



BOARD OF TRUSTEES
January 16, 2024
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Work Session Agenda

The Zoom information below is for online viewing and listening only.

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Webinar ID: 848 7116 2393

A. ITEMS

1. Discuss Irrigation Well Options for Proposed Development

- Presentation: Cody Bird, Director of Planning

2. Municipal Code Ch. 10 Cleanup

- Presentation: Dan Sapienza, Town Attorney

3. Municipal Code Ch. 6 Cleanup

- Presentation: Dan Sapienza, Town Attorney

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.

Board of Trustees Meeting

Date: January 16, 2024
Subject: Discuss Irrigation Well Options for Proposed Development

- **Presentation: Cody Bird, Director of Planning**

BACKGROUND / DISCUSSION

- Sage Farms Annexation and Village at Sage Farms Annexation is a proposed development requesting annexation to the Town. The properties included in the annexation area have two existing irrigation wells currently used for agricultural purposes. The existing wells are proposed to be used to provide the outdoor irrigation water needed for development of the property.
- Similar past development scenarios involving non-potable irrigation wells have required the developer to dedicate the wells to the Town or to a Homeowner's Association (HOA), and the HOA is responsible for maintenance and operations of the wells, pumps and distribution systems.
- The Developer is proposing to improve the pumping systems and construct irrigation distribution systems to serve the development throughout multiple phases of development.
- The scale of the development and the expected time to develop the property through multiple phases (20-25 years estimated), has led the Developer to express a desire to retain ownership of the wells/water rights and recover costs of improving, constructing and maintaining the non-potable irrigation systems, and spread the costs over a longer period of time through collection of metered usage rates.
- The Developer has proposed creation of one or more entities to own the wells/water rights (a private Special Purpose Entity is preferred, or a Title 32 Special District, such as a Metropolitan District or Water District are also options that could be considered).
- The Developer has expressed that retaining ownership of the irrigation wells and water rights is a significant consideration for the viability of the Developer advancing the development proposal.
- As part of an Annexation Agreement(s), neither the Town nor the Developer can anticipate every detail of the design, operation or maintenance of the irrigation systems or the entity(ies) to provide the irrigation. Additional details will need to be determined at each phase of development.

STAFF RECOMMENDATION

- The purpose of the work session is to discuss and provide direction to the Developer and Town staff including and related to the below topics:
 - Ownership and management responsibility of the existing non-potable water wells/rights
 - Timing of annexation and determining additional details at Phase I and subsequent phases
 - Redundant water supply option
 - Irrigation water supply to Town-owned property (required park/open space)
 - Irrigation water pricing to reduce demand for Town-treated water for irrigation purposes
 - Irrigation water pricing to ensure predictable rates for residents of the development

ATTACHMENTS



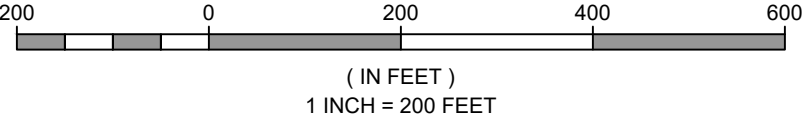
1. Sage Farms Concept Plan
2. Irrigation Well Exhibit



LAND USE DATA

Land Use Type	Area (acres)	Maximum Density (units/acre)	Maximum GLA (sq. ft.)	Percent of Total Area (%)
Single Family - A	141.8	6.0		48.7%
Single Family - B	17.8	3.0		6.1%
Single Family - C	3.7	3.0		1.3%
Multi-Family	36.0	12.0		12.4%
Commercial	58.2	16.0	585,000	20.0%
Public/Private Parks & Open Space	33.6			11.5% (of Total) 16.8% (of Residential)
On-Site Total	291.0			100.0%

NOTE: THIS MASTER PLAN IS A CONCEPTUAL ILLUSTRATION AS TO HOW THE PROPERTY COULD DEVELOP AND IS SUBJECT TO CHANGE AT THE TIME OF PLATTING

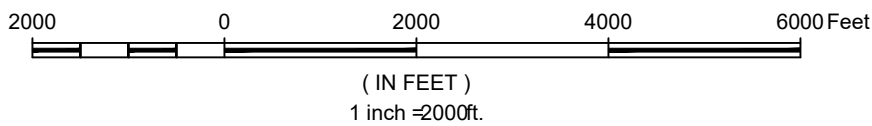
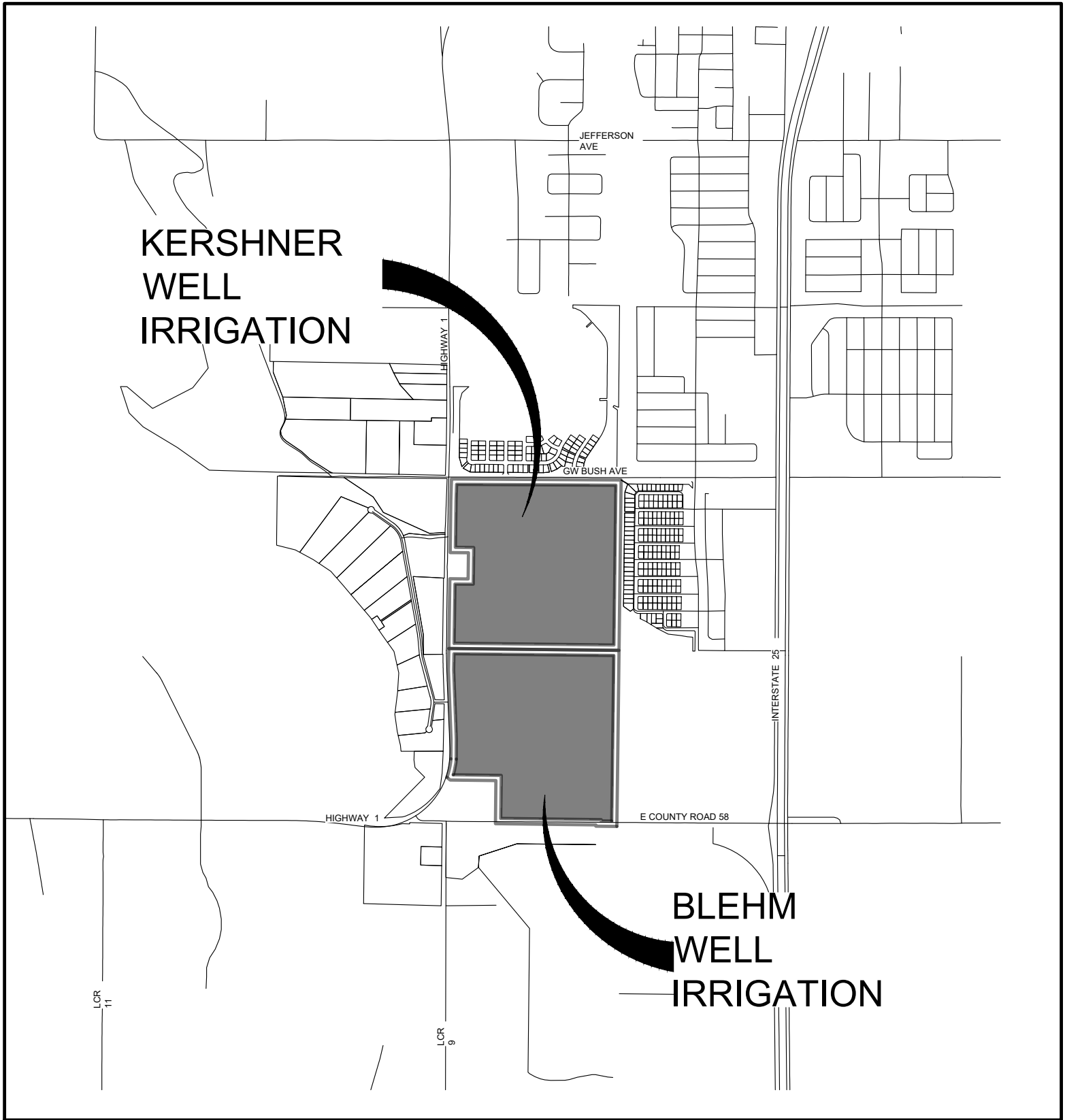


LEGEND

- MULTI-FAMILY RESIDENTIAL
- OPEN SPACE
- SINGLE FAMILY RESIDENTIAL
- COMMERCIAL

SAGE FARMS PUD
WELLINGTON, COLORADO

LOT LAYOUT EXHIBIT



SAGE FARMS ANNEXATION

WELLINGTON, CO

AREA HISTORICALLY IRRIGATED BY EACH WELL

06.26.2023



NORTHERN
ENGINEERING

D:\PROJECTS\992-008\DWG\EXHIBITS\992-008 IRRIGATION MAP.DWG

Board of Trustees Meeting

Date: January 16, 2024
Subject: Municipal Code Ch. 10 Cleanup

- **Presentation: Dan Sapienza, Town Attorney**

BACKGROUND / DISCUSSION

This is a long-term project conducted by the Town Attorney, in consultation with other agencies to review code sections of the Wellington Municipal Code. Code sections have been added and amended numerous times over the years and in some areas this has resulted in inconsistencies. The intent of the reviews has been to standardize, modernize, and remove obsolete or unnecessary provisions.

The code section here is Chapter 10, “General Offenses.” This chapter can be thought of as the criminal code of the Town, though some offenses are not, in fact, criminal. These are the violations that bring a person into municipal court. Some parts of this were copied whole cloth from state statute, some were copied from other towns. Many haven’t been used in municipal court in years, if ever.

In addition to technical fixes, this effort will also propose two significant substantive changes to the Town Code:

1. Removing jail time as a penalty for violations of the Town Code. The Municipal Court has the authority to sentence an offender to jail, in addition to fines and other penalties. A potential jail sentence brings with it large additional costs to the town, even where jail time may not be sought.
2. Enabling the Town to pursue non-payers through the employment of a collections firm. At the moment, the Town has little ability to pursue non-payers. An amendment would allow the Municipal Court to impose a collections fee and employ a firm that would collect the fine for a portion of the owed fee.

Along with some proposed changes seen in the attached redline chapter, this effort would also modify other portions of the Town Code specifically with regard to jail time as a potential penalty, not seen here:

1. Chapter 1, Article 4 covering the penalties for violations
2. Chapter 8, Article 1 covering the Model Traffic Code
3. Chapter 7, Article 4, regarding vicious animals and dangerous dogs

At this board work session, the goal is to hear a discussion of the areas where the board would want attention paid. For example, at a 2023 Board of Trustees meeting introducing this work, one topic that was raised was “constitutional carry” as related to the town’s concealed weapons offenses.

STAFF RECOMMENDATION

Discuss the information provided and provide staff direction for next steps such as preparing a draft ordinance, scheduling an ordinance for consideration by the Board of Trustees or seeking additional information.

ATTACHMENTS



1. CHAPTER 10 Red Line

CHAPTER 10-
- General Offenses

ARTICLE 1-- General Provisions

Sec. 10-1-10.-- Legislative purpose.

It is the purpose of this Code to provide for the public health, safety, and welfare of the Town. (~~Ord. 18-1994 §1-102~~)

Sec. 10-1-20.-- Local question.

It is the intention of the Board of Trustees that the ordinances and provisions of this Chapter deal with matters of "local" and "mixed" state and local concern and that no provision of this Chapter is to be construed expressly or by implication to permit conduct that is illegal under the laws of the State or to prohibit conduct that is expressly permitted by the laws of the State. The provisions of this Chapter are to be construed to apply to misdemeanors and other minor and petty offenses only and are not to be interpreted to apply to conduct that is defined as a felony under state law. (~~Ord. 18-1994 §1-103~~)

Sec. 10-1-30.-- Application.

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

- (1)-- The conduct constitutes a violation and is committed either wholly or partly within the Town;
- (2)-- The conduct outside the Town constitutes an attempt, as defined by this Chapter, to commit a violation within the Town;
- (3)-- The conduct outside the Town constitutes a conspiracy to commit a violation within the Town, and an act in furtherance of the conspiracy occurs in the Town; or
- (4)-- The conduct within the Town constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction a violation prohibited under the laws of this Town and such other jurisdiction.

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

(c)-- Town, as used in this Section and in any summons, summons and complaint, or complaint alleging a violation of this Code or any ordinance, includes both the area within the territorial limits of the Town, and also those areas over which extraterritorial police power has been granted by state statutes. It is the intent of the Board of Trustees to extend the territorial jurisdiction of the Municipal Court as widely as possible. However, where specific sections of this Code require that the violation occur "within the Town" then the offense is limited to the territorial limits of the Town. (~~Ord. 18-1994 §1-105~~)

Sec. 10-1-40.-- Violations.

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

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

(c) ~~The following sections)~~ All violations of this Code ~~are not~~ designated ~~noncriminal~~ in subsection (d) below as criminal violations are non-criminal violations. Any person charged with violating any non-criminal provision of this Code ~~so designated shall not may~~ be subject to ~~incarceration fines and costs,~~ upon conviction. ~~Further, such~~ Such person shall not be entitled to a trial by jury.

<i>Code §</i>	<i>Violation</i>
6-3-10	Failure to obtain canvassing, soliciting or peddling for residential sales of property or operation of a public auction
7-4-80	Cruelty to animals
7-4-160	Running at large
7-4-170	Prohibition on keeping wild animals
7-4-310	License Requirement
7-4-420	Vaccination
7-4-530	Wild and dangerous animals
8-2-50	Junk or abandoned vehicles
10-2-10	Criminal attempt (where the violation attempted is noncriminal)
10-2-20	Conspiracy (where the conspiracy involves a noncriminal violation)
10-2-30	Complicity (where the complicity involves a noncriminal violation)
10-2-40	Accessory to crime (where the violation is noncriminal)
10-3-70	False reporting to authorities
10-3-90	Compounding
10-4-10	Unlawful conduct on public property
10-4-20	Trespass or interference in public buildings
10-4-30	Hindering transportation
10-5-30	Desecration of venerated objects

10-5-50	Graffiti
10-5-60	Defacing posted notice
10-5-80	Littering of public and private property
10-5-90	Bottles, littering in parks
10-5-100	Use of noxious substance
10-5-130	Theft by receiving
10-5-140	Obtaining control over any stolen thing of value
10-5-150	Concealment of goods
10-5-170	Tampering and unauthorized connections
10-6-20	Disrupting lawful assembly
10-6-50	Throwing missiles at vehicles
10-6-110	Storage of flammable liquids
10-6-130	Abandoned containers and appliances
10-6-150	Unlawfully using slugs
10-6-160	Public urination
10-7-20	Encouraging delinquency
10-7-30	False statement; false credentials
10-7-40	Services of others
10-7-60	Curfew
10-8-20	License to manufacture, sell
10-8-30	Alcohol selling establishments
10-8-40	Disturbances
10-8-50	Display of cards
10-8-60	Possession and consumption of alcoholic beverages in public

10-8-110	Open containers; permits
10-8-120	Possession of drug paraphernalia
10-8-130	Possession of marijuana
10-8-140	Abusing toxic vapors
10-10-10	Unreasonable noise
10-10-20	Sirens, whistles, gongs and red lights
10-10-30	Disturbance, breach of peace
10-11-10	Gambling
10-11-20	Burning
10-11-30	Motorbikes

(d) ~~—~~ The following sections of this Code are designated criminal violations. Any person charged with violating any provision of this Code so designated may be subject to ~~incarceration, in addition to~~ fines and costs, upon conviction. Further, such person may be entitled to a trial by jury upon meeting the requirements of Section 2-4-200 of this Code:

<i>Code §</i>	<i>Violation</i>
7-4-510	Vicious animals
10-2-10	Criminal attempt (where the violation attempted is criminal)
10-2-20	Conspiracy (where the conspiracy involves a criminal violation)
10-2-30	Complicity (where the complicity involves a criminal violation)
10-2-40	Accessory to crime (where the violation is criminal)
10-3-20	Impersonating a public servant
10-3-30	Obstructing government operations
10-3-40	Obstructing a peace officer or firefighter
10-3-50	Resisting arrest
10-3-60	Escape
10-3-80	Refusing to aid a peace officer
10-5-10	Criminal mischief
10-5-20	Damaging or destroying public property
10-5-40	Damaging or destroying private property

10-5-70	Criminal trespass
10-5-110	Theft
10-5-120	Theft of rental property
10-5-160	Motor vehicle theft
10-5-180	Second degree criminal tampering
10-5-190	Fourth degree arson
10-6-10	Disorderly conduct
10-6-30	Harassment
10-6-40	Loitering
10-6-60	Reckless endangerment
10-6-70	False imprisonment
10-6-80	Menacing
10-6-90	Assault
10-6-100	False alarms
10-6-120	Explosives
10-6-140	Fraud by check
10-6-170	Indecent exposure
10-7-10	Child abuse
10-8-70	Sale of malt, vinous, spirituous liquors
10-8-80	Alcohol-related violations
10-8-90	Illegal possession or consumption of alcoholic beverages by an underage person
10-9-20	Carrying concealed weapon
10-9-30	Carrying concealed weapon or possessing weapon on school grounds
10-9-40	Prohibited use of weapons
10-9-60	Selling weapons to intoxicated persons

~~(Ord. 18-1994 §1-108; Ord. 11-2007 §1)~~

~~(Ord. No. 4-2015, § 2, 3-10-15)~~

Sec. 10-1-50. ~~--~~ Statute of limitations.

No person shall be prosecuted, tried or punished for any violation under this Code or any ordinance unless the action for said violation is instituted within one (1) year of the date of the alleged violation, but

the statute of limitations within which a prosecution must be instituted shall be tolled for any period in which a prosecution is pending against the accused for the same conduct, even if the summons, the complaint or the summons and complaint that commence the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal. (~~Ord. 18-1994 §1-109~~)

Sec. 10-1-60. ~~--~~ Penalties not released by repeal.

- (a) ~~--~~ The repeal, revision, amendment, or consolidation of any section of this Code does not constitute a bar to the prosecution and punishment of an act already committed in violation of the section so repealed, unless the repealing, revising, amending, or consolidating ordinance expressly so provides.
- (b) ~~--~~ Any such section so repealed, amended, revised, or consolidated shall remain in full force and effect for the purpose of sustaining all actions, suits, proceedings, and prosecutions brought thereunder that arose before the effective date of the repeal, amendment, revision or consolidation. (~~Ord. 18-1994 §1-110~~)

Sec. 10-1-70. ~~--~~ Authority.

(a) ~~--~~ Authority to detain temporarily.

- (1) ~~--~~ A police officer may stop any person who the officer reasonably suspects is committing, has committed or is about to commit a violation of this Code or any ordinance of the Town, and may require that person to give his or her name, address and an explanation of his or her actions.
- (2) ~~--~~ When a police officer has stopped a person for questioning pursuant to this Subsection (a) and reasonably suspects that the officer's personal safety requires it, the officer may conduct a pat-down search of that person for weapons.
- (3) ~~--~~ A police officer may stop and temporarily detain a person for the purpose of issuing or serving a summons or summons and complaint.

(b) ~~--~~ Authority to charge. A peace officer may issue a summons and complaint or sign a complaint against any person for any violation of this Code or any ordinance of the Town if:

- (1) ~~--~~ The violation has been or is being committed by a person in the officer's presence; or
- (2) ~~--~~ The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it.

(c) ~~--~~ Authority to arrest and incarcerate.

(1) ~~--~~ A police officer may arrest a person for a violation of this Code or any ordinance of the Town if:

- a. ~~--~~ The violation has been or is being committed by a person in the officer's presence; or
- b. ~~--~~ The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it.

(2) ~~--~~ Whenever any police officer is authorized by this Code to arrest any person, the officer has the authority to incarcerate that person if the officer has probable cause to believe that one (1) or more of the following conditions exist:

- a. ~~--~~ The person is not likely to desist from the conduct alleged to constitute a violation after issuance of a summons;
- b. ~~--~~ The person is unlikely to appear in Municipal Court in response to a summons (~~but~~ the fact that the defendant does not reside in the Town is not alone ~~such~~ sufficient to support a claim of probable cause);

- c.— The person refuses or is unable to post the bond required by this Code;
- d.— The person refuses service of a summons;
- e.— The person refuses to sign the promise of appearance, if any, on the summons;
- f.— The person refuses to identify himself or herself by giving a complete name and address verifiable by reasonable supporting data; or
- g.— The person falsely identifies himself or herself.

(3)— A police officer shall incarcerate any person when the officer has a warrant or writ commanding that such person be arrested or has received information, which the officer reasonably believes to be reliable, that such warrant or writ exists.

(d)— Use of force. An arrest may be made on any day and at any time of the day or night. All necessary and reasonable force may be used in making an arrest. All necessary and reasonable force may be used to effect an entry upon any building or property or part thereof to make an authorized arrest.

(e)— Town Attorney as prosecutor. The Town Attorney shall act as the prosecutor and represent the Town in all Municipal Court proceedings as appropriate, with all the privileges, immunities, powers and duties of such office. (~~Ord. 18-1994 §1-206~~)

ARTICLE 2— Attempt, Conspiracy, Complicity and Accessory

Sec. 10-2-10.— Criminal attempt.

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

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

(c)— It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent. (~~Ord. 18-1994 §2-101~~)

Sec. 10-2-20.— Conspiracy.

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

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

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

(d)___ If a person conspires to commit a number of crimes, he or she is guilty of only one (1) conspiracy so long as such multiple crimes are part of a single criminal episode. (~~Ord. 18-1994 §2-201; Ord. 11-2007 §1~~)

Sec. 10-2-30.-- Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (~~Ord. 18-1994 §2-301~~)

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

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

(b)___ Render assistance means to:

(1)___ Harbor or conceal the other;

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

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

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

(5)___ Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person. (~~Ord. 18-1994 §2-401~~)

Sec. 10-2-50.-- Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the Town, whether individually or in connection with one (1) or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, coerces, requires, permits, or directs another to violate any ordinance of the Town is likewise guilty of such offense. (Ord. 11-2007 §1)

ARTICLE 3-- Government and Public Officers

Sec. 10-3-10.-- Definitions.

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

Government includes any branch, subdivision, institution or agency of the government of this Town.

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

Public servant means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses. (~~Ord. 11-2007 §1~~)

Sec. 10-3-20. Impersonating a public servant.

- (a) ~~A person commits impersonating a public servant if he or she falsely pretends to be a public servant other than a peace officer and performs any act in that pretended capacity.~~
- (b) ~~It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist. (Ord. 11-2007 §1)~~

~~Sec.~~ 10-3-30. ~~-~~ Obstructing government operations.

- ~~(a) It is unlawful to obstruct government operations.~~
- (b) ~~A person commits obstructing government operations if he or she intentionally obstructs, impairsobstruct, impair or hindershinder the performance of a governmental function by a public official, employee or servant, by using or threatening to use violence, force~~or~~, physical interference, or obstacle.~~
- (e) ~~(b) It is an affirmative defense to this section that:~~
- ~~(1) The obstruction, impairment or hindrance was of unlawful action by a public servant;~~
 - ~~(2) The obstruction, impairment or hindrance was of the making of an arrest; or~~
 - ~~(3) The obstruction, impairment or hindrance was by lawful activities in connection with a labor dispute with the government. (Ord. 11-2007 §1)~~

Sec. 10-3-40. ~~-~~ Obstructing a peace officer or firefighter.

- (a) ~~No person shall It is unlawful to~~ 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,~~(b) It is unlawful to 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 use or firefighter.~~
- (d) ~~A person commits obstructing a peace officer or firefighter when, by using or threateningthreaten to use violence, force~~or~~, physical interference, or obstacle, he or she to knowingly obstructs, impairsobstruct, impair, or hindershinder:~~
- ~~(1) 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 firefighter, acting under color of his or her official authority.~~
 - ~~(e) To assure that animals~~(2) the prevention, control, or abatement of fire by a firefighter, acting under color of his or her official authority, or
 - ~~(3) any animal used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or fireman when, by using or threatening to use violence, force, physical interference or obstacle, he or she knowingly obstructs, impairs or hinders any such animal.~~
- (f) ~~(d) It is no defense to a prosecution under this Section that the peace officer or firefighter was acting in an illegal manner, if the peace officer or firefighter was acting under color of his or her official authority as defined in Section 10-3-50(eb) of this Code.~~
- (g) ~~(e) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Ord. 18-1994 §8-102; Ord. 11-2007 §1)~~

Sec. 10-3-50. Resisting arrest.

- (a) ~~It is unlawful to resist arrest.~~
- (b) ~~A person commits resisting arrest if he or she knowingly prevents or attempts to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another by:~~
- ~~(1) Using or threatening to use physical force or violence against the peace officer or another;~~
~~or~~
 - ~~(2) Using any other means which creates a substantial risk of causing physical injury to the peace officer or another.~~
- (c) ~~It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if the peace officer was acting under color of his or her official authority, and in attempting to make the arrest, he or she was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts under color of his or her official authority when, in the regular course of assigned duties, he or she is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her.~~
- (d) ~~The term peace officer, as used in this Section, means a peace officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such peace officer to the person whose arrest is attempted. (Ord. 18-1994 §8-101; Ord. 11-2007 §1)~~

Sec. 10-3-60. Escape.

~~A person commits escape if, while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense, he or she knowingly escapes from said custody or confinement. (Ord. 18-1994 §8-201)~~

Sec. 10-3-70. -- False reporting to authorities.

~~It is unlawful for a person to falsely report to authorities. A person commits false reporting to authorities if he or she:;~~

- ~~(1) __ Knowingly causescause 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) Makes a report __ Knowingly make or knowingly causescause 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 itwith knowledge that the reported crime or incident did not occur;~~
- ~~(3) Makes a report __ Knowingly make or knowingly causescause 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 knowswith knowledge that he or she has no such information or knows that the information is not known or is false;~~
- ~~(4) __ Knowingly givesgive false information to any law enforcement officer with the purpose of implicating another; or~~
- ~~(5) Gives __ Give a false name or address to a law enforcement officer with the intent of concealingto conceal or hidinghide one's own real name, address and/or age. (Ord. 18-1994 §8-105; Ord. 11-2007 §1)~~

Sec. 10-3-80. Refusing to aid police officer.

~~A person eighteen (18) years of age or older commits refusing to aid a peace officer when, upon command by a person known to him or her to be a peace officer, he or she unreasonably refuses or fails to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense. (Ord. 18-1994 §8-103)~~

Sec. 10-3-90. -- Compounding.

~~A person commits compounding if he or she accepts or agrees~~It is unlawful to accept or agree to accept any pecuniary benefit as consideration for:

- (1)— Refraining from seeking prosecution of an offender; or
- (2)— Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime. (Ord. 18-1994 §8-104)

ARTICLE 4 - Streets and Public Places

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

(a)— ~~It is unlawful for any person to enter or, remain, or conduct oneself in any public building or on any public property or to conduct himself or herself in or on the same in violation of any order, rule, or regulation concerning any matter prescribed in this Section limiting or prohibiting the use, activities or conduct in such public building or on such public property, issued by anyan officer or agency having the power of control, management or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of such public buildings and property, specifically, orders, rules and regulations upon the following matters:~~

(b) In addition to any authority granted by any other law, an officer or agency with the power of control, management, or supervision of a public building or property may adopt such orders, rules, or regulations as are reasonably necessary for the administration, protection, and maintenance of such public buildings and property, specifically, orders, rules, and regulations including with relation to the following:

- (1)— Preservation of property, vegetation, wildlife, signs, markers, statues, buildings, grounds, other structures and any object of scientific, historical, or scenic interest;
- (2)— Restriction or limitation of the use of such public buildings or property as to time, manner, or permitted activities;
- (3)— Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance;
- (4)— Necessary sanitation, health, and safety measures adopted by any applicable governmental authority;
- (5)— Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted;
- (6)— Use of all vehicles as to place, time and manner of use; and
- (7)— Control and limitation of fires and designation of places where fires are permitted.

~~(b)-c)~~ No conviction may be obtained under this Section unless notice of such limitations or prohibitions is prominently posted at all public entrances to such building or property or such notice is actually first

given to the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this Section.

~~(e) Any person who violates this Section is guilty of unlawful conduct on public property. (Ord. 9-2000 §1; Ord. 11-2007 §1)~~

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

(a) ~~No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the Town as~~ It is unlawful to willfully deny ~~to the lawful rights of~~ any public official, public employee ~~or invitee on such premises the lawful rights of such official, employee,~~ or invitee to enter, to use the facilities of or to leave any ~~such~~ public building owned, operated, or controlled by the Town.

(b) ~~No person shall, at or in any public building,~~ It is unlawful to willfully impede any public official or employee at or in any public building in the lawful performance of duties or activities through the use of restraint, abduction, coercion ~~or,~~ intimidation, or by force and violence or threat thereof.

(c) ~~No person shall~~ It is unlawful to willfully refuse or fail to leave any ~~such~~ public building upon being requested to do so by the Town officer charged with maintaining order in such public building, if the person has committed, is committing, threatens to commit or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

(d) ~~No person shall, at~~ It is unlawful to willfully impede, disrupt or, hinder the normal proceedings of any meeting or session conducted by any judicial, legislative, or administrative body or official at or in any public building, ~~willfully impede, disrupt or hinder the normal proceedings of such meeting or session~~ by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session or by any act designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

~~(e) No person shall, by any act of intrusion~~(e) It is unlawful to intrude into the chamber or other areas designated for the use of any executive body or official at or in any public building, to willfully impede, disrupt or hinder the normal proceedings of such body or official.

(f) The term public building, as used in this Section, includes any premises being temporarily used by a public officer or employee in the discharge of his or her official duties.

~~(g) Any person who violates any of the provisions of this Section commits an unlawful act. (Ord. 11-2007 §1)~~

Sec. 10-4-30. -- Interfering with use of streets or sidewalks; hindering transportation.

(a) It is unlawful for any person, alone or in a group or assemblage of persons, ~~whose standing, remaining;~~

(1) to stand, remain or ~~congregating~~congregate on any public highway, street, alley or sidewalk in the Town ~~shall obstruct, interfere in a manner that obstructs, interferes~~ with or ~~prevent~~prevents the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person,

(2) to fail or refuse to yield to the reasonable use or passage of any other person on that public highway, street, alley or sidewalk, or

(3) to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the Town or other authorized peace officer.

(b) ~~A person commits hindering transportation if he or she~~ It is unlawful to knowingly and without lawful authority forcibly ~~stops~~stop and ~~hinders~~hinder the operation of any vehicle used in providing

transportation services of any kind to the public or to any person, association, or corporation. (~~Ord. 18-1994 §9-106; Ord. 11-2007 §1~~)

Sec. 10-4-40. ~~--~~ Damage or removal of street signs.

It is unlawful ~~for any person~~ without proper authorization to remove, deface, damage or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street. (~~Ord. 11-2007 §1~~)

ARTICLE 5- ~~--~~ Public, Private and Personal Property

Sec. 10-5-10. ~~--~~ Criminal mischief.

It is unlawful to ~~commit criminal mischief. A person commits criminal mischief if he or she~~ knowingly ~~damages~~ damage the real or personal property of one (1) or more other persons in the course of a single criminal episode where the aggregate damage to the real or personal property is less than five hundred dollars (\$500.00). (~~Ord. 18-1994 §4-301; Ord. 11-2007 §1~~)

Sec. 10-5-20. ~~--~~ Damaging or destroying public property.

~~No person shall~~ It is unlawful to damage, move, remove, destroy or injure in any manner ~~whatsoever~~ or cause to be damaged, moved, removed, destroyed or injured any grass, tree, shrub, plant, flower, railing, bridge, culvert, sign, building or any other property ~~whatsoever~~ belonging to ~~the Town~~ or under the possession and control of the Town, unless done pursuant to a written permit or contract from the Town. (~~Ord. 18-1994 §4-306~~)

Sec. 10-5-30. ~~Deseccration of venerated objects.~~

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

(b) ~~The term desecrate means defacing, damaging, polluting or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his or her action or its result. (Ord. 18-1994 §9-105)~~

~~- (Repealed)~~

Sec. 10-5-40. ~~--~~ Damaging or destroying private property.

It is unlawful ~~for any person~~ to ~~either~~ willfully, maliciously, or wantonly damage or destroy real property or improvements thereto, or moveable or personal property, belonging to any person. (~~Ord. 11-2007 §1~~)

Sec. 10-5-50. ~~--~~ Graffiti.

(a) It is unlawful ~~for any person~~ to deface or cause, aid in, or permit the ~~defacing~~ defacement of public or private property without the consent of the owner by painting, drawing, or writing, by use of paint, spray paint or ink, or any other method ~~of defacement.~~

(b) Upon conviction of this Section, the Court may order the person so convicted to personally repair any property damaged or properties similarly damaged, if possible. (~~Ord. 18-1994 §4-307~~)

Sec. 10-5-60. ~~--~~ Defacing posted notice.

It is unlawful ~~for any person~~ to knowingly mar, destroy, or remove any posted notice authorized by law. (~~Ord. 18-1994 §4-308; Ord. 11-2007 §1~~)

Sec. 10-5-70. ~~--~~ Trespassing.

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

(b) ~~Third degree criminal trespass.~~ A person commits the crime of ~~third degree criminal~~ trespass if he or she unlawfully enters or remains in or upon the premises of another. (~~Ord. 18-1994 §§4-302, 4-303; Ord. 11-2007 §1~~)

Sec. 10-5-80. ~~-~~ Littering of public and private property.

(a) ~~Any person who deposits, throws~~ It is unlawful to deposit, throw, or ~~leaves~~leave any litter on any public or private property or in any waters ~~commits littering.~~

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

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

(d) ~~___~~ It shall be an affirmative defense that:

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

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

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

(e) ~~___~~ Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom. (~~Ord. 18-1994 §4-309~~)

Sec. 10-5-90. ~~-~~ Bottles, littering in parks.

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

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

(c) ~~___~~ It is unlawful ~~for any person utilizing the facilities of any~~ to leave a park or other public area ~~in~~after use of the ~~Town to leave such area~~ or facility without first ~~completely extinguishing fires,~~ completely extinguishing fires, after placing all trash ~~in the nature of boxes, papers, cans or other containers, garbage and other refuse in the possession of such person~~created by the use in disposal receptacles, where provided. If no disposal receptacle is available, then such person shall carry away said refuse or trash in his or her possession from the area, to be disposed of in a proper and legal manner elsewhere. (~~Ord. 18-1994 §11-403; Ord. 11-2007 §1~~)

Sec. 10-5-100. ~~-~~ Use of a noxious substance.

- (a) ~~It is unlawful for any person to deposit on the land or in the building or vehicle of another, without his or her consent, any stink bomb or device, irritant or offensive-smelling substance with the intent to interfere with another's use or enjoyment of the land, building, or vehicle.~~
- (b) ~~It shall be an affirmative defense that a peace officer in the performance of his or her duties reasonably used a noxious substance. (Ord. 18-1994 §4-310; Ord. 11-2007 §1)~~

Sec. 10-5-110. ~~-- Theft.~~

- (a) ~~It is unlawful for a person to commit theft. A person commits theft when he or she knowingly obtainsobtain or exercisesexercise control over anything of another without authorization or by threat or deception when the value of the thing is less than one thousand dollars (\$1,000.00), and he or shewith the intent to:~~
- (1) ~~Intends to deprive Deprive the other person permanently of the use or benefit of the thing of value; or~~
- (2) ~~Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit; or~~
- (3) ~~Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or~~
- (4) ~~Demand(2) Demand any undue consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person. (Ord. 18-1994 §4-201; Ord. 11-2007 §1)~~
- (b) ~~(Ord. No. 8-2013, § 1, 6-25-13)~~

(c) Sec. 10-5-120. Theft of rental property.

- (d) ~~It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if he or she:~~
- (e) (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;~~
- (f) (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~~
- (g) (3) ~~The value of the property involved is less than one thousand dollars (\$1,000.00). (Ord. 11-2007 §1)~~
- (h) ~~(Ord. No. 8-2013, § 1, 6-25-13)~~

(i) Sec. 10-5-130. Theft by receiving.

- (j) ~~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 said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value~~

of such thing is less than one thousand dollars (\$1,000.00). (Ord. 18-1994 §4-204; Ord. 11-2007 §1)

(k) (Ord. No. 8-2013, § 1, 6-25-13)

(f) ~~Sec. 10-5-140. Obtaining control over any stolen thing of value.~~

(m) Every person who obtains control over any stolen thing of value, knowing the thing of value to have been stolen by another, may be tried, convicted and punished whether or not the principal is charged, tried or convicted. (Ord. 18-1994 §4-202)

(n) ~~Sec. 10-5-150. Concealment of goods.~~

~~(e)(b)~~ If any person willfully conceals unpurchased goods, wares or merchandise valued at less than one thousand dollars (\$1,000.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 11-2007 §1)

(Ord. No. 8-2013, § 1, 6-25-13)

Sec. 10-5-120. - Repealed

Sec. 10-5-140. - Repealed

Sec. 10-5-150. - Repealed

Sec. 10-5-160. - Motor vehicle theft.

It is unlawful to ~~commit motor vehicle theft. A person who~~ knowingly ~~obtains~~obtain or ~~exercises~~exercise control over the motor vehicle of another without authorization or by threat or deception ~~commits motor vehicle theft.~~ (Ord. 18-1994 §4-203; Ord. 11-2007 §1)

Sec. 10-5-170. - Tampering and unauthorized connection.

(a) ~~It is unlawful to commit tampering and unauthorized connection.;~~

~~(1) Any person who connects~~(1) Connect any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or contrivance with any main, service pipe or other medium conducting or supplying gas, water or electricity to any building without the knowledge and consent of the person supplying such gas, water or electricity ~~commits tampering and unauthorized connection.;~~ or

~~(2) Any person who in~~ In any manner ~~alters, obstructs~~alter, obstruct, or ~~interferes~~interfere with the action of any meter provided for measuring or registering the quantity of gas, water, or electricity passing through said meter without the knowledge and consent of the person owning said meter ~~commits tampering and unauthorized connection.~~

(b) ~~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. 18-1994 §4-305; Ord. 11-2007 §1)

Sec. 10-5-180. ~~Second-degree criminal~~ - Criminal tampering.

Except as provided in Subsection 10-5-170(b), ~~a person commits the crime of second degree criminal tampering if he or she tampers it is unlawful to tamper~~ 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~~make unauthorized connection with property of a utility. (~~Ord. 18-1994 §4-304~~)

Sec. 10-5-190. ~~Fourth-degree arson.~~ - Arson.

~~A person who~~

~~It is unlawful to~~ knowingly or recklessly ~~starts~~start or ~~maintains~~maintain a fire or ~~causes~~cause an explosion, on ~~his or her own any~~ property ~~or that of another~~, and by so doing ~~places any building or occupied structure~~place any property of another in danger ~~of damage~~ ~~commits fourth degree arson.~~ (~~Ord. 18-1994 §4-101~~)

ARTICLE 6 - ~~Public Peace, Order and Decency~~

Sec. 10-6-10. - ~~Disorderly conduct.~~

(a) ~~A person commits disorderly conduct if he or she~~ It is unlawful to intentionally, knowingly, or recklessly:

- (1) ~~Makes~~ Make a coarse and obviously offensive utterance, gesture or display in a public place ~~and~~[if?] the utterance, gesture or display tends to incite an immediate breach of the peace;
- (2) ~~Abuses~~ Abuse or ~~threatens~~threaten a person in a public place in an obviously offensive manner;
- (3) ~~Makes~~ Make unreasonable noise in a public place or near a private residence ~~that he or she has no right to occupy of another;~~
- (4) ~~Fights~~ Fight with another in a public place except in an amateur or professional contest of athletic skill;
- (5) ~~Not being a peace officer,~~ ~~displays~~display a deadly weapon in a public place except when engaged in lawful target practice or hunting; or
- (6) ~~Not being a peace officer,~~ ~~displays~~display a deadly weapon in a public place in a manner calculated to alarm.

(b) ~~It is an affirmative defense to prosecution under Subsection (a)(2) of this Section that the actor had significant provocation for his or her abusive or threatening conduct.~~ (~~Ord. 18-1994 §9-101; Ord. 11-2007 §1~~)

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

It is unlawful ~~to commit disrupting lawful assembly. A person commits disrupting lawful assembly~~ if, intending to prevent or disrupt any lawful meeting, procession or gathering, ~~he or she~~to significantly ~~obstructs~~obstruct or ~~interferes~~interfere with the meeting, procession or gathering by physical action, verbal utterance or any other means. (~~Ord. 18-1994 §9-102; Ord. 11-2007 §1~~)

Sec. 10-6-30. - ~~Harassment.~~

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

- (1) ~~Strikes, shoves, kicks~~ Strike, shove, kick, or otherwise ~~touches~~touch a person or ~~subject~~subject him or her to physical contact;

- (2)— ~~___~~ In a public place ~~directsdirect~~ obscene language or ~~makesmake~~ an obscene gesture to or at another person;
- (3)—~~Follows~~ Follow a person in or about a public place;
- (4)—~~Initiates~~ Initiate communication with a person, anonymously or otherwise by telephone, in a manner intended to ~~harass or~~ threaten bodily injury or property damage, or ~~makesmake~~ any comment, request, suggestion, or proposal by telephone which is obscene;
- (5)—~~Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;~~
- (6)—~~Makes~~ Make repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or
- (7)—~~6~~ Repeatedly ~~insults, tauntsinsult, taunt,~~ or ~~challengeschallenge~~ another in a manner likely to provoke a violent or disorderly response.
- (b)— ~~___~~ As used in this Section, unless the context otherwise requires, obscene means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.
- (c)— ~~___~~ Any act conducted via telephone 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. (~~Ord. 18-1994 §9-103; Ord. 11-2007 §1~~)
- Sec. 10-6-40. -- Loitering.
- (a)— ~~___~~ The word loiter means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.
- (b)— ~~A person commits a Class 1 petty offense, if he or she:~~
- (1)— ~~Reserved;~~
- (2)— ~~Loiters(b)~~ It is unlawful to:
- (1) Loiter for the purpose of unlawful gambling with cards, dice or other gambling paraphernalia;
- (3)—~~Loiters2~~ Loiter for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse;
- (4)—~~3~~ With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loitersloiter in a school building or on school grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific, legitimate reason for being there, and having been asked to leave by a school administrator or his or her representative or by a peace officer; or
- (5)—~~Loiters4~~ Loiter with one (1) or more persons for the purpose of unlawfully using or possession of a controlled substance, as defined in Section 10-8-10 of this Chapter.
- (c)— ~~___~~ It shall be an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievance, either in the course of labor disputes or otherwise. (~~Ord. 18-1994 §9-104; Ord. 11-2007 §1~~)

~~(Ord. No. 12-2018, 9-11-18)~~

Sec. 10-6-50. ~~- -~~ Throwing stones or missiles.

~~(a) It is unlawful for any person to knowingly project any missile at or against any vehicle or equipment designed for the transportation of persons or property.~~

~~(b) No person shall to~~ throw or shoot any stone or other missile at or upon any person, animal, public or private ~~property, building, structure, tree or shrub.~~ (Ord. 18-1994 §9-107; Ord. 11-2007 §1)
vehicle, or equipment.

Sec. 10-6-60. ~~- -~~ Reckless endangerment.

It is unlawful to ~~commit reckless endangerment. A person who recklessly engages~~engage in conduct which creates a substantial risk of ~~serious~~ bodily injury to another person ~~commits reckless endangerment.~~ (Ord. 18-1994 §3-102; Ord. 11-2007 §1)

Sec. 10-6-70. ~~- -~~ False imprisonment.

~~(a) It is unlawful to commit false imprisonment. Any person who knowingly confines~~confine or ~~detains~~detain another without the other's consent and without proper legal authority ~~commits false imprisonment.~~

~~(b) This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties.~~ (Ord. 18-1994 §3-103; Ord. 11-2007 §1)

Sec. 10-6-80. ~~- -~~ Menacing.

It is unlawful to ~~commit menacing. A person commits the crime of menacing if~~, by any threat or physical action, ~~he or she~~ knowingly ~~places~~place or ~~attempts~~attempt to place another person in fear of imminent ~~serious~~ bodily injury. (Ord. 18-1994 §3-101; Ord. 11-2007 §1)

Sec. 10-6-90. ~~- -~~ Assault.

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

~~(b) It is unlawful to assault, beat, strike, wound, imprison, or inflict violence on another.~~ (Ord. 18-1994 §3-104; Ord. 11-2007 §1)

Sec. 10-6-100. False alarms.

~~It is unlawful for any person to intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor.~~ (Ord. 11-2007 §1)

~~- Repealed.~~

Sec. 10-6-110. ~~- -~~ Storage of flammable liquids.

It is unlawful to store or cause to be stored or parked, except for delivery, any tank vehicle carrying flammable liquids or gases upon any streets, ways, or avenues of the Town or in any other part of the Town, except those areas zoned for such uses. (Ord. 11-2007 §1)

Sec. 10-6-120. ~~- -~~ Explosives.

It is 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. (~~Ord. 11-2007 §1~~)

Sec. 10-6-130.-- Abandoned containers and appliances.

It is unlawful ~~for any person~~ to leave or permit to remain outside of any dwelling, building, or other structure or within any unoccupied or abandoned building, structure, or dwelling ~~under his or her control~~, in a place accessible to children, any abandoned, unattended, or discarded ice box, refrigerator, washer, dryer, freezer, or other container or appliance which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device. (~~Ord. 11-2007 §1~~)

Sec. 10-6-140.-- Fraud by check.

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

Check means a written, unconditional order to pay a certain sum in money, drawn on a bank, payable on demand and signed by the drawer. Check, for the purposes of this Section only, also includes a negotiable order of withdrawal and a share draft.

Drawee means the bank upon which a check is drawn or a bank, savings and loan association, industrial bank, or credit union on which a negotiable order of withdrawal or a share draft is drawn.

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

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

Negotiable order of withdrawal and share draft means negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

Negotiable order of withdrawal account means an account in a bank, savings and loan association or industrial bank, and share draft account means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, industrial bank or credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

(b)— ~~A person commits fraud by check, which~~ It is unlawful, if he to issue or she issues or passes ~~pass~~ a check or similar sight order for the payment of money for a sum less than five hundred dollars (\$500.00) for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders outstanding at the time of issuance.

- (c) ~~Any person,~~ having acquired rights with respect to a check which is not paid because the drawer has insufficient funds, shall have standing to file a complaint under this Section, whether or not he or she is the payee, holder, or bearer of the check.
- (d) ~~Any person who opens a checking account, negotiable order of withdrawal account,~~ or share draft account using false identification or an assumed name for the purpose of issuing fraudulent checks commits fraud by check, which is unlawful.
- (e) ~~This ordinance does not relieve the prosecution from the necessity of establishing the required knowledge by evidence. However, for purposes of this Section, the issuer's knowledge of insufficient funds is presumed, except in the case of a postdated check or order, if:~~
 - (1) ~~He or she has no account upon which the check or order is drawn with the bank or other drawee at the time he or she issues the check or order; or~~
 - (2) ~~He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty days after issuance.~~
- (f) ~~If deferred prosecution is ordered, the court as a condition of supervision 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 supervision in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.~~
- (g) ~~A bank savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the issuer's account to a sheriff, deputy sheriff, undersheriff, police officer, district attorney, assistant district attorney, deputy district attorney or authorized investigator for a district attorney investigating or prosecuting a charge under this Section. (Ord. 18-1994 §5-201; Ord. 11-2007 §1)~~

Sec. 10-6-150. ~~Unlawfully using slugs. - Repealed~~

(a) ~~A person commits unlawfully using slugs if:~~

- (1) ~~With intent to defraud the vendor of property or a service sold by means of a coin machine, he or she knowingly inserts, deposits or uses a slug in such machine or causes the machine to be operated by any other unauthorized means; or~~
- (2) ~~He or she makes, possesses or disposes of a slug or slugs with intent to enable a person to use it or them fraudulently in a coin machine.~~

(b) ~~Slug means any object or article which, by virtue of its size, shape or any other quality, is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token and of thereby enabling a person to obtain without valid consideration the property or service sold through the machine. (Ord. 18-1994 §5-101)~~

Sec. 10-6-160. ~~- - Public indecency; public urination.~~

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

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

- (b) ~~No person shall~~ It is unlawful to urinate or defecate while in any park within the Town limits, or on any property zoned for residential uses without the express permission of the owner, or within any portion of the Town zoned for business, industrial or public uses, unless such voiding is made into a receptacle that has been provided for that purpose that stores or disposes of the wastes in a sanitary manner and that is enclosed from the view of the general public. ~~(Ord. 18-1994 §9-109; Ord. 11-2007 §1)~~

Sec. 10-6-170. ~~--~~ Indecent exposure.

It is unlawful ~~to commit indecent exposure. A~~ for any person ~~commits indecent exposure if he or she~~ to knowingly ~~exposes~~ 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. 18-1994 §7-101; Ord. 11-2007 §1)~~

Sec. 10-6-180. ~~--~~ Fireworks, explosives and firearms.

- (a) The maintenance, sale, purchase, transfer, gift, detonation or use of any form of fireworks is prohibited in the Town, except those "permissible fireworks" enumerated in 24-33.5-2001(11), C.R.S. when the party possessing or igniting such is over the age of sixteen (16) years or is under supervision of a person over the age of sixteen (16) years. This subsection shall not be held to prohibit exhibitions of fireworks given under the authority of the Town.
- (b) The firing of any cannon, gun or BB gun or firearm of any description, or the exploding of any fire cracker, roman candle, rocket or other thing containing powder or other combustible material, except those "permissible fireworks" enumerated in 24-33.5-2001(11), C.R.S., is hereby prohibited within the Town, except by law enforcement or authorized Town employees and further except that permission may be granted by the Town Administrator for the shooting of BB or air guns for the removal and elimination of doves, sparrows, pigeons or other birds or animals that may become nuisances, but the killing of which is not contrary to Federal or State laws which permit shall be limited as to person, time and place by the Town Administrator.
- (c) Except when occurring in events approved by the Town Administrator/Clerk or Town Board with appropriate supervision, the shooting of bows and arrows and sling shots is hereby prohibited within the Town.
- (d) The term "Fireworks" shall include any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of articles pyrotechnic, permissible fireworks, or display fireworks as defined by Colorado Law, including at 24-33.5-2001, C.R.S.

~~(Ord. No. 11-2008 , 7-22-08; Ord. No. 7-2011 , 6-14-11; Ord. No. 13-2016 , 6-14-16; Ord. No. 13-2022 , § 1, 5-24-22)~~

ARTICLE 7- ~~--~~ Minors

Sec. 10-7-10. ~~--~~ Child abuse.

- (a) ~~A person commits child abuse if he or she causes~~ It is unlawful to cause an injury to a child's life or health or ~~permits~~ permit a child to be unreasonably placed in a situation which poses a threat of injury to the child's life or health.
- (b) In this Section, child means a person under the age of sixteen (16) years.
- (c) The statutory privilege between patient and physician and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this Section.

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

(e)—__ Deferred prosecution is authorized for a first offense under this Section. (~~Ord. 18-1994 §11-201; Ord. 11-2007 §1~~)

Sec. 10-7-20.-- Encouraging delinquency.

It is unlawful ~~for any person, by any act or neglect,~~ to encourage, aid, or cause a child to ~~come within~~ violate the ~~purview of the juvenile authorities municipal code or state law,~~ 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. 11-2007 §1~~)

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

It is unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present, or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (~~Ord. 11-2007 §1~~)

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

It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase. (~~Ord. 11-2007 §1~~)

Sec. 10-7-50.-- Loitering and other acts around schools.

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

- (1)—__ Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school;
- (2)—__ Annoy, disturb, assault or molest any student or employee of any such school, college or seminary while in any such school building or on any school grounds;
- (3)—__ Conduct himself, or herself in a lewd, wanton, or lascivious manner in speech or behavior in or about any school building or school grounds; or
- (4)—__ Park or move a vehicle in the immediate vicinity of or on the grounds of any such school, college, or seminary for the purpose of annoying or molesting the students or employees thereof or in an effort to induce, entice, or invite students into such vehicles for immoral purposes. (~~Ord. 11-2007 §1~~)

Sec. 10-7-60.-- Curfew.

(a)—__ It is unlawful for any parent, guardian or other person having care or custody of any child under the age of eighteen (18) years to allow or permit any such child to loiter or remain upon any street, alley or other public place, on foot or in or upon a vehicle, subsequent to the hour of 10:00 p.m. on Sunday through Thursday, and 11:00 p.m. Friday and Saturday, or prior to 6:00 a.m. Sunday through

Saturday, except for lawful employment, school, church or other organized activity, or unless such child is accompanied by the parent, guardian or other person of the age of twenty-one (21) years having permission of the parent or guardian to have the custody or care of such child.

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

(c) ~~Any person found guilty of violating this Section shall be fined not less than ten dollars (\$10.00) but not more than one hundred dollars (\$100.00) for each violation. (Ord. 18-1994 §11-301; Ord. 11-2007 §1)~~

Sec. 10-7-70. ~~Prohibition of sale to or possession of tobacco products by minors.~~

(a) ~~No person shall, within the Town~~ (a) It is unlawful to give, sell, distribute or offer for sale to any person who is under eighteen years of age any ~~cigarettes or cigarette~~, tobacco ~~products~~product, or nicotine product.

(b) ~~No~~ It is unlawful for any person under eighteen years of age ~~shall, within the Town, to~~ possess any ~~cigarettes or cigarette~~, tobacco ~~products~~product, or nicotine product.

(c) ~~As used in this section, unless the context otherwise requires:~~

~~(1) "Cigarette" shall have the same meaning as set forth in § 39-28-202(4), C.R.S.~~

~~(2) "Possession" means that a person:~~

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

b. ~~Owens or has custody of cigarettes or, tobacco products~~ , or nicotine products; or

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

~~(3) "Tobacco"~~ (2) "Cigarette, tobacco product, or nicotine product" shall have the same meaning as set forth in § 18-13-121(5), C.R.S.

~~(d) Violations. Section as effective 10-1-40 of the Town Code is amended to provide that a violation of the forgoing section 10-7-50 shall be a noncriminal violation. /2019~~

~~(Ord. No. 15-2008, 10-28-08)~~

Editor's note(s) ~~Ord. No. 15-2008, adopted October 28, 2008, set out provisions intended for use as § 10-7-50. For purposes of clarity, and at the editor's discretion, these provisions have been included as § 10-7-70.~~

ARTICLE 8- ~~Alcoholic Beverages and Drugs~~

Sec. 10-8-10. ~~Definitions.~~

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

Alcoholic beverages or alcoholic liquors means malt, vinous or spirituous liquors.

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

Drug paraphernalia means 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, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of state law. ~~Drug paraphernalia includes, but is not limited to:~~

- ~~a. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of state law;~~
- ~~b. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;~~
- ~~c. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;~~
- ~~d. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;~~
- ~~e. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;~~
- ~~f. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; or~~
- ~~g. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - ~~1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;~~
 - ~~2. Water pipes;~~
 - ~~3. Carburetion tubes and devices;~~
 - ~~4. Smoking and carburetion masks;~~
 - ~~5. Roach clips, meaning objects used to hold burning material such as a marijuana cigarette that has become too small or too short to be held in the hand;~~
 - ~~6. Miniature cocaine spoons and cocaine veils;~~
 - ~~7. Chamber pipes;~~
 - ~~8. Carburetor pipes;~~
 - ~~9. Electric pipes;~~
 - ~~10. Air-driven pipes;~~
 - ~~11. Chillums;~~
 - ~~12. Bongs; or~~
 - ~~13. Ice pipes or chillers.~~~~

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

Ethyl alcohol means any substance which is or contains ethyl alcohol.

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

In public means:

- a. — In or upon any public highway, street, alley, walk, parking lot, building, park or other public property or place, whether in a vehicle or not;
- b. — In or upon those portions of any private property upon which the public has an express or implied license to enter or remain; or
- c. — In or upon any other private property without the express or implied permission of the owner or person in possession and control of such property or such person's agent.

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

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

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

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

- a. — Any establishment which has or is required to have a license pursuant to Articles 46, 47 or 48 of Title 12, C.R.S.;
- b. — Any establishment which sells ethyl alcohol or upon which ethyl alcohol is sold; or
- c. — Any establishment which leases, rents, or provides accommodations to members of the public generally.

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

Spirituous ~~liquors~~ liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid

or solid, patented or not, containing at least one-half of one percent (0.5%) alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except malt liquors and vinous liquors shall be construed to be spirituous liquor.

Vinous ~~liquors~~liquor means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 18-1994 §§6-101, 11-101, 11-102, 11-106, 11-107, 11-108 and 11-404; Ord. 11-2007 §1)

Sec. 10-8-20.-- License to manufacture, sell.

It is unlawful ~~for any person~~ to manufacture for sale, sell, barter, trade or offer to do so any fermented malt beverage without first having obtained a license therefor in accordance with state law. (~~Ord. 18-1994 §11-102~~)

Sec. 10-8-30.-- Conduct of alcohol-selling establishments.

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

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

- a.--- Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- b.--- The touching, caressing or fondling of the breast, buttocks, anus or genitals;
- c.--- The displaying of the pubic hair, anus, vulva, or genitals; or
- d.--- The displaying of the post-pubertal human female breast below a point immediately above the top of the areola or the displaying of the post-pubertal human female breast where the nipple only, or the nipple and areola only, are covered.

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

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

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

(d)--- *Consumption when sale unlawful*. No licensee shall permit the consumption of malt, vinous or spirituous beverages or fermented malt beverages on the licensed premises at any time when the sale of such beverages is prohibited by laws.

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

- (f)— Gambling. No licensee for the sale of spirituous, vinous or malt beverages or fermented malt beverages shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine, apparatus or other thing contrary to this Article or to the laws of the State, or which is kept or used for the purpose of gambling, either directly or indirectly. This Article shall not be construed to prohibit the use of bona fide amusement devices which do not and cannot be adjusted to pay anything of value, and which may not be used for gambling, directly or indirectly, and for the scoring, achievement, use or operation of which no prize, reward or thing of value is offered or paid by any person.
- (g)— Nudity. No licensee for retail sale by the drink of spirituous, vinous or malt beverages or fermented malt beverages shall permit any person or persons to appear in a state of nudity within or upon the premises.
- (h)— Showing depictions of prohibited acts. No licensee for retail sale by the drink of spirituous, vinous or malt beverages or fermented malt beverages shall permit the showing of film, still pictures, electronic reproductions or other visual reproductions depicting any act or live performance prohibited by this Article. (~~Ord. 18-1994 §11-108; Ord. 11-2007 §1~~)

Sec. 10-8-40.— Disturbances.

- (a)— It is unlawful for any licensee to permit any disturbance, undue noise or unlawful or disorderly act or conduct by any person or group of persons upon the premises.
- (b)— It is unlawful for any licensee, in any manner, to encourage or participate in any disturbance or unlawful act or disorderly conduct upon the premises; provided, however, that such licensee may use such lawful means as may be proper to protect his or her property or person from damage or injury.
- (c)— Any licensee shall immediately report to the police authority of the Town any unlawful or disorderly act, disorderly conduct or disturbance committed on the premises. Failure to so report shall be a violation of this Section.
- (d)— It shall not be a defense that the licensee was not personally present on the premises at the time of any violation of this Section, provided, however, that an agent, servant or employee of the licensee shall not be liable under this Section when absent from the premises while not on duty. (~~Prior code 3.04.23; Ord. 18-1994 §11-109; Ord. 11-2007 §1~~)

Sec. 10-8-50.— Display of cards.

Every licensee of a place where fermented malt beverages are sold shall display at all times in a prominent place a printed card, with a minimum height of fourteen (14) inches and a width of eleven (11) inches, with each letter to be of a minimum height of one-half (½) inch, which shall read as follows:

WARNING

WELLINGTON LAW ENFORCEMENT AUTHORITIES MUST BE NOTIFIED OF ALL
DISTURBANCES IN THIS ESTABLISHMENT.

(~~Prior code 3.04.23~~)

Sec. 10-8-60.— Possession and consumption in public.

- (a)— It is unlawful ~~for any person~~ to consume, sell or serve within the Town limits any malt, vinous or spirituous liquors in or upon any street, alley, highway, public way and/or public building, except that this provision shall not apply to any place duly licensed pursuant to this Section for the sale of such liquors.

~~(b) Except as provided in Section 10-8-120 of this Article, no person within the Town limits shall possess an opened container of or consume any malt, vinous or spirituous liquor or fermented malt beverage in public, except upon premises licensed for consumption of the liquor or beverage involved.~~

~~(e)(b) It is unlawful to carry or have any open containers of or to consume alcoholic beverages on any street, sidewalk, alley, or other public place, in any automobile or on the grounds or in the facilities of any public or private school, college, or university except where authorized by the governing authority of such institution. The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages.~~

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

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

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

~~(2) The accused was transporting the liquor or beverage from one (1) place where it could be lawfully consumed directly and without delay to another such place, and the container was at all times during the transportation capped, corked or otherwise reclosed with a firmly affixed waterproof lid. When the liquor or beverage was being transported in a motor vehicle, this defense is only available if the container was in the trunk or was not otherwise immediately accessible to the driver or any passenger. (Prior code 3.04.08; Ord. 18-1994 §11-107; Ord. 11-2007 §1)~~

Sec. 10-8-70. -- Sale of malt, vinous, spirituous liquors.

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

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

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

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

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

-
- ~~(4) Notwithstanding hotel and restaurant licensees, beer and wine licensees, tavern licensees, club licensees and arts licensees, upon the payment of an additional annual fee of two hundred dollars (\$200.00) to the local licensing authority, must have obtained a special license to sell, serve or distribute malt, vinous and spirituous liquors by the drink after the hour of 8:00 p.m. and until 12:00 midnight on any Sunday other than a Sunday which falls on a December 31, and Christmas. (Ord. 18-1994 §11-103; Ord. 11-2007 §1)~~

licensed hours.

Sec. 10-8-80.- Alcohol-related violations.

- (a) ~~___~~ It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be over the age of twenty-one (21) years for the purpose of purchasing within the Town any fermented malt beverage or malt, vinous or spirituous liquors.
- (b) ~~___~~ It is unlawful for any person under the age of twenty-one (21) years to attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation or any other means.
- (c) ~~___~~ It is unlawful for any person under the age of twenty-one (21) years to possess or consume, whether actual or constructive, fermented malt beverage or malt, vinous or spirituous liquors.
- (d) ~~___~~ It is unlawful to sell fermented malt beverage or malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years, or to permit any fermented malt beverage, malt or vinous liquors to be sold or dispensed by a person under eighteen (18) years of age, or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.
- (e) ~~___~~ It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any fermented malt beverage or malt, vinous or spirituous liquors.
- (f) ~~___~~ It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting. ~~(Ord. 18-1994 §11-104; Ord. 11-2007 §1)~~

Sec. 10-8-90.- Illegal possession or consumption by an underage person.

- (a) ~~Any~~ ~~It is unlawful for any~~ person under twenty-one (21) years of age ~~who possesses to possess or consumes consume~~ ethyl alcohol ~~anywhere in the State commits illegal possession or consumption of ethyl alcohol by an underage person.~~ Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.
- (b) ~~___~~ Illegal possession or consumption of ethyl alcohol by an underage ~~person is a Class 2 petty offense and~~ shall be punished by a fine of not more than one hundred dollars (\$100.00). The court, upon sentencing a defendant pursuant to this paragraph, may, in addition to any fine, order that the defendant perform up to twenty-four (24) hours of useful public service, subject to the conditions and restrictions of Section 18-1.3-507, C.R.S., and may further order that the defendant submit to and complete an alcohol education program or an alcohol treatment program at such defendant's own expense. The penalty assessment provisions of Section 18-1.3-503, C.R.S., shall not apply to any charge under this Section.
- (c) ~~___~~ It ~~shall be~~ is an affirmative defense ~~to the offense described in Subsection (a) above~~ that the ethyl alcohol was possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

- (1)— While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property, and the ethyl alcohol was possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption;
- (2)— When the existence of ethyl alcohol in a person's body was due solely to the ingestion of a confectionery which contained ethyl alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes, or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of ethyl alcohol by weight.
- (d)— The possession or consumption of ethyl alcohol shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the first amendment to the United States Constitution.
- (e)— Prima facie evidence of a violation of Subsection (a) above shall consist of:
- (1)— Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed ethyl alcohol ~~anywhere in this State~~; or
- (2)— Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment ~~while present anywhere in this State.~~
- (f)— During any trial for a violation of Subsection (a) above, any bottle, can or any other container with labeling indicating the contents of such bottle, can, or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of ethyl alcohol.
- (g)— A parent or legal guardian of a person under twenty-one (21) years of age or any natural person who has the permission of such parent or legal guardian, may give or permit the possession and consumption of ethyl alcohol to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (c)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Articles 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell ethyl alcohol to a person under twenty-one (21) years of age. (~~Ord. 18-1994 §11-106; Ord. 11-2007 §1~~)

Sec. 10-8-100. ~~Alcoholic beverages in certain places.~~

- (a)— ~~No person shall carry or have any open containers of alcoholic beverages on any street, sidewalk, alley or other public place, in any automobile or on the grounds or in the facilities of any public or private school, college or university except where authorized by the governing authority of such institution.~~

~~(b) No person shall drink any alcoholic beverages in or on any of the above enumerated places.~~

~~(c) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages. (Ord. 11-2007 §1) - Repealed.~~

Sec. 10-8-110. - Open containers; permits.

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

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

(c) It is unlawful for any person to possess or consume by open container any alcoholic beverage, whether such possession is actual or constructive, in any public place as defined in Section 10-8-10 of this Chapter, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by the Town; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license.

~~(Ord. 18-1994 §11-404; Ord. 11-2007 §1)~~

~~(Ord. No. 09-2020, § 1, 7-18-20, eff. 8-1-20)~~

Sec. 10-8-120. - Possession of drug paraphernalia.

(a) ~~A~~ It is unlawful for any person ~~commits possession of to possess~~ drug paraphernalia ~~if he or she possesses drug paraphernalia and, when that person~~ knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of state law.

~~(b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense.~~

~~(c)~~ (b) In determining whether an object is drug paraphernalia, the Court, in its discretion, may consider, in addition to all other relevant factors, the following:

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

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

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

(4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he or she knows or reasonably should know, could use the object to facilitate a violation of state law. ~~(Ord. 18-1994 §6-102; Ord. 11-2007 §1)~~

Sec. 10-8-130. - Possession of marijuana.

(a) Cannabis or 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, but does not include the mature stalks of such plant, fiber produced from its stalks, oil or cake or the sterilized seed of such plant, which is incapable of germination. The term cannabis concentrate means hashish, tetrahydrocannabinols or any alkaloid, salt derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols.

(b) ~~It is unlawful for any person under the age of twenty-one years to possess not more than one (1) ounce of cannabis or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).~~

(c) ~~It is unlawful to openly and publicly to display or consume not more than one (1) ounce of cannabis concentrate, and upon conviction thereof, or a plea of guilty or no contest thereto, punishment shall be as set out in Section 1-4-20 of this Code or cannabis concentrates.~~

(d) ~~The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to Article XVIII of the Colorado Constitution and applicable Colorado Law or the Dangerous Drugs Therapeutic Research Act. (Ord. 18-1994 §6-201; Ord. 11-2007 §1)~~

~~(Ord. No. 6-2010, § 1(B), 7-13-10)~~

Sec. 10-8-140. ~~--~~ Abusing toxic vapors.

(a) ~~As used in this Section, the term toxic vapors means the following substances or products containing such substances: alcohols, including methyl, isopropyl, propyl, or butyl; aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate; acetone; benzene; carbon tetrachloride; cyclohexane; Freons, including Freon 11 and Freon 12; hexane; methyl ethyl ketone; methyl isobutyl ketone; naphtha; perchlorethylene; toluene; trichloroethane or xylene.~~

~~(b) No person shall knowingly~~ (b) Except for anesthesia for medical or dental purposes, it is unlawful to:

(1) Knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system. No person shall knowingly possess, buy, or use any such substance for the purposes described in this Section. This Subsection shall not apply to the inhalation of anesthesia for medical or dental purposes.

(2) Knowingly possess, buy, or use any such substance for the purposes described in this Section.

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

(d) ~~In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (a) above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof.~~

~~(Ord. 18-1994 §6-301; Ord. 11-2007 §1)~~

ARTICLE 9 ~~--~~ Weapons

Sec. 10-9-10. ~~--~~ Definitions.

As used in this Article, unless the context otherwise requires, the following definitions shall apply:

Ballistic knife means any knife that has a blade which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.

Blackjack includes any billy, sand club, sandbag, or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

Bomb means any explosive ~~or~~, incendiary device, or Molotov cocktail as defined in Section 9-7-103, C.R.S., or any chemical device which causes or can cause an explosion, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

Deadly weapon means any of the following which in the manner it is used or intended to be used is capable of producing death or serious bodily injury:

- a. — A firearm, whether loaded or unloaded;
- b. — A knife;
- c. — A bludgeon; or
- d. — Any other weapon, device, instrument, material, or substance, whether animate or inanimate.

Firearm silencer means any instrument, attachment, weapon, or appliance for causing the firing of any gun, revolver, pistol, or other firearm to be silent or intended to lessen or muffle the noise of the firing of any such weapon.

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

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

Handgun means a pistol, revolver, or other firearm of any description, loaded, or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, does not exceed twelve (12) inches.

Knife means any dagger, dirk, knife, or stiletto with a blade over three and one-half (3½) inches in length, or any other dangerous instrument capable of inflicting cutting, stabbing, or tearing wounds; but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

Machine gun means any firearm, whatever its size and usual designation, that ~~shoots~~ automatically ~~shoots~~ more than one (1) shot, without manual reloading, by a single function of the trigger.

Nunchaku means an instrument consisting of two (2) sticks, clubs, bars, or rods to be used as handles, connected by a rope, cord, wire or chain which is in the design of a weapon used in connection with the practice of a system of self-defense.

Short rifle means a rifle having a barrel less than sixteen (16) inches long or an overall length of less than twenty-six (26) inches.

Short shotgun means a shotgun having a barrel or barrels less than eighteen (18) inches long or an overall length of less than twenty-six (26) inches.

Stun gun means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.

Switchblade knife means any knife the blade of which opens automatically by hand pressure applied to a button, spring, or other device in its handle.

Throwing star means a disk having sharp radiating points or any disk-shaped bladed object which is handheld and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense. (~~Ord. 11-2007 §1~~)

Sec. 10-9-20. -- Carrying concealed weapon.

(a) ~~A~~ It is unlawful for any person ~~unlawfully carries a concealed weapon if such person to~~ knowingly and unlawfully:

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

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

(b) ~~It shall be an affirmative defense that the defendant was:~~

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

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

(3) ~~A~~ A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to state law to carry the weapon by the chief of police of a town, city ~~or city and,~~ county, or the sheriff of a county;

(4) ~~A~~ A peace officer, level I or level Ia, as defined in Section 18-1-901(3)(1)(I) or (II), C.R.S., performing the lawful discharge of his or her duties;

(5) ~~A~~ A peace officer, level II, as defined in Section 18-1-901(3)(1)(III), while on duty; or

(6) ~~A~~ A United States probation officer or a United States pretrial services officer while on duty and serving in the state of Colorado under the authority of rules and regulations promulgated by the judicial conference of the United States. ~~(Ord. 18-1994 §10-101; Ord. 11-2007 §1)~~

Sec. 10-9-30. -- Carrying concealed weapon or possessing weapon on school grounds.

(a) ~~A~~ It is unlawful for any person ~~unlawfully carries a concealed weapon if he or she to~~ knowingly and unlawfully and without legal authority ~~carries, brings, carry, bring,~~ or have in his or her possession a deadly weapon as defined in Section 10-9-10 above in or on the real estate and all improvements erected thereon of any public or private elementary or secondary school or any public or private college, university, or seminary, except for the purpose of presenting an authorized public demonstration or exhibition pursuant to instruction in conjunction with an organized school or class, for the purpose of carrying out the necessary duties and functions of an employee of an educational institution which require the use of a deadly weapon or for the purpose of participation in an authorized extracurricular activity or athletic team.

(b) ~~It shall not be an offense under this Section if:~~

(1) ~~The~~ The weapon is unloaded and remains inside a motor vehicle while upon the real estate of any public or private college, university, or seminary;

(2) ~~The~~ The person is in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying;

(3) ~~The~~ The person is in a private automobile or other private means of conveyance and is carrying a weapon for lawful protection of that person's or another's person or property while traveling;

(4) ~~The~~ The person, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to state law to carry the weapon by the chief of police of a town, city or city and county or the sheriff of a county;

(5) ~~The~~ The person is a peace officer, level I or level Ia, as defined in Section 18-1-901(3)(1)(I) or (II), C.R.S.;

- (6) ~~___~~ The person is a peace officer, level II, as defined in Section 18-1-901(3)(1)(III), C.R.S., while on duty;
- (7) ~~___~~ The person is a peace officer, level IIIa, as defined in Section 18-1-901(3)(1)(IV.5), C.R.S. while on duty and under supervision; or
- (8) ~~___~~ The person has possession of the weapon for use in an educational program approved by a school, which program includes, but is not limited to, any course designed for the repair or maintenance of weapons. ~~(Ord. 18-1994 §10-102; Ord. 11-2007 §1)~~

Sec. 10-9-40. ~~__~~ Prohibited use of weapons.

(a) ~~___~~ It is unlawful for any person to:

- (1) ~~___~~ Knowingly and unlawfully aim a firearm at another person ~~__~~;
- (2) ~~___~~ Recklessly or with criminal negligence discharge a firearm or shoot a bow and arrow ~~__~~;
- (3) ~~___~~ Knowingly set a loaded gun, trap, or device designed to cause an explosion upon being tripped or approached and leave it unattended by a competent person immediately present ~~__~~;
- (4) ~~___~~ Have in his or her possession a firearm while he or she is under the influence of intoxicating liquor or of a controlled substance as defined in Section 10-8-10 of this Code. Possession of a permit issued under Section 18-12-105.1, C.R.S. is no defense to a violation of this Section ~~__~~; or
- (5) ~~___~~ Knowingly ~~aims, swings aim, swing, or throws throw~~ a throwing star or nunchaku at another person, or knowingly ~~possesses possess~~ a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, inaccessible container.

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

(c) ~~___~~ Nothing contained in this Section shall prevent the use of any such instruments by any peace officer as shall be necessary in the proper discharge of his or her duties. ~~(Ord. 18-1994 §10-103; Ord. 11-2007 §1)~~

Sec. 10-9-50. ~~Dangerous or deadly weapons; forfeiture.~~

- (a) ~~It is unlawful for any person to sell, offer to sell, display, use, possess or carry any knife or knives having the appearance of a pocket knife the blade or blades of which can be opened by a flick of a button, pressure on the handle or other mechanical contrivance. Any such knife is hereby declared to be a dangerous or deadly weapon within the meaning of Subsection 10-9-20(b) above, and is subject to forfeiture to the Town as provided in Subsection (b) below.~~
- (b) ~~Every person convicted of any violation of this Section shall forfeit to the Town such dangerous or deadly weapon so concealed or displayed.~~

~~(c) 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, such weapons as shall be necessary in the proper discharge of their duties. (Ord. 11-2007 §1)~~

~~Sec. 10-9-60. 6. - Selling weapons to intoxicated persons.~~

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

(b) ~~Such unlawful purchase, sale, loan, or furnishing shall be grounds for revocation of any license issued by the Town to such person. (Ord. 11-2007 §1)~~

ARTICLE 10- - Noise

Sec. 10-10-10. - - Unreasonable noise.

~~No person shall~~It is unlawful to make, continue, or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable. ~~(Ord. 11-2007 §1)~~

Sec. 10-10-20. - - Sirens, whistles, gongs and red lights.

It is unlawful ~~for any person~~ to carry or use upon a vehicle, other than Police ~~or~~ Fire Department ~~vehicles~~, or emergency vehicles for public use, any gong, siren, whistle or red light similar to that used on ambulances or vehicles of the Police and Fire Departments. ~~(Ord. 11-2007 §1)~~

Sec. 10-10-30. - - Disturbance; breach of peace.

It is unlawful ~~for any person~~ to make, countenance or assist in the making of undue or unnecessary noise, riot, disturbance or breach of peace on public or private property so as to disturb or cause to be disturbed the lawful peace and quiet of another person. ~~(Ord. 18-1994 §9-108)~~

ARTICLE 11- - Miscellaneous Offenses

Sec. 10-11-10. - - Gambling.

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

~~(1) Circumstances involving a person who engages in professional gambling, which entails aiding or inducing another to engage in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one (1) or more of the other participants;~~

~~(2)~~~~(1)~~ Any game, wage or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only and in which no person is participating, directly or indirectly, in professional gambling;

~~(3)~~~~(2)~~ Bona fide contests of skill, speed, strength or endurance in which the awards are made only to entrants or owners of the entries;

~~(4)~~~~(3)~~ Bona fide business transactions which are valid under the law of contracts; or

~~(5)–4)~~ Other acts or transactions ~~not now~~ or hereafter expressly authorized by law. ~~(Ord. 18-1994 §11-110; Ord. 11-2007 §1)~~

Sec. 10-11-20. ~~--~~ Burning.

~~No person shall~~ It is unlawful to kindle or maintain any bonfire or burn or permit to be burned any trash, paper, rubbish, wastepaper, wood, weeds, brush, plants or other combustible or flammable material anywhere within the Town limits or anywhere on Town property outside the Town limits, except when:

- (1) ~~—~~ The burning is in the course of an agricultural operation in the growing of crops as a gainful occupation and presents no fire hazard to other property in the vicinity and is expressly authorized by fire officials;
- (2) ~~—~~ The burning is for the noncommercial cooking of food for human beings;
- (3) ~~—~~ The burning is a smokeless flare, or a safety flare used to indicate some danger to the public; or
- (4) ~~—~~ The burning is a training fire conducted by the Fire Department or a training fire conducted by another fire department and approved in writing by the Town Administrator/Clerk. ~~(Ord. 18-1994 §11-402)~~

Sec. 10-11-30. ~~--~~ Motorbikes, motorized skateboards.

~~The operation anywhere within the Town~~ It is unlawful to operate, whether on private or public property, ~~of~~ any so-called motorbike, ~~mini-bike~~ minibike, motorized skateboard, or other such gas-~~—~~ powered motorized vehicle not designed and equipped for operation on a public street or highway, ~~is hereby declared and deemed a public nuisance, and it is unlawful for any person to cause or maintain such public nuisance.~~ The foregoing ordinance shall not be deemed to preclude operation of electrically powered vehicles including skateboards, scooters, segways, or similar battery powered means of conveyance unless use of such means of conveyance are banned by other rules or ordinances adopted by the Town. ~~(Ord. 18-1994 §11-601; Ord. 11-2007 §1)~~

~~(Ord. No. 1-2009, 4-28-09; Ord. No. 16-2016, 6-28-16)~~

Board of Trustees Meeting

Date: January 16, 2024
Subject: Municipal Code Ch. 6 Cleanup

- **Presentation: Dan Sapienza, Town Attorney**

BACKGROUND / DISCUSSION

On November 28, 2023, the Board of Trustees was presented with a proposed new Chapter 6 of the Wellington Municipal Code, changing the requirements for the issuance of business licenses by the Town. The proposed changes constituted a complete rewrite of the code, trying to focus on staff's ability to enforce, clarity for staff and the public, and efficiency in the administration of the program.

At the November 28, 2023 Board of Trustees meeting, the board asked that the provisions come back to the board for a work session discussion, highlighting a few issues that were of concern. Of note were provisions regarding the requirements related to compliance with state and federal law. The discussion focused on a desire to not have the Town clerk's office enforcing compliance with federal and state laws.

Attached hereto is the original packet materials from the November 28, 2023 meeting, along with a red-line version of the proposed ordinance, removing any reference to state and federal law. The red-line focuses on compliance with the Town Code.

STAFF RECOMMENDATION

Discuss the information provided and provide staff direction for next steps such as preparing a draft ordinance, scheduling an ordinance for consideration by the Board of Trustees or seeking additional information.

ATTACHMENTS

1. Ordinance XX-2024 - Chapter 6 amendments (revised)
2. Packet Materials - November 28, 2023

TOWN OF WELLINGTON
ORDINANCE NO. ~~12-2023~~]-2024

AN ORDINANCE AMENDING CHAPTER 6 OF THE WELLINGTON MUNICIPAL CODE REGARDING BUSINESS LICENSING.

WHEREAS, the Town of Wellington has adopted Chapter 6 of the Municipal Code of the Town of Wellington, Colorado (the “Town Code”), addressing business licensing; and

WHEREAS, the Town Board of Trustees of the Town of Wellington, Colorado (the “Board of Trustees”) has reviewed Chapter 6 and wishes to clarify the requirements and processes for the issuance and revocation of business licenses and increasing consistency of language throughout the Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, AS FOLLOWS:

1. Article 1. Article 1 of Chapter 6 of the Municipal Code is hereby repealed and replaced in its entirety as follows:

ARTICLE 1 – Reserved

2. Article 2. Article 2 of Chapter 6 of the Municipal Code is hereby repealed and replaced in its entirety as follows:

ARTICLE 2 - Business Licenses

Sec. 6-2-10. Purpose.

The purpose of this Article is the regulation and registration of businesses operating within the Town.

Sec. 6-2-20. License required.

Every person shall obtain a license from the Town before operating, conducting or carrying on any business within the Town; provided, however, that nonprofit corporations are hereby exempt from the license requirements set forth in this Article. A separate license for each location of a business is required.

Sec. 6-2-30. Application.

- (a) An application for a business license shall be filed with the Town Clerk. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license. It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license.
- (b) The application for every license shall contain:
 - (1) The name of the applicant.

-
- (2) The physical and mailing address of the applicant and the local street address where such business is to be carried on, or the address of the principal place of business if other than a local address.
 - (3) A statement as to the type of business, trade, or profession for which the license is requested.
 - (4) A statement that the applicant is aware of ~~the federal, state, and local laws, regulations, and rules~~ provisions of the the Town of Wellington Municipal Code pertaining to the conduct of the business and that such business complies with the same.
 - (5) The calendar year for which the license is requested.
 - (6) The applicant's Colorado sales tax license number, if appropriate.
 - (7) The applicant's Federal Employer I.D. number or Social Security number.
 - (8) Other such information which may be required by the Town to ensure compliance with this Code.
- (c) An application for a business that is considered a Home Occupation under Chapter 15 of this Code shall additionally contain:
- (1) A description of the intended hours of operation when clients or customers are expected to visit the business.
 - (2) A description of the total area of the residence and the total area dedicated to the business use.
 - (3) A statement that the applicant will comply with the specific requirements and restrictions applicable to Home Occupation in the Land Use Code.
- (d) Every application shall be accompanied by the fee established by resolution of the Board of Trustees.

Sec. 6-2-40. Issuance.

- (a) Upon receipt of the application and required fee, and after a determination that the application complies with the applicable provisions of this Code, the Town Clerk shall issue a business license to the applicant.
- (b) The Town Clerk shall notify the applicant, in writing, when an application is denied and, in such notice, shall state the grounds for the denial.

Sec. 6-2-50. Notice of change.

The licensee shall notify the Town Clerk of any change in location, nature, or use of any licensed business within ten (10) days of such change is given to the Town Clerk, and provided that the requirements of this Code are complied with.

Sec. 6-2-60. Carrying or posting license.

The license for a particular business location shall be posted at all times in a conspicuous place at the business. If the business is not operated, conducted, or carried on at a fixed location, then the licensee shall carry the license upon their person when operating, conducting or carrying on any such business.

Sec. 6-2-70. License nontransferable and non-assignable

No license shall be assignable or transferable.

Sec. 6-2-80. Period of license.

All licenses shall expire on December 31st of each year.

Sec. 6-2-90. Probationary Status

- (a) A business license shall be on probationary status:
 - (1) Upon the expiration of the business license if no business license renewal application has been received by the Town Clerk;
 - (2) When any money due the Town has not been paid, including without limitation the failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the Town; or
 - (3) When any activity conducted by the licensee, their employee or agent violates ~~the Town of Wellington Municipal Code~~any federal, state or local rule, regulation or law in the standard course of business.
- (b) The Town Clerk shall promptly notify a licensee of the probationary status of their business license in writing mailed to the mailing address listed on the licensee's business license application. Such notice shall specify the grounds for the probation and the process for restoration of the license to non-probationary status.
- (c) Failure of a licensee to restore a business license to non-probationary status within thirty (30) days shall result in the revocation of the license pursuant to this Article. The Town Clerk may provide an extension to the Probationary Status upon a showing of good cause.

Sec. 6-2-100. Revocation.

- (a) A business license may be revoked:
 - (1) For failure to timely restore a business license to a non-probationary status pursuant to this Article;
 - (2) When it appears that the license was obtained by fraud, misrepresentation, or false statements within the application;
 - (3) When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or statute, is a danger to the health or safety of the public, or violates ~~any federal, state or local rule, regulation or law~~the Town of Wellington Municipal Code.
- (b) A business license shall be revoked by administrative action of the Town Clerk. Upon revocation of a license, the Town Clerk shall notify a licensee of the revocation in writing mailed to the mailing address listed on the licensee's business license application. Such notice shall specify the grounds for the revocation, the process for an appeal of the revocation, and the process for restoration of the license.
- (c) A revoked business license may only be restored upon submission of a new business license application, payment of the appropriate fee, and confirmation by appropriate Town staff that the condition or activity that caused the revocation has been corrected.

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- (d) The revocation of any license shall not release or discharge anyone from the payment of taxes, penalty, and interest due and owing to the Town.

Sec. 6-2-110. Appeals.

- (a) A licensee may appeal a denial of a business license application or an administrative revocation of a business license by requesting in writing a hearing before the Town Clerk within twenty one (21) days of the denial or revocation. The Town Clerk, in hearing such an appeal, may consider evidence that the denial or revocation was in error at the time the decision was made.
- (b) A licensee may further appeal the decision of the Town Clerk within seven (7) days of the hearing and decision of the Town Clerk. Such an appeal shall be requested in writing submitted to the Town Administrator and the appeal shall be heard by the Board of Trustees. Such appeal must be in writing with reasons for the appeal so stated. At the time of hearing the appeal, the applicant may submit to the Board of Trustees any material evidence relating to the revocation, and the Board of Trustees shall consider the same, together with the report of the Town Administrator/Clerk, and make a final determination upon the application or revocation.

Sec. 6-2-120. Cease and desist.

If any business is operating without a license, the Town Clerk may issue an order to the business to cease and desist all further operation until a license is issued for the business.

Sec. 6-2-130. Penalty.

Failure to comply with the terms of this Article shall constitute a noncriminal violation of the Town of Wellington Municipal Code. Any person who is found guilty of or pleads guilty or nolo contendere to the violation of any portion of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. Each day that the violation continues shall be considered and held to be a separate and distinct offense.

Sec. 6-2-140. Liability of operator, manager.

The licensing provisions hereof shall apply to the owner of any business; provided, however, that where the owner is a firm or corporation, or where the owner is a nonresident or cannot be found, the operator or manager of such business shall be responsible for obtaining the necessary license and shall be liable for their failure to obtain such license.

3. **Validity.** The Board of Trustees hereby declares that should any section, paragraph, sentence, word or other portion of this ordinance or the rules and regulations adopted herein be declared invalid for any reason, such invalidity shall not affect any other portion of this ordinance or said rules and regulations, and the Board of Trustees hereby declares that it would have passed all other portions of this ordinance and adopted all other portions of

said rules and regulations, independent of the elimination here from of any such portion which may be declared invalid.

4. Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this ordinance is necessary for the preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.
5. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted ordinance available for inspection by the public during regular business hours.

PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this ~~28th~~ [] day of ~~November~~ [], ~~2023-2024~~ and ordered to become effective 30 days from the date of publication.

TOWN OF WELLINGTON, COLORADO

By: _____
Calar Chaussee, Mayor

ATTEST:

Ethan Muhs, Town Clerk

Board of Trustees Meeting

Date: November 28, 2023

Subject: Ordinance No. 12-2023: An Ordinance of the Town of Wellington, Colorado
Recodifying Municipal Code Chapter 6 Concerning Business Licensing

- **Presentation: Dan Sapienza, Town Attorney; & Patti Garcia, Town Administrator**

BACKGROUND / DISCUSSION

As part of an effort to update the Town's Business Licensing procedures and enhance business engagement, this Ordinance proposes to repeal Chapter 6, Articles 1 & 2 of the Wellington Municipal Code. In its place, Article 1 is left reserved for future use and a new Article 2 shifts the processing requirements for licenses into the Town Clerk's office. The application process is streamlined, benefiting business applicants as well as the town. Processing new and renewal applications should be faster than under the current code's processes.

The proposed ordinance then creates a clear process for the Town to identify violations and to place a probationary status on licenses. That status allows the town and business to work together to remedy issues. If that is unsuccessful or if the licensee fails to renew their license, the license is revoked, with a clear reapplication procedure and appeal process.

In addition to these changes, the local sales tax license requirement will be retired. Businesses that collect sales tax are required to be licensed by the State of Colorado and that information is collected through the business license application process. The current local license has been identified as unnecessary and its repeal will reduce the administrative burden on town businesses and town staff.

This ordinance makes no changes to the following:

- Article 3 - Auctions and Peddling—Canvassing, Soliciting or Peddling for Residential Sales of Property or Operation of a Public Auction
- Article 4 - Mobile Home Parks
- Article 5 - Pawnbrokers
- Article 6 - Secondhand Dealers
- Article 7 - Trash Collectors

STAFF RECOMMENDATION

Staff have identified the following options for Trustee consideration:

1. Move to approve Ordinance No. 12-2023
2. Move to approve Ordinance No. 12-2023 with amendments determined by the Board of Trustees
3. Move to postpone consideration of Ordinance No. 12-2023 to a specified date
3. Deny Ordinance No. 12-2023

ATTACHMENTS

1. Ord 12-2023_Chapter 6 amendments



2. Current Articles 1 and 2 of CHAPTER_6

TOWN OF WELLINGTON
ORDINANCE NO. 12-2023

AN ORDINANCE AMENDING CHAPTER 6 OF THE WELLINGTON MUNICIPAL CODE REGARDING BUSINESS LICENSING.

WHEREAS, the Town of Wellington has adopted Chapter 6 of the Municipal Code of the Town of Wellington, Colorado (the “Town Code”), addressing business licensing; and

WHEREAS, the Town Board of Trustees of the Town of Wellington, Colorado (the “Board of Trustees”) has reviewed Chapter 6 and wishes to clarify the requirements and processes for the issuance and revocation of business licenses and increasing consistency of language throughout the Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, AS FOLLOWS:

1. Article 1. Article 1 of Chapter 6 of the Municipal Code is hereby repealed and replaced in its entirety as follows:

ARTICLE 1 – Reserved

2. Article 2. Article 2 of Chapter 6 of the Municipal Code is hereby repealed and replaced in its entirety as follows:

ARTICLE 2 - Business Licenses

Sec. 6-2-10. Purpose.

The purpose of this Article is the regulation and registration of businesses operating within the Town.

Sec. 6-2-20. License required.

Every person shall obtain a license from the Town before operating, conducting or carrying on any business within the Town; provided, however, that nonprofit corporations are hereby exempt from the license requirements set forth in this Article. A separate license for each location of a business is required.

Sec. 6-2-30. Application.

- (a) An application for a business license shall be filed with the Town Clerk. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license. It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license.
- (b) The application for every license shall contain:
 - (1) The name of the applicant.

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- (2) The physical and mailing address of the applicant and the local street address where such business is to be carried on, or the address of the principal place of business if other than a local address.
 - (3) A statement as to the type of business, trade, or profession for which the license is requested.
 - (4) A statement that the applicant is aware of the federal, state, and local laws, regulations, and rules pertaining to the conduct of the business and that such business complies with the same.
 - (5) The calendar year for which the license is requested.
 - (6) The applicant's Colorado sales tax license number, if appropriate.
 - (7) The applicant's Federal Employer I.D. number or Social Security number.
 - (8) Other such information which may be required by the Town to ensure compliance with this Code.
- (c) An application for a business that is considered a Home Occupation under Chapter 15 of this Code shall additionally contain:
- (1) A description of the intended hours of operation when clients or customers are expected to visit the business.
 - (2) A description of the total area of the residence and the total area dedicated to the business use.
 - (3) A statement that the applicant will comply with the specific requirements and restrictions applicable to Home Occupation in the Land Use Code.
- (d) Every application shall be accompanied by the fee established by resolution of the Board of Trustees.

Sec. 6-2-40. Issuance.

- (a) Upon receipt of the application and required fee, and after a determination that the application complies with the applicable provisions of this Code, the Town Clerk shall issue a business license to the applicant.
- (b) The Town Clerk shall notify the applicant, in writing, when an application is denied and, in such notice, shall state the grounds for the denial.

Sec. 6-2-50. Notice of change.

The licensee shall notify the Town Clerk of any change in location, nature, or use of any licensed business within ten (10) days of such change is given to the Town Clerk, and provided that the requirements of this Code are complied with.

Sec. 6-2-60. Carrying or posting license.

The license for a particular business location shall be posted at all times in a conspicuous place at the business. If the business is not operated, conducted, or carried on at a fixed location, then the licensee shall carry the license upon their person when operating, conducting or carrying on any such business.

Sec. 6-2-70. License nontransferable and non-assignable

No license shall be assignable or transferable.

Sec. 6-2-80. Period of license.

All licenses shall expire on December 31st of each year.

Sec. 6-2-90. Probationary Status

- (a) A business license shall be on probationary status:
 - (1) Upon the expiration of the business license if no business license renewal application has been received by the Town Clerk;
 - (2) When any money due the Town has not been paid, including without limitation the failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the Town; or
 - (3) When any activity conducted by the licensee, their employee or agent violates any federal, state or local rule, regulation or law in the standard course of business.
- (b) The Town Clerk shall promptly notify a licensee of the probationary status of their business license in writing mailed to the mailing address listed on the licensee's business license application. Such notice shall specify the grounds for the probation and the process for restoration of the license to non-probationary status.
- (c) Failure of a licensee to restore a business license to non-probationary status within thirty (30) days shall result in the revocation of the license pursuant to this Article. The Town Clerk may provide an extension to the Probationary Status upon a showing of good cause.

Sec. 6-2-100. Revocation.

- (a) A business license may be revoked:
 - (1) For failure to timely restore a business license to a non-probationary status pursuant to this Article;
 - (2) When it appears that the license was obtained by fraud, misrepresentation, or false statements within the application;
 - (3) When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or statute, is a danger to the health or safety of the public, or violates any federal, state or local rule, regulation or law.
- (b) A business license shall be revoked by administrative action of the Town Clerk. Upon revocation of a license, the Town Clerk shall notify a licensee of the revocation in writing mailed to the mailing address listed on the licensee's business license application. Such notice shall specify the grounds for the revocation, the process for an appeal of the revocation, and the process for restoration of the license.
- (c) A revoked business license may only be restored upon submission of a new business license application, payment of the appropriate fee, and confirmation by appropriate Town staff that the condition or activity that caused the revocation has been corrected.
- (d) The revocation of any license shall not release or discharge anyone from the payment of taxes, penalty, and interest due and owing to the Town.

Sec. 6-2-110. Appeals.

- (a) A licensee may appeal a denial of a business license application or an administrative revocation of a business license by requesting in writing a hearing before the Town Clerk within twenty one (21) days of the denial or revocation. The Town Clerk, in hearing such an appeal, may consider evidence that the denial or revocation was in error at the time the decision was made.
- (b) A licensee may further appeal the decision of the Town Clerk within seven (7) days of the hearing and decision of the Town Clerk. Such an appeal shall be requested in writing submitted to the Town Administrator and the appeal shall be heard by the Board of Trustees. Such appeal must be in writing with reasons for the appeal so stated. At the time of hearing the appeal, the applicant may submit to the Board of Trustees any material evidence relating to the revocation, and the Board of Trustees shall consider the same, together with the report of the Town Administrator/Clerk, and make a final determination upon the application or revocation.

Sec. 6-2-120. Cease and desist.

If any business is operating without a license, the Town Clerk may issue an order to the business to cease and desist all further operation until a license is issued for the business.

Sec. 6-2-130. Penalty.

Failure to comply with the terms of this Article shall constitute a noncriminal violation of the Town of Wellington Municipal Code. Any person who is found guilty of or pleads guilty or nolo contendere to the violation of any portion of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code. Each day that the violation continues shall be considered and held to be a separate and distinct offense.

Sec. 6-2-140. Liability of operator, manager.

The licensing provisions hereof shall apply to the owner of any business; provided, however, that where the owner is a firm or corporation, or where the owner is a nonresident or cannot be found, the operator or manager of such business shall be responsible for obtaining the necessary license and shall be liable for their failure to obtain such license.

- 3. **Validity.** The Board of Trustees hereby declares that should any section, paragraph, sentence, word or other portion of this ordinance or the rules and regulations adopted herein be declared invalid for any reason, such invalidity shall not affect any other portion of this ordinance or said rules and regulations, and the Board of Trustees hereby declares that it would have passed all other portions of this ordinance and adopted all other portions of said rules and regulations, independent of the elimination here from of any such portion which may be declared invalid.

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4. Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this ordinance is necessary for the preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.
 5. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted ordinance available for inspection by the public during regular business hours.

PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this 28th day of November, 2023 and ordered to become effective 30 days from the date of publication.

TOWN OF WELLINGTON, COLORADO

By: _____
Calar Chaussee, Mayor

ATTEST:

Ethan Muhs, Town Clerk

ARTICLE 1 General Provisions

Sec. 6-1-10. Persons subject to license.

Whenever in this Code or in any code adopted herein by reference, a license is required for the maintenance, operation or conduct of any business or establishment or for doing business or engaging in any activity or occupation, any person shall be subject to the requirement if, by himself or herself or through an agent, employee or partner, the person holds himself or herself forth as being engaged in the business or occupation; so solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the Town. (Prior code 6.01.01)

Sec. 6-1-20. Definitions.

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given in this Section:

Business means and includes all kinds of vocations, occupations, professions, enterprises and establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this Town or anywhere else within its jurisdiction.

Casual sale means an individual, single or incidental transaction which in itself does not constitute the carrying on of business.

License or *licensee*, as used generally in this Chapter, means and includes, respectively, the word permit or permittee, or the holder for any use or period of time of any similar privilege wherever relevant to any provision of this Chapter or any ordinance of the Town.

Premises means and includes all lands, structures and places, and the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises. (Prior code 6.01.02; Ord. 11-2007 §1)

Sec. 6-1-30. License required for conduct of business.

It is unlawful for any person, whether as principal, agent, clerk or employee, either for himself or herself or for any other person, to commence or carry on any kind of lawful business, profession, vocation or occupation in the Town without first having procured the necessary license as required by this Chapter from the Town, or without complying with any and all regulations of such business, profession, vocation or occupation contained in this Chapter. (Prior code 6.01.03; Ord. 11-2007 §1)

Sec. 6-1-40. General requirements for license.

Every licensee under this Chapter shall:

- (1) Ascertain and at all times comply with all laws and regulations applicable to the licensed business.
- (2) Avoid all illegal or unlawful practices or conditions which do or may affect the public health, safety, morals or welfare.

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- (3) Refrain from operating the licensed business on the premises after expiration of his or her license and during the period his or her license is revoked or suspended. (Prior code 6.01.04)

Sec. 6-1-50. Exempt activities.

- (a) The provisions of this Chapter shall not be deemed or construed to require the procurement of a license to conduct, manage or carry on any business, occupation or activity, or to require the payment of any license fee from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable, municipal or public purposes from which profit is not derived, either directly or indirectly, by any person. In addition, a license shall not be required for the conducting of any entertainment, dance, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects whenever the entire receipts from the same are to be appropriated to, or such projects are conducted under the auspices of, any church, school, government or religious, nonprofit or benevolent organization. A license shall also not be required for the conducting of any entertainment, dance, concert, exhibition or lecture whenever the receipts from the same are to be appropriated for the purposes and objects for which such association or organization was formed and from which profit is not derived, either directly or indirectly, by any person.
- (b) A license shall not be required of any person for any mere delivery in the Town where no intent by such person is shown to exist to evade the provisions of this Chapter.
- (c) No newsperson selling magazines or newspapers on public streets or in public places shall be required to obtain a license.
- (d) A license shall not be required for a casual sale, as defined in Section 6-1-20 of this Chapter.
- (e) A license shall not be required of persons performing professional services within the Town who are licensed by the State, such as physicians, dentists, lawyers, accountants and engineers. (Prior code 6.01.05; Ord. 11-2007 §1)

Sec. 6-1-60. License applications.

The application for every license required by and issued under authority of the Town shall contain the following information stated in writing on a form prescribed by the Town Administrator/Clerk.

- (1) The name of the person desiring such license.
- (2) The residence and mailing address of such applicant, or if such applicant is a firm or corporation, of each individual member of such firm, or of each directing officer of such corporation and its principal place of business.
- (3) The kind of license desired, stating the business, trade or profession to be performed, practiced or carried on.
- (4) The street and mailing address, if any, where such business is to be carried on.
- (5) The year for which such license is sought.
- (6) Any other relevant information required by the terms of the provision pertaining to the particular license sought. (Prior code 6.01.06; Ord. 11-2007 §1)

Sec. 6-1-70. Duties of Town Administrator/Clerk.

- (a) The Town Administrator/Clerk shall collect all license fees and issue licenses in the name of the Town to all persons qualified under the provisions of this Chapter, and shall perform the following duties:

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- (1) Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this Chapter.
 - (2) Adopt all forms and prescribe the information to be given in such forms as to character and other relevant matter for all necessary papers.
 - (3) Require applicants to submit to affidavits and oaths necessary to the administration of this Chapter.
 - (4) Submit all applications in a proper case to interested Town officials for their endorsements on such applications as to compliance by the applicant with all Town regulations which such officials have the duty of enforcing.
 - (5) Investigate and determine the eligibility of any applicant for a license as required.
 - (6) Notify any applicant of the acceptance or rejection of his or her application and, upon refusal of any license or permit, at the applicant's request, state in writing the reasons for such refusal and deliver them to the applicant.
- (b) The Town Administrator/Clerk shall keep all information furnished or secured under the authority of this Chapter in strict confidence. The information shall not be subject to public inspection and shall be kept so that the contents shall not become known except to the person charged with the administration of this Chapter. (Prior code 6.01.07; Ord. 11-2007 §1)

Sec. 6-1-80. Investigations.

- (a) Upon receipt of an application for a license or permit where any provision of this Code or any secondary code adopted by this Code, necessitates an inspection or investigation before the issuance of such permit or license, the Town Administrator/Clerk shall refer the application to the proper officer, board or commission for making such investigation within forty-eight (48) hours of the time of receipt of such application. The officer, board or commission charged with the duty of making the investigation or inspection, favorable or otherwise, within ten (10) days after receiving the application or a copy thereof, shall conduct such investigation. Failure to comply with the time limits set forth herein shall not impair the validity of any action taken.
- (b) The Town Administrator/Clerk may, in his or her discretion, make or cause to be made an inspection in regard to licenses connected with the care and handling of food, the prevention of nuisances and the spread of disease for the protection of health. The Building Inspector shall make or cause to be made any inspections relative to the construction of buildings or other structures. All other investigations, except where otherwise specifically provided, shall be made by a law enforcement officer or by another officer designated by the Town Administrator/Clerk. (Prior code 6.01.08; Ord. 11-2007 §1)

Sec. 6-1-90. Compliance with building and zoning regulations.

No license shall be issued for the conduct of any business, and no permit shall be issued for anything or act if the premises and building to be used for the purpose do not fully comply with the requirements of this Code and any secondary code adopted by this Code. No license or permit shall be issued for the conduct of any business or the performance of any act which would involve a violation of the zoning regulations of the Town. (Prior code 6.01.09; Ord. 11-2007 §1)

Sec. 6-1-100. Inspections.

- (a) Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by this Code or any secondary code adopted herein, or are reasonably necessary to secure compliance with any provision of this Code or any such secondary code or to

detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the Town who is authorized or directed to make such inspection at any reasonable time that admission is requested. It is unlawful for such person to fail or refuse to admit such officer or employee for such purpose.

- (b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any provision of this Code or any secondary code adopted herein or to detect violations thereof, it shall be the duty of the licensee in the Town whose business is governed by such provision to give to any authorized officer or employee of the Town requesting the same sufficient samples of such material or commodity for such analysis upon request. It is unlawful for such licensee to fail or refuse to give such samples to such officer or employee.
- (c) Conviction of a violation of any provision of this Section shall automatically forfeit and revoke any license issued under this Chapter; provided that there shall be no violation of this Chapter unless written demand is made upon the licensee or person in charge of the premises in the name of the Town stating that such inspection or sample is desired at the time it is sought to make the inspection of or obtain the sample. (Prior code 6.01.10; Ord. 11-2007 §1)

Sec. 6-1-110. Term and fee proration.

In the absence of any specific provision to the contrary, all licenses shall be issued on a calendar year basis, and they shall expire with the calendar year for which they are issued; provided, however, that issuance and expiration of all classes of liquor licenses and all fermented malt beverage licenses shall be according to the laws of the State. In the absence of any specific provision to the contrary, for an applicant who has not engaged in the business until after the expiration of part of the current license year, fees may be prorated on a quarterly basis, with the applicant responsible for the entire fee for the quarter in which the application is made and each succeeding quarter up to and including the final quarter of the calendar year of the initial application. (Prior code 6.01.11)

Sec. 6-1-120. Issuance.

Upon the receipt of the application containing the information set forth in the preceding Section, proof that the annual fee therefor has been paid in advance, the execution and delivery of any bond or insurance that may be required, the approval of the application for license where the license is required and the fulfillment of all other specific requirements relating to the issuance of the particular license, the Town Administrator/Clerk shall issue and deliver to the applicant the license requested. (Prior code 6.01.12)

Sec. 6-1-130. Appeal of license denial.

- (a) If an application for a license is denied by the Town Administrator/Clerk, the applicant may appeal such denial to the Town Administrator/Clerk. In authorizing the issuance of a license hereunder, the Town Administrator/Clerk may specify conditions, including hours of operation or manner of operation, which are intended to ensure that the place of business will not be unduly annoying to any residential areas in the vicinity. The Town Administrator/Clerk may deny the application the Town Administrator/Clerk determines that such business in the location requested will unreasonably disrupt the peace and quiet of any residential neighborhood in the Town.
- (b) In the event that any application for a license hereunder is denied by the Town Administrator/Clerk or if the Town Administrator/Clerk will issue the license only upon conditions which are not acceptable to the applicant, the applicant may appeal the decision of the Town Administrator/Clerk to the Board of Trustees, provided that notice of such appeal is filed at least ten (10) days before the meeting of the Board of Trustees at which the applicant requests that the appeal be heard. Such appeal must be in writing with reasons for the

appeal so stated. At the time of hearing the appeal, the applicant may submit to the Board of Trustees any material evidence relating to the application, and the Board of Trustees shall consider the same, together with the report of the Town Administrator/Clerk, and make a final determination upon the application. (Prior code 6.01.13; Ord. 11-2007 §1)

Sec. 6-1-140. Records posting, exhibition.

The Town Administrator/Clerk shall keep a record of all licenses issued, setting forth the name of every licensee, the place of business licensed, if any, and the kind of license issued. Every license for a business to be conducted at a particular street address shall be posted in a prominent place during the period such license is valid. It shall be the duty of each and every person to whom a license has been issued by the Town to exhibit the same upon the request of any law enforcement officer, inspector or other officer of the Town. (Prior code 6.01.14)

Sec. 6-1-150. Notice of change.

The location or nature of any licensed business or occupation or of any permitted act may be changed, provided that ten (10) days' notice of such change is given to the Town Administrator/Clerk, in the absence of any provision to the contrary, and provided that the building and zoning requirements of this Code and any secondary code adopted herein are complied with. (Prior code 6.01.15)

Sec. 6-1-160. Transfers.

No license may be transferred from one (1) person to another, or from one (1) place to another, except where permitted by state law or the provisions of this Code relating to the particular license, and then only by the Town Administrator/Clerk after written application therefor and the payment of a fee established by resolution by the Board of Trustees to offset the Town's costs for the transfer of such license. (Prior code 6.01.16; Ord. 11-2007 §1)

Sec. 6-1-170. Renewals.

Any licensee may make application for a new license for the succeeding year and pay the required fee therefore, on or before the expiration date of any license issued to the licensee for the current year. Whenever any application and license fee payment therefore is not received on or before February 1st for the current year, and the licensee continues to engage in business or activity for which the license was issued, a penalty of ten percent (10%) of the amount of the license fee shall be imposed and collected and an additional five percent (5%) of the original fee shall be added on the last day of each calendar month after the expiration date. In addition to the above penalty provision, it is unlawful for a licensee to continue to engage in any business or activity after his or her license therefore has expired. (Prior code 6.01.17)

(Ord. No. 2-2012 , § 1, 2-14-12)

Sec. 6-1-180. Revocation.

The Board of Trustees may, upon seven (7) days' written notice to a licensee stating the contemplated action and in general the grounds therefor, and after a reasonable opportunity to be heard, revoke any license issued by the Town if it finds that:

- (1) The licensee has failed to pay the annual license fee;
- (2) The licensee has failed to file any reports or furnish any other information that may be required by the provisions relating to the specific license;

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- (3) The licensee has violated any of the terms of the provisions pertaining to his or her license or any regulation or order lawfully made relating thereto; or
 - (4) Any fact or condition exists which, if it had existed or had been known to exist at the time of the application for such license, would have warranted the refusal of the issuance of such license. (Prior code 6.01.18)

Sec. 6-1-190. Return of fees.

Upon refusal of any license, the fee therefor paid in advance shall be returned to the applicant. In the event that any license is revoked, all moneys paid therefor shall be and remain the moneys of the Town and no refund shall be made to any licensee. (Prior code 6.01.19)

Sec. 6-1-200. Legal action for failure to pay fee.

The amount of any license fee imposed by this Chapter shall be deemed a debt to the Town, and any person carrying on any lawful business in the Town without having the necessary license from the Town to do so shall be subject to an action in the name of the Town in any court of competent jurisdiction for the collection of the amount of license fee imposed on such business. (Prior code 6.01.20)

Sec. 6-1-210. Conviction not exemption from fee payment.

The conviction and punishment of any person for transacting any business without the necessary license shall not excuse or exempt such person from the payment of such license fee due or unpaid at the time of such conviction. Nothing in this Section shall prevent a criminal prosecution for any violation of the provisions of this Chapter. (Prior code 6.01.21)

Sec. 6-1-220. Each day of violation separate offense.

The carrying on of any business, profession, vocation or occupation as provided in this Chapter, without first having procured the necessary license from the Town to do so, or without complying with any and all regulations of such business, profession, vocation or occupation contained in this Chapter, shall be deemed a separate violation of this Chapter for each and every day that such business, profession, vocation or occupation is carried on. (Prior code 6.01.22)

ARTICLE 2 Business Licenses

Division 1 Generally

Sec. 6-2-10. Purpose.

The purpose of this Article shall be to require the licensing and regulation of all business activities and enterprises conducted within the Town, except as exempted from this Chapter, and to provide the Town with necessary information concerning the business activities within the Town, including the nature of the business operation, the place of business and such other information relating to businesses and professions operating within the Town in order to protect the health, welfare and safety of its inhabitants. (Prior code 6.02.01)

Sec. 6-2-20. License required.

It is unlawful to carry on or engage in any business, profession or occupation within the Town, which business, profession or occupation consists in the selling of goods, wares or merchandise, or the performing or rendering of service, for charge, except as exempted from this Chapter, without first having obtained a license for each such business, profession or occupation so carried on or engaged in. (Prior code 6.02.02)

Sec. 6-2-30. Fee designated; term.

- (a) The license fee for the license required by this Article shall be an amount established by resolution by the Board of Trustees to offset the Town's costs, and shall be paid to the Town Administrator/Clerk on or before February 1st of each and every year.
- (b) The license required by this Article is for the privilege of pursuing the business, profession, vocation or occupation until the next succeeding February 1st for the following year. (Prior code 6.02.03; Ord. 19-1995 §1; Ord. 11-2007 §1)

(Ord. No. 2-2012 , § 2, 2-14-12)

Sec. 6-2-40. Separate license for separate locations.

A separate license must be obtained for each branch, establishment or separate place of business in which the business is carried on, without payment of any additional fee. (Prior code 6.02.04)

Sec. 6-2-50. Liability of operator, manager.

The licensing provisions hereof shall apply to the owner of any business; provided, however, that where the owner is a firm or corporation, or where the owner is a nonresident or cannot be found, the operator or manager of such business shall be responsible for obtaining the necessary license and shall be liable for his or her failure to obtain such license. (Prior code 6.02.05)

Sec. 6-2-75. Town Clerk.

The Town Administrator may delegate duties imposed on the Town Administrator (Town Administrator/Clerk) by this Chapter 6, Article 2, related to license applications, collection of license fees and record keeping to the Town Clerk.

(Ord. No. 09-2020 , § 1, 7-18-20, eff. 8-1-20)

Division 2 Sales and Use Tax Licenses

Sec. 6-2-110. License required.

Except as specifically allowed herein, it is unlawful for any person to engage in the business of selling tangible personal property at retail, or to furnish certain services as herein specified, without first having obtained a license therefor. Such license shall be granted and issued by the Town Administrator/Clerk and shall be in force and effect until December 31 of the year in which it is issued, unless sooner revoked. (Prior code 3.06.03; Ord. 11-2007 §1)

Sec. 6-2-120. Application for license.

Such license shall be granted or renewed only upon application, on a form provided by the Town, stating the name and address of the person desiring such a license, the name and location of such business, and such other facts as the Town Administrator/Clerk may require. (Prior code 3.06.03; Ord. 11-2007 §1)

Sec. 6-2-130. Renewal of license.

It shall be the duty of each licensee on or before January 1 of each year to obtain a renewal of the license if the licensee remains in the retail business or liable to account for the sales or use tax imposed by this Code; however, nothing herein contained shall be construed to empower the Town Administrator/Clerk to refuse such renewal except revocation for cause of the licensee's prior license. (Prior code 3.06.03; Ord. 11-2007 §1)

Sec. 6-2-140. Multiple locations.

In case business is transacted at two (2) or more separate premises by one (1) person, a separate license for each place of business shall be required. (Prior code 3.06.03)

Sec. 6-2-150. Posting of license.

Each license shall be numbered and shall show the name, residence, place and character or business of the licensee, and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable. (Prior code 3.06.03)

Sec. 6-2-160. Commodities exempt.

No license shall be required for any person engaged exclusively in the business of selling commodities or providing services which are exempt from taxation under Chapter 4 of this Code. (Prior code 3.06.03; Ord. 11-2007 §1)

Sec. 6-2-170. License fee.

The annual fee for such license or renewal shall be an amount established by resolution by the Board of Trustees to offset the Town's costs, which shall accompany the application for license or renewal. (Prior code 3.06.03; Ord. 11-2007 §1)

Sec. 6-2-180. Revocation.

Any license may be revoked for cause as provided in Section 39-26-103, C.R.S., which provision is incorporated herein by this reference. (Prior code 3.06.03)