skating. (Ord. 1999-6 §1)

Sec. 2-9-3. Rules and regulations.

The following rules and regulations shall govern the use of the Skate Park by any person.

(1) Use of the Skate Park shall be at the user's own risk.

(2) Each user shall wear a helmet and appropriate footwear (no bare feet; no sandals) while skating. Other protective safety equipment, such as elbow pads, gloves, knee pads and wrist supports are highly recommended but are not required.

(3) Each user shall be responsible for providing his or her own skateboard, skates and safety equipment, and for insuring that such equipment is properly maintained and is in good and safe working order.

(4) Each user shall skate under control at all times.

(5) Use of the Skate Park is limited to the posted hours of operation established from time to time by the Town. No person shall enter upon or use the Skate Park for any purpose when the Skate Park is closed.

(6) No makeshift items or modification to the existing ramps or other features of the Skate Park shall be permitted.

(7) No food or beverages shall be allowed on the skating surfaces of the Skate Park.

(8) No bicycles, tricycles, dogs, illegal drugs or alcoholic beverages shall be allowed in the Skate Park.

(9) No person shall skate in the Skate Park in such a manner as to indicate either a wanton or a willful disregard for the safety of other persons or of property. Willful and wanton conduct consists of an affirmative act purposefully committed which the person knew was dangerous to another's person or property and which was performed heedlessly, without regard to the consequences or the rights and safety of another's person or property. (Ord. 1999-6 §1)

Sec. 2-9-4. Revocation of privilege to use Skate Park.

Use of the Skate Park shall be a privilege, and the Town, acting through the Town's Recreation Director, shall have the right and authority to revoke, either temporarily or permanently, the privilege to use the Skate Park of any person who does not obey the rules and regulations contained in this Article or who violates any other municipal ordinances or regulations pertaining to the use of the Skate Park. (Ord. 1999-6 §1)

Sec. 2-9-5. Penalty.

Every person convicted of a violation of any provision of this Chapter shall be punished as provided in Section 1-1-19 of this Code; provided, however, that no imprisonment shall be imposed for any such violation. (Ord. 1999-6 §1)

ARTICLE X

Water Recreation Regulations

Sec. 2-10-1. Recreational use of Blue River.

During any period when the outflow from Dillon Reservoir exceeds eight hundred (800) cubic feet per second, it shall be unlawful for any person to use, cause to be used or knowingly allow the use on or in the Blue River within the Town of any boat, raft, canoe or any other device designed for flotation or travel on or under water, except kayaks. Any person violating this Section shall be subject to the penalties set forth in Chapter 1, Article I of this Code and, in addition, should the rescue of such person be required, such person shall be required to reimburse the Town or Fire District for the costs of such rescue. (Prior code 140-8.1; Ord. 1995-1 §1; Ord. 2004-02 §3)

Sec. 2-10-2. Fishing regulations.

(a) Definitions.

(1) Town of Silverthorne's North Pond is located at the approximate intersection of U.S. Highway #9 and Hamilton Creek Road in the Town.

(2) Town of Silverthorne's Trent Park Pond is located at the approximate intersection of U.S. Highway #9 and Willowbrook Road in the Town.

(3) Town of Silverthorne's Willow Grove Open Space Pond is located at the end of Mesa Drive cul-de-sac in the Town.

(4) *Fishing* means any effort made to take any fish, amphibian, crustacean or mollusk as defined in Section 33-1-101(16), C.R.S.

(5) *Artificial flies and lures* means any devices made entirely of, or a combination of, materials such as wood, plastic, glass, hair, metal, feathers or fiber, designed to attract fish.

(6) *Nonartificial bait* means any device with scents or smell attractants attached; food items; organic bait such as worms, grubs, crickets, leeches, minnows and fish eggs; and manufactured baits such as imitation fish eggs, dough baits and stink baits.

(7) *Snagging* means taking fish by snatching with hooks, gang hooks, artificial flies and lures or other similar devices that hook a fish in part of the body other than the mouth.

(b) It shall be unlawful and illegal for any person fifteen (15) years of age or over to fish in Trent Park Pond. A person under fifteen (15) years of age shall be entitled to only one-half (½) the bag or possession limit set by the State Wildlife Commission. The age limitations set forth herein may be waived for special events as approved by the Recreation and Culture Director and the Town Manager.

(c) It shall be unlawful and illegal for any person to fish in the North Pond Park and Willow Grove Open Space Pond by any means other than flies and artificial lures. Snagging in the North Pond and the Willow Grove Open Space Pond are also prohibited. All fish caught must be immediately returned to the water alive. (Prior code 140-8.2; Ord. 1995-1 §1; Ord. 2003-11; Ord. 2004-02 §1; Ord. 2007-11)

Sec. 2-10-3. Boating.

(a) As used in this Section, *watercraft* includes vessels capable of traveling on or under the surface of the water and carrying one (1) or more persons. *Watercraft* shall not include model boats or single-chambered air-filled nonmotorized devices for one (1) person, commonly referred to as *belly boats*.

(b) The use of any type of motorized watercraft is prohibited on any Town-owned property or body of water unless designated for such use by the Recreation and Culture Director or his or her designee.

(c) The following watercraft operations shall be prohibited. For the purposes of this Section:

(1) No person shall operate a motorized watercraft on the North Pond, except as authorized by the Recreation and Culture Director.

(2) No person shall operate a watercraft while towing any person on a surfboard, inner tube or similar device, except as authorized by the Recreation and Culture Director.

(d) The Recreation and Culture Director, his or her designee or any police agent shall be authorized to stop and board as appropriate.

(e) Notwithstanding any provision of this Section, the Recreation and Culture Director may close any Town-owned body of water to any or all use by the public. (Ord. 2004-02 §2)

ARTICLE XI

Alarm Businesses

Sec. 2-11-1. Purpose and intent.

(a) The purpose and intent of this Article is to reduce the occurrence of false alarms within the Town, thereby increasing the efficiency and effectiveness of the Police Department and other persons who respond to alarms. This will help to protect the public health, safety and welfare of the citizens and visitors to the Town.

(b) This Article is also enacted to encourage security alarm users and alarm system monitoring companies to maintain the operational reliability and proper use of security alarm systems in order to reduce unnecessary emergency service responses to false alarms.

(c) It is the intent of the Town Council that this Article be enforced particularly against those who are chronic offenders. First-time offenses should be dealt with in a way that educates the offender as to the problem caused by false alarms.

(d) This Article imposes or creates no duties on the part of the Town or its departments and employees. The obligation of complying with the requirements of this Article, and any liability for failure to do so, is placed upon the parties responsible for owning, operating, monitoring or maintaining security alarm systems. (Ord. 2005-7 §1)

Sec. 2-11-2. Authority.

This Article is adopted by the Town Council pursuant to the following authority: (i) Section 31-14-103, C.R.S., concerning the power of municipalities to make ordinances which are necessary and proper to provide for the safety and preservation of the public health; (ii) Section 31-14-401(1)(a), C.R.S., concerning the power of municipalities to pass and enforce all necessary police ordinances; (iii) Section 31-14-401(1)(c), C.R.S., concerning the power of municipalities to declare what is a nuisance, to abate the same and to impose fines upon parties who may create or continue nuisances or suffer nuisances to exist; (iv) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (v) the powers contained in the Town Charter. (Ord. 2005-7 §1)

Sec. 2-11-3. Definitions.

The following words shall have the following meanings, unless the context clearly requires otherwise:

Alarm Administrator means the Summit County Communications Center.

Alarm business means the business, by an individual, partnership, corporation or other entity, of monitoring, or subcontracting the monitoring of, an alarm system at an alarm site.

Alarm dispatch request means a notification to the Alarm Administrator by the alarm business that an alarm, either manual or automatic, has been activated at a particular alarm site and that the alarm business requests the Police Department, or applicable fire protection district, to respond to the alarm site.

Annual service contract means an agreement entered between the Alarm Administrator and an alarm business for the purpose of providing the terms and conditions related to emergency service response to alarm dispatch requests generated by the alarm business through the Alarm Administrator.

Alarm site means a single premises or location located within the corporate limits of the Town that is served by an alarm system or systems. Each tenancy, if served by a separate alarm system in a multi-tenant building or complex, shall be considered a separate *alarm site*.

Alarm system means any device designed for the detection of fire or unauthorized entry on or into any building, place or premises, or for alerting others of the commission of an unlawful act, or any combination thereof, which, when activated, causes an audible and/or visual signal or transmits a signal or message to which public safety officers are requested to respond or which would imply to a reasonable person that public safety officers are needed at the alarm source to investigate a fire, criminal activity or emergency.

False alarm means the activation of an alarm system resulting in a response by the Police Department or applicable fire protection district to the alarm site when the responding personnel find no evidence of a fire, criminal offense or attempted criminal offense after having completed a timely investigation of the alarm site. An alarm dispatch request which is cancelled by the alarm business or the alarm site owner or occupant prior to the time the responding personnel reach the alarm site may be considered a *false alarm* in the discretion of the Alarm Administrator.

Monitor means the process by which an alarm business receives signals from alarm systems and relays an alarm dispatch request to the Alarm Administrator for the purpose of summoning public safety service provider response to the alarm site. (Ord. 2005-7 §1)

Sec. 2-11-4. Administration.

The provisions of this Article shall be administered by the Alarm Administrator pursuant to an intergovernmental agreement between the Town and the County. (Ord. 2005-7 §1)

Sec. 2-11-5. Alarm regulation.

(a) No alarm business or alarm site owner shall make or cause to be made an alarm dispatch request for any alarm site located within the Town unless the subject alarm site is registered with the Alarm Administrator by an alarm business that has entered into and is in compliance with a current annual service contract with the Alarm Administrator.

(b) An alarm site owner shall pay all fees authorized under this Article or due under the terms of the annual service contract within thirty (30) days of invoice by the Alarm Administrator or the alarm business. Any payment of such fees not received by the Alarm Administrator within such thirty-day period shall be considered to not have been timely paid.

(c) To discourage false alarms, the Alarm Administrator shall adopt a process of sending a letter or delivering other written notice informing the alarm site owner or alarm business which has had a false alarm or otherwise violated any provision of this Article, of: (i) the consequences of such false alarm or other violation; (ii) the need to take corrective action; and (iii) when applicable, the prospect that three (3) burglary/intrusion false alarms in any twelve-month period may result in law enforcement disregarding subsequent intrusion/burglary alarms from that alarm site and not responding to a request for a law enforcement response unless an in-person call for assistance from someone at or near the alarm site verifies the need for an immediate law enforcement response.

(d) The Alarm Administrator shall have no duty to dispatch under any circumstances, including to answer an alarm signal. All dispatch decisions are made subject to competing priorities and available law enforcement or fire protection services. (Ord. 2005-7 §1)

Sec. 2-11-6. Annual alarm contract.

(a) The contents of the annual service contract shall include, without limitation:

(1) The term of each annual service contract and renewals thereto shall be for a period of one (1) year, commencing January 1st and terminating December 31st annually.

(2) The agreement of the alarm business to collect from alarm site owners and pay to the Alarm Administrator an annual alarm registration fee for each alarm and, when applicable, false alarm response fees for each alarm site that the alarm business monitors. The annual registration fee for alarm sites newly added during each calendar year must be submitted to the Alarm Administrator prior to commencement of alarm system monitoring, and the fee shall be prorated to the date of the alarm system installation. No refund of an alarm registration fee will be made.

(3) The agreement of the alarm business is to provide the Alarm Administrator with a list of all alarm sites, including the property address, the property owner's name and contact information for the property owner.

(4) A false alarm response service fee schedule. The false alarm response fee schedule shall allow public safety service provider response to one (1) false alarm per alarm site in any twelve-month period without charging a response service fee. The false alarm response fee schedule shall establish escalating false alarm response service fees for public safety provider response to alarm sites with two (2) or more false alarms in the preceding one-year period.

(5) A provision stating that the Police Department shall not have a contractual or other legal obligation to respond to any alarm site within the Town at which three (3) or more intrusion/burglary false alarms have occurred in any twelve-month period, or to any intrusion/burglary alarm dispatch request for an alarm site for which fees accruing under this Article have been invoiced but not timely paid, unless there is an in-person call for assistance from someone at or near the alarm site that verifies the need for an immediate law enforcement response.

(6) The agreement of the alarm business to timely pay all applicable false alarm response service fees for alarm dispatch requests generated by the alarm business.

(7) The agreement of the alarm business to make all reasonable efforts to timely collect or assist the Alarm Administrator in the collection of all applicable false alarm response service fees assessed against the alarm site owners under contract with the alarm business, and the further agreement of the alarm business to cease to provide monitoring services to alarm sites whose owners have not timely paid any validly assessed fees authorized pursuant to this Article.

(8) The agreement of the alarm business is to make at least two (2) separate attempts to call at least two (2) separate telephone numbers in an effort to contact the owner or occupant of the alarm site to verify the necessity of public safety service provider response prior to the alarm business making an alarm dispatch request. A second telephone call shall not be required if the Alarm Administrator has verified the necessity of a public safety response through the first telephone call. Names and telephone numbers of those contacted, or attempted to be contacted, must be provided by the alarm business if requested by the Alarm Administrator.

(9) The agreement of the Alarm Administrator is to forward alarm dispatch requests to the appropriate public safety service provider.

(10) The agreement of the alarm business and alarm site owner to comply with such other rules and regulations pertaining to false alarms and alarm businesses as may be adopted by the Alarm Administrator; provided that such rules and regulations are not inconsistent with the provisions of this Article.

(11) Such other terms and conditions deemed necessary and reasonable by the Alarm Administrator to implement the provisions of this Article.

(b) The failure of an alarm business to comply with the requirements of this Article may result in the cancellation of the applicable alarm business' annual service contract or the accrual of fees charged to the alarm business pursuant to the annual service contract. (Ord. 2005-7 §1)

Sec. 2-11-7. Fees.

The fees authorized by this Article shall be set and adjusted as necessary by the Alarm Administrator in amounts reasonably related to offsetting the cost to the Alarm Administrator for administering the provisions of this Article. The Alarm Administrator shall keep an annual account of all fees by type and amount that are generated hereunder. All fees authorized hereunder shall be collected and disbursed pursuant to the intergovernmental agreement between the Town and the County. In addition to other remedies authorized by this Article, the Alarm Administrator may refuse to dispatch law enforcement response to an activated intrusion/ burglary alarm at any alarm site for which fees accruing under this Article have been invoiced to the alarm site owner and not timely paid,

unless it is an in-person call for assistance from someone at or near the alarm site that verifies the need for an immediate law enforcement response. Governmental entities shall be exempt from paying any fees authorized pursuant to this Article. (Ord. 2005-7 §1)

Sec. 2-11-8. Waiver of false alarm response fee.

The Alarm Administrator may waive the fees or penalties incurred by an alarm site owner or alarm business for a false alarm and clear the violation as a warning if:

(1) A notice is issued to the alarm site owner or alarm business alleging a violation of this Article; and

(2) Within fifteen (15) days after the date of the notice, the alarm site owner or alarm business either follows the instructions provided on the notice of violation or mails a written response to the Alarm Administrator requesting a waiver and clearance as a warning.

The alarm site owner or alarm business may present evidence before the Alarm Administrator or in the written response describing: (i) the steps that the alarm site owner or alarm business has taken, or is taking, to correct the false alarm problem; (ii) the incidence of crime in the area of the alarm site; (iii) the facts and circumstances of the false alarm; and (iv) any other relevant information. (Ord. 2005-7 §1)

Sec. 2-11-9. Penalty.

It shall be a misdemeanor offense for any person to violate any provisions of this Article. Any person convicted of having violated any provision of this Article shall be punished as provided by Section 1-1-19 of this Code.

Sec. 2-11-10. No liability.

The adoption of this Article shall not create any duty on the part of the Town, or any officer, employee or agent thereof, to respond to any alarm dispatch request. No person shall have any civil liability remedy against the Town or any officer, employee or agent thereof for any claim for monetary damages or other civil relief arising out of or in any way connected to the adoption, enforcement or nonenforcement of this Article, or the failure of the Town or any officer, employee or agent thereof to respond to any alarm dispatch request. Nothing in this Article shall be interpreted or construed to create any liability on the part of the Town or any officer, employee or agent thereof, or to waive any of the immunities, limitations on liability or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101 et seq., C.R.S., or any other immunities or limitations on liability otherwise available to the Town or any officer, employee or agent thereof under applicable law. (Ord. 2005-7 §1)