

PEOPLES ORDINANCE NO. 13

SERIES 1981

AN ORDINANCE FOR GENERAL OFFENSES WITHIN THE TOWN OF BRECKENRIDGE

Be IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
COLORADO:

Section 1.

This Ordinance shall be known and may be cited as "The Breckenridge
General Offenses Ordinance".

Section 2.

The following general offenses are hereby adopted:

MISDEMEANER ORDINANCE

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PROVISIONS APPLICABLE TO OFFENSES GENERALLY

101 FINES AND PENALTIES

Any person convicted in the Municipal Court of a violation of any ordinance of the Town of Breckenridge may be imprisoned in the County Jail or such other suitable place as shall be provided by said Town for a period not to exceed ninety days or fined an amount not to exceed three hundred dollars or both; provided, however, that no person under the age of 18 years as of the date of the offense for which he was convicted, shall be subject to the imposition of a jail sentence, except in the case of a conviction of a traffic offense or as otherwise provided by the Colorado Children's Code; provided further, that any lesser penalty than that which is permitted herein may be expressly provided for by Charter or Ordinance of the Town of Breckenridge and in such cases, such lesser penalty shall be controlling upon the Municipal Court.

102 COMMITMENT FOR FAILURE TO PAY FINE

(1) Every person against whom a fine or penalty shall be assessed under the ordinances of the Town, who shall refuse or neglect to pay the same when demanded, upon execution ordered by the municipal judge may be committed in default thereof to the Summit County jail or such other suitable place as shall be provided by said Town under the direction of the proper officer until said fine or penalty is fully paid and satisfied or the person has served the maximum incarceration period for the offense of which such person was convicted, whichever first occurs. Such satisfaction shall be made at the rate of six dollars per twentyfour hour day, and such person may be required to do any reasonable work. The foregoing notwithstanding, in the discretion of the municipal judge, a stay of execution may be granted to enable the defendant to pay the fine or penalty at a later date or in installment payments. In case the defendant shall refuse or neglect to comply with the terms of the stay of execution, the execution may issue and the defendant may be committed to the Summit County jail, as hereinabove provided, until such fine, penalty or judgement is fully paid or otherwise satisfied.

(2) Upon the failure or neglect by a person to pay a fine as directed by the Municipal Court, the Court shall inquire as to the grounds for said person's neglect or failure to pay such fine. Should the Court be satisfied that the grounds for said person's failure to pay the fine is solely indigency, the Court shall not incarcerate said person; provided, however, that the person who owes the fine has the burden of going forward and persuasion of the issue of indigency.

103 RESTITUTION

The Municipal Court is hereby granted full power and authority to order payment of restitution to the damaged party by the person responsible for damage under all sections of this Chapter.

104 DEFINITIONS

(1) "Alcoholic Beverages" means any fermented malt beverage (three and two-tenths per cent alcohol by weight or less), malt, vinous or spiritous liquors (three and two-tenths per cent alcohol by weight or more).

(2) "Animal" means any of a Kingdom (Animalia) of living beings typically differing from plants in capacity for spontaneous movement and rapid motor response to stimulation; consistent therewith, any one of the lower animals distinguished from man.

(3) "Animal Owner" means any person who owns, keeps, harbors, possesses, or otherwise has custody or control of any animal in the Town, whether such person be a resident or nonresident of the Town.

(4) "Animal Owner's Authorized Agent" means any person who acts for or in the place of the animal owner by authority from the animal owner.

(5) "Antique Vehicle" means any vehicle valued principally because of its early date of manufacture, design, historical interest or as a collector's item or licensed as an antique vehicle by the State of Colorado or another State with similar licensing provisions.

(6) "Bodily Injury" means physical pain, illness, or any impairment of physical or mental condition.

(7) "Cannabis" includes all parts of the plant *cannabis sativa* L. , whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative mixture, or preparation of such plant, its seeds, or resin but shall not include the mature stalks of such plant, fiber produced from its stalk, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of its mature stalks, except the

resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(8) "Cannabis concentrate" means hashish, tetrahydrocannabinoids or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinoids.

(9) "Cat" means any domesticated animal of the species *Felis domestica*.

(10) "Conceal" means to place or attempt to place out of view in such manner and circumstances as to indicate an intent to prevent others from seeing or discovering the presence of the thing concealed.

(11) "Credit card" means a writing or other evidence of an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person to the bearer.

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

(13) "Criminal negligence." A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(14) "Deadly weapon" means any firearm, whether loaded or unloaded, knife, bludgeon, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in a manner it is used or intended to be used is capable of producing death or serious bodily injury.

(15) "Dog" means any domesticated animal of the species *Canis familiaris* or other species of the family *Canidae*.

(16) "Firearm" means any instrument used in the propulsion of shot, slug, shell or bullets or other objects or projectiles capable of inflicting pain, bodily injury or property damage, by the action of gunpowder exploded or burned within it, or by the power or action of springs, and including what are commonly known as air rifles, air pistols, and B-B guns.

(17) "Gain" means the direct realization of winnings.

(18) "Gambling" means risking any money, credit, deposit, or other thing of value for a 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 does not include:

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

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

(c) Other acts or transactions which are valid under the law of contracts; or

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

(19) "Gambling Device" means any device, machine, antiques paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between person or gambling by a person involving the playing of a machine.

(20) "Gambling Premise" means any building, house, room, enclosure, vehicle, vessel, or other place, whether open or enclosed, used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found shall be presumed to be intended to be used for professional gambling.

(21) "Gambling Proceeds" means all money or other things of value at stake or displayed in or in connection with professional gambling.

(22) "Guard Dog" means a dog disciplined, through special training, to protect persons or property by attacking or threatening to attack any person found within the area authorized to be patrolled by the dog.

(23) "Harboring" means the activity of the occupant of any premises on which an animal is kept or to which an animal customarily returns daily for food and care which contributes to the animal's habit or tendency to stay at or return to said premises for care and sustenance.

(24) "Humane Officer" means any officer or employee of the Town designed by the Town Manager or by his or her authorized representative to enforce the animal control provisions of the Ordinance.

(25) "Intentionally" or "with intent" All offenses defined in the ordinance in which the mental capability requirement is expressed as "intentionally" or "with intent" are declared to be specific intent offenses. A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the ordinance defining the offense. It is immaterial to issue of specific intent whether or not the result actually occurred.

(26) "Junk vehicle" means any vehicle not capable of highway travel under its own power, or any vehicle not bearing such plates and safety inspection sticker, which remains stationary or unused for more than thirty consecutive days; provided, however, that such definition shall not include antique vehicles.

(27) "Knowingly" or "willfully". All offenses defined in this ordinance in which the mental culpability requirement is expressed as "knowingly" or "willfully" are declared to be general intent crimes. A person acts "knowingly" or "willfully" with respect to conduct or to a circumstance described by an ordinance defining an offense when he or she is aware that his or her conduct is of such nature or that such circumstance exists. A person acts "knowingly" or "willfully" with respect to a result of his or her conduct, when he or she is aware that his or her conduct is practically certain to cause the result.

(28) "Leash" means a substantial chain, rope, cord, or similar device sufficient to hold an animal in restraint and which is not more than six feet in length.

(29) "Lewd and Indecent Displays" means performing an act or acts which simulate:

(a) Sexual Intercourse, flagellation or any sexual acts which are prohibited by law;

(b) The touching, carressing or fondling of the breast, buttocks, anus or genitals;

(c) The displaying of the pubic hair, anus, valva or genitals;

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

(e) The open display of urinary or excretory functions.

(30) "Licensee" means any person, duly licensed by State and local licensing authorities to sell malt, vinous or spirituous liquors or fermented malt beverages or to operate a place of amusement or recreation within the Town or any agent servant or employee of such licensee.

(31) "Premises" means all or any part of the physical boundaries of any establishment duly licensed for the sale of malt, vinuous or spirituous liquors or fermented malt beverages or any place of amusement or recreation in the Town. The term premises shall include not only the building wherein the business is conducted but also the outdoor areas within the property boundaries of the real property upon which the building sits.

(32) "Litter" means all refuse, garbage, trash, debris, or other waste materials, solid or liquid, of every form, size, kind and description.

(33) "Loiter" means to be delatory, to stand idly around, to linger, delay, wander about, to remain, abide, or to tarry in public places.

(34) "Nudity" means uncovered, or less than translucently 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 turgis 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.

(35) "Professional gambling" means:

(a) Aiding or inducing another to engage in gambling with the intent to derive a profit therefrom; or

(b) Participating 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 or more of the other participants.

(36) "Profit" means any other realized or unrealized benefit, direct or indirect, including benefits from proprietorship, management, or unequal advantage in a series of transactions.

(37) "Public or Private Property" includes, but is not

limited to, the right-of-way of any road or highway, any body of water or water-course, including frozen areas or the shores or beaches thereof, any park, playground, or building, any refuges, conservations, or recreation area, and any residential, farm, or ranch properties or timberland.

(38) "Public place" means a place to which the public or a substantial segment of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings and facilities.

(39) "Rabies Inoculation" means the inoculation of an animal with a rabies vaccine approved by the Colorado Department of Health and administered by a licensed veterinarian.

(40) "Recklessly." A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(41) "Refuse" means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, containers, boxes, glass, cans, bottles, garbage, waste, snow, inoperative vehicles or parts thereof and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material, and all other waste material of any kind or nature whatsoever.

(42) "Running at Large" means any animal, unless specifically excepted by this ordinance, not under the direct and competent control of the owner or the owner's authorized agent by means of a leash, except an animal on or within the owner's motor vehicle provided when such vehicle is parked the animal shall be within the enclosed portion of said motor vehicle or tethered so as to restrain the animal within the confines of the motor vehicle.

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

(44) "Sexual Intercourse" means contact between the genitalia, anus, or female breast of one person and any part of another person for purposes of immediate sexual gratification of any person; and, contact between the genitalia, anus, or female breast of one person and any part of any animal for purposes of sexual gratification of any person.

(45) "Special Officers" means any person carrying on the business or occupation of security patrol service, night watch service, private police service, burglar alarm service operators or any other occupation the purpose of which is to afford additional police protection for hire or reward.

(46) "Stray Animal" means any animal, with or without a registration-rabies inoculation tag, found unattended, running at large or unattached anywhere within the Town.

(47) "Tamper" means to change the condition of anything so that its operation or tendency to perform its intended function will be altered.

(48) "Town" means the Town of Breckenridge Colorado.

(49) "Town Park" means any park, reservation, playground recreation facility or any other open space area owned, leased or under the control of the Town government, whether located within or without the corporate boundary limits of the Town, which is devoted to recreation and leisure-time use by the public.

(50) "Vehicle" means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or like to transport persons or property or pull machinery and shall include, without limitation, automobile, airplane, truck, trailer, motorcycle, motorscooter, tractor, buggy and wagon.

(51) "Veterinarian" means a person licensed by the State of Colorado to practice veterinary medicine.

(52) "Vicious Animal" means any animal that unprovokedly bites, snaps at or attacks humans or other animals on public or private property or in a terrorizing manner approaches any person in apparent attitude of attack, provided, however, that an animal shall not be deemed a vicious animal by reason of having bitten or attacked the following;

(a) Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept;

(b) Any person engaged in the unlawful entry into or upon the animal owner's automobile or other vehicle wherein such animal is confined, or which is parked on the street immediately adjacent to the owner's property;

(c) Any person engaged in attacking or molesting another person;

(d) Any person engaged in attempting to stop an altercation between such animal and another animal;

(e) Any person who deliberately or wantonly provokes such animal to bite or to attack such person, another person, or another animal.

OFFENSES AGAINST THE PERSON

201 ASSAULT

(1) Intentionally - Without Deadly Weapon. It is unlawful for any person to intentionally cause bodily injury to another person; provided, however, that this subsection shall not apply to injury caused by means of a deadly weapon, nor shall it apply in the event of serious bodily injury.

(2) Recklessly. It is unlawful for any person to recklessly cause bodily injury to another person; provided, however, that this subsection shall not apply in the event of serious bodily injury caused by means of a deadly weapon.

(3) Criminal Negligence - Deadly Weapon. It is unlawful for any person with criminal negligence to cause bodily injury to another person by means of a deadly weapon.

202 MENACING - WITHOUT DEADLY WEAPON

It is unlawful for any person to intentionally place or attempt to place another person in fear of imminent bodily injury by any threat or physical action; provided, however, that if such is accomplished by means of a deadly weapon, then this section shall not apply.

203 RECKLESS ENDANGERMENT

It is unlawful for any person to recklessly engage in conduct which creates substantial risk of bodily injury to another person.

204 HARASSMENT

It shall be unlawful to commit harassment. An actor commits harassment if, with intent to harass, annoy or alarm any other person, he unlawfully;

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

(2) Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to threaten bodily harm or property damage or in a manner intended to place another in fear of bodily injury.

(3) Makes a telephone call or causes a telephone to ring repeatedly whether or not a conversation ensues, after demand has been made by the person called or someone on his or her behalf that the actor stop making such telephone calls or causing the telephone so to ring; or

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

(5) Repeatedly insults, taunts, or challenges another in a public place by means of statements or gestures calculated to cause embarrassment to the person to whom the conduct refers when said statements or gestures signify facts or circumstances for which the actor does not or cannot provide a factual basis.

(6) (a) Follows a person in or about a public place, after demand by the person or on his behalf, has been made that the actor stop following the person.

(b) For purposes of this subsection (6), follow or following means to intentionally stay or attempt to stay in close proximity of another by means of being in the same vicinity as another person or by means of anticipating another's destination. Whether an actor is in close proximity to another will be a factual determination depending upon the means used to effectuate the following.

(c) It shall be an affirmative defense to prosecution under this subsection (6) that the defendant was engaged in a lawful investigation of the person, was attempting to serve process upon the person, or was attempting to deliver an emergency message to the person, and said following was within the scope of such activity.

(7) Any act prohibited by subsections (2) or (3) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

OFFENSES AGAINST PROPERTY

301 THEFT

It shall be unlawful to commit theft. A person commits theft when he knowingly obtains or exercises control over anything of value of another without authorization or by threat or deception; and

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

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

(c) 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 benefits; or

(d) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person; and

(e) Where the value of the thing involved is less than two hundred dollars.

302 SHOPLIFTING

(1) It shall be unlawful to commit the crime of shoplifting.

A person commits the crime of shoplifting when he or she knowingly takes possession of any unpurchased goods, wares or merchandise of a value of less than two hundred dollars, owned or held by and offered or displayed for sale by any store or mercantile establishment, with the intention of converting such goods, wares, or merchandise to his or her own use, without paying the purchase price thereof.

(2) Concealment of Goods: If any person willfully conceals unpurchased goods, wares, or merchandise of value of less than two hundred dollars owned or held by and offered or displayed for sale by any store or other mercantile establishment, such concealment constitutes prima facie evidence that the person intended to convert the same to his or her own use without paying the purchase price therefore within the meaning of subsection (1).

(3) Questioning of Person Suspected of Shoplifting Without Liability: If any person conceals upon his or her person or otherwise carries away any unpurchased goods, wares, or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any police officer, acting in good faith and upon probable cause based upon reasonable grounds may detain and question such person, in a reasonable manner for the purpose of ascertaining whether the person has committed shoplifting. Such questioning of a person by a merchant, merchant's employee, or police officer does not render the merchant, merchant's employee, or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

303 PRICE SWITCHING

It is unlawful for any person to willfully alter, remove or switch the indicated price of any unpurchased goods, wares or merchandise owned by any store or other mercantile establishment; provided, however, that this section shall not apply to goods, wares or merchandise of a value of two hundred dollars or more.

304 FALSE PRETENSES

It shall be unlawful for any person to obtain any food, drink, goods, wares or merchandise under false pretenses, to enter any public place and call for refreshments or other articles and receive and refuse to

pay for same, or depart without paying for or satisfying the person from whom he or she received the food, goods, wares and merchandise. This section shall not apply if the value of said food, goods, wares or merchandise exceeds \$50.00.

305 FRAUDULENTLY AVOIDING PAYMENT OF ADMISSION FEES

It shall be unlawful for any person fraudulently or without lawful authorization to enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert, ski area or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

306 FRAUD BY CHECK

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

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

(b) "Drawee" means the bank upon which a check is drawn.

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

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

(e) "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.

(2) Any person, knowing he or she has insufficient funds with the drawee, who, with intent to defraud issues a check for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check, which is unlawful.

(3) Notwithstanding any other provision on the section, no violation of this section occurs if: (a) The check alleged to be fraudulent was for the sum of two hundred dollars or more; or (b) the person issues two or more checks within any thirty-day period in the State of Colorado totalling two hundred dollars or more in the aggregate; or (c) the person issuing the check has been twice previously convicted under C. R. S. 18-5-205 (1973, as amended) or any former Colorado statute of similar content and purpose; or (d) the allegedly fraudulent check was drawn on an account which did not exist or which has been closed for a period of thirty days or more prior to the issuance of said check.

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

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

(6) A bank shall not be civilly or criminally liable for releasing information relating to the drawer's account to a police officer, town attorney, assistant town attorney, or authorized investigator for a town attorney investigating or prosecuting a charge under this section.

307 FRAUDULENT USE OF CREDIT DEVICE

(1) It is unlawful for a person to commit fraudulent use of a credit device. A person commits fraudulent use of a credit device if he or she uses a credit card or other credit device for the purpose of obtaining credit, property, or services, with intent to defraud and with knowledge as to paragraph (2) or notice as to paragraphs (b) or (c) of this subsection (1) that:

- (a) The card or other device is stolen or forged; or
- (b) The card or other device has expired, has been revoked, or has been cancelled; or
- (c) For any other reason the use of the card or other device is unauthorized either by the issuer of the card or other device or by the person to whom it is issued.

(2) For purposes of paragraphs (b) and (c) of subsection, "notice" includes either notice given in person or notice given in writing by registered or certified mail, return receipt requested, duly stamped and addressed to such person at the last address known to the issuer, evidenced by the returned receipt, is prima facie evidence that the notice was received.

(3) If the total value of property or services obtained by the fraudulent use of a single credit device within a six-month period is one hundred dollars or more, then this section does not apply.

308 CRIMINAL POSSESSION OF CREDIT DEVICE

A person commits an unlawful act if he or she has in his or her possession or under his or her control or receives from another person, with intent to use, deliver, circulate, or sell it without the consent of the person to whom it is issued, or with intent to cause it to be so used, delivered, circulated, or sold.

309 THEFT OF CREDIT DEVICE

A person commits an unlawful act if he or she steals, takes, or removes a credit card or other credit device from the person or possession of the person to whom it is issued, with intent to use, deliver, circulate, or sell it without the consent of the person to whom it is issued, or with intent to cause it to be so used, delivered, circulated, or sold.

310 JOYRIDING

(1) Any person who drives or takes any motor vehicle without the consent of the owner or lawful possessor thereof, with the intent of temporarily depriving the owner or possessor of the use of the same, or temporarily making use thereof, commits joyriding has not occurred:

(a) Retains possession or control of the motor vehicle for more than seventy-two hours; or

(b) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle; or

(c) Attempts to alter or remove or alter or removes the vehicle identification number; or

(d) Uses the motor vehicle in the commission of a crime other than a traffic offense; or

(e) Causes five hundred dollars or more property damage in the exercise of control of the motor vehicle; or

(f) Causes bodily injury to another person while in the exercise of control of the motor vehicle; or

(g) Removes the motor vehicle from the State of Colorado for a period of time in excess of forty-eight hours; or

(h) Unlawfully attaches or otherwise displays in or upon the motor vehicle license plates other than those officially issued for the motor vehicle.

311 TRESPASSING

It is unlawful for any person without legal privilege to enter or to remain upon the premises of another, or fail or refuse to remove himself or herself from said premises when requested to leave by the owner, occupant or person having lawful control thereof.

312 PARKING MOTOR VEHICLE ON PRIVATE GROUND

It shall be unlawful for any person to park or stand a motor vehicle or other personal property on premises of another or in the lawful possession of another without the permission of the owner or person in possession of the owner or person in possession thereof.

313 UNLAWFUL USE OF PROPERTY OF ANOTHER

It shall be unlawful for any person intentionally to use or cause to be used, in a manner, the real or personal property of another, or in lawful possession of another, for any purpose, including advertising, storage, grazing or recreation, without the permission of the owner or person in possession thereof.

314 DAMAGE TO PRIVATE PROPERTY

It shall be unlawful for any person intentionally, knowingly, or recklessly to injure, deface, destroy, or sever in any manner any real or personal property, or improvements thereto, of any other person in this Town where the aggregate damage is less than one hundred dollars

315 DAMAGE TO TOWN PROPERTY

It shall be unlawful for any person intentionally, knowingly, or recklessly to injure, deface, destroy or sever in any manner any real or personal property or improvements thereto belonging to the Town where the aggregate damage is less than one hundred dollars.

A person commits the offense of criminal tampering if he tampers with property of another with intent to cause injury, inconvenience, or annoyance to that person or to another or if he or she makes unauthorized connections with the property of a utility.

OFFENSES AGAINST THE PUBLIC PEACE AND SAFETY

401 DISORDERLY CONDUCT

(1) It shall be unlawful to commit disorderly conduct. A person commits disorderly conduct if he intentionally, knowingly or recklessly:

(a) Threaten physical harm to any person in a public place;
or

(b) Makes, causes or controls unreasonable noise in a public place or that is audible upon a private premises that he or she has no right to occupy.

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

(d) Makes statements or gestures calculated to cause embarrassment or provoke anger in any person in a public place when such statements or gestures causes any person to inflict bodily injury upon any person or tends to invite an immediate breach of the peace; or

(e) Urinates or defecates upon any public or private place other than that the actor had significant provocation for his threatening conduct.

(3) (a) A prima facie showing that a violation of subsection (1) (b) shall consist of evidence that the defendant caused or controlled such noise between the hours of ten o'clock p.m. and seven o'clock a.m.-- that was audible at a distance of one-hundred feet from its source, distinguishable from any other source of sound in the vicinity, and was of a greater volume than any other single source of sound in the vicinity.

(b) It shall be an affirmative defense in a prosecution under subsection (1) (b) that such sound made by the defendant was reasonable at the time and under the circumstances surrounding the making of the sound, or was pursuant to a Town Permit.

402 LOITERING

(1) Acts Prohibited:

(a) It shall be unlawful for any person to loiter with the intent to violate any provision of this ordinance, or any criminal provisions of Colorado law.

(b) It shall be unlawful for any person to loiter in or about a school building or grounds, not having any reasonable relationship involving custody of, or responsibility for, a pupil or any other specific legitimate reason for being there, and not having written permission from a school administrator.

(2) Reasonable Grounds, Duty of Officer:

(a) Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that such person is loitering is the fact that such person:

(i) Takes flight upon appearance of peace officer;
or
(ii) Refuses to identify himself; or
(iii) Manifestly endeavors to conceal himself
or herself or any object; or

(iv) Not being a duly licensed special officer or peace officer, systematically checks the means to access to buildings or vehicles; or

(v) Maintains a continuous presence in close proximity to a place where a reasonable officer would conclude that the activity manifests a high probability of activity in violation of this ordinance, or any criminal provision of Colorado law.

(b) Unless flight by the person or other circumstances make it impractical, a peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm otherwise warranted, or explain any circumstances giving rise to reasonable grounds for belief that such person is loitering by requesting he or she to;

(i) Identify himself; and

(ii) Explain his presence and conduct.

(3) Standard for Conviction. No person shall be convicted of an offense under subsection (1) (a) of this section if the peace officer did not comply with subparts (2) (b) (i) and (ii) of this section, or if at trial, that the explanation of presence and conduct given by the defendant was true and, if believed by the peace officer at the time, would have dispelled the reasonableness of the officer's belief that the defendant was engaging in unlawful activity or would have disclosed a lawful purpose.

A person commits the offense of hindering transportation if he or she knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person, association, or corporation.

404 DANGEROUS MISSILES - STONES

(1) It is unlawful for any person to willfully, maliciously or recklessly throw, shoot or project any stone, arrow, pellet, dart, ball bearing snowballs, ice or other dangerous missile at or against the person, animal, building, structure, personal property or fixture or vehicle of another.

(2) It shall be an affirmative defense to a prosecution under this section that the defendant was engaged in throwing, projecting, or shooting any such dangerous missile:

(a) At any animal in order to protect his or her person or property of , or the person or property or the person or property of another from physical injury; or

(b) For recreational purposes in such a manner that no unreasonable risk of harm was presented to any person or to the real or personal property of any person.

405 INJURY OR REMOVAL OF SIGNS

It is unlawful for any unauthorized person to willfully remove, deface, injure, damage or destroy any street sign or traffic control or warning sign, barricade, or device erected or placed in or adjacent to any street. It is further provided that this section shall not apply where the aggregate damage to such street sign, barricade, or traffic control or warning device is one hundred dollars or more.

406 FALSE REPORTING TO AUTHORITIES

(1) It is unlawful for any person to report the existence of a fire or other emergency to the police, fire department or any other agency empowered to deal with an emergency involving risk or injury of persons or property, when such person knows the report to be false. For purposes of this subsection, fire department means any fire protection district or fire fighting agency of the State, County or municipality, whether the employees or officer of such agency are volunteers, or receive compensation for their services as firefighters, or both.

(2) It is unlawful for any person to report or cause to be reported to any police agency any information concerning the commission of any offense or other incident, which would be within the official concern of such agency, when:

(a) The person knows that no such offense or other incident has occurred; or

(b) The person knows the information is false or that the person has no such information.

(3) This section does not apply to reports of the existence or placement of a bomb or other explosive in any public or private place or vehicle designed for transportation of persons or property.

407 LITTERING OF PUBLIC AND PRIVATE PROPERTY

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

(2) It shall be an affirmative defense to a charge of littering that:

(a) 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

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

(c) Such person is the owner or tenant in lawful possession of such property, or 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.

(3) It is in the discretion of the Court, upon the conviction of any person and the imposition of a fine under this section, to suspend the fine upon the condition that the convicted person gather and remove from specified public property or specified private property, with prior permission of the owner or tenant in lawful possession thereof, any litter found thereof.

(4) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle in violation of this section, the operator of said motor vehicle in violation is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom.

408 DEPOSITING DEBRIS IN STREAMS AND WATERS

It is unlawful for any person to throw or deposit or cause to permit to be thrown or deposited in any stream, storm or sanitary sewer, ditch, pond well, cistern, trough or other body of water, whether artificially or naturally created, or so near thereto as to be liable to pollute the water, any waste products composed of animal or vegetable substance or both, any dead animal sewage, excrement or garbage, trash or debris, any fuel, oil, or other petroleum based products, paint, chemicals, whether liquid or solid, scrap, construction materials, any refuse or any other materials that may reasonably cause the water to become contaminated.

409 TRASH ACCUMULATION AND REMOVAL

(1) Accumulation of Refuse; Prohibited and Declared Nuisance; Any accumulation of refuse except in containers expressly designed, intended for, and of sufficient construction to contain such accumulation, on any premises improved or unimproved, in the Town is prohibited and hereby declared to be a nuisance. Such accumulation as is approved in this subsection shall be deemed a nuisance if not disposed of as required by this section within seven days of its initial disposal in said approved container.

(2) Abatement: Whenever so directed by the Town Manager or his designee, the appropriate Town employees shall immediately thereafter notify any owner of property, his agent or any person having charge of such property in writing by registered or certified mail to said person's last known or officially reported address that an order has been made by the Town requiring the removal of any accumulated refuse from such property or premises within thirty days after service of notice. In the case of food waste, garbage or any perishable material having a strong odor or that presents a public health hazard, removal may be required within twenty-four hours of the service of actual notice to the owner of property, his agent or any person having charge of such property shall not remove such refuse in accordance with the requirements of such order, the Town may order that such refuse be removed by Town employees or others and assess the cost thereof against the property until the same is paid; provided, that in case of failure to pay such assessment shall be given to the owner of such property by publishing in a newspaper in the Town for two successive weeks, which publication shall contain notice to such property owner of the amount assessed against his property, and shall designate a time and

when the Town Council will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within the ten days after the time fixed for hearing such objections, unless the same are sustained, the Town shall certify such assessment to the County Treasurer to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with the ten percent penalty to defray the cost of collection, as provided by the laws of the State.

(3) Accumulation and Deposit of Garbage, Etc., Prohibited: No person shall deposit or place any refuse, garbage waste materials, rubbish, snow, or ashes in such a manner that the same is or tends to become a nuisance, or in such a manner endangers or tends to become a nuisance, or in such a manner endangers or tends to become a nuisance, or in such a manner endangers or tends to endanger the public health. No person having the occupancy, control or management of any premises shall cause or permit any refuse, garbage, waste material, rubbish, snow, or ashes to be accumulated thereon in such a manner that the same is or tends to become a nuisance or in such a manner as endangers or tends to endanger the public health. No person shall in any manner or place, cause to be placed or bury any refuse, garbage, waste materials rubbish snow, or ashes in or upon any public street, alley or other public place or upon his own premises or the premises of another.

(4) Refuse Not To Be Thrown In Street, Vacant Lot, Etc., No hay, straw, shavings, excelsior, paper or other combustible materials, sod, lawn mowings, leaves, weeds, ashes, glass, bottles, broken glass, nails, tacks, wire, cans, rocks, stones, snow, or waste material of any kind or nature whatsoever or any other refuse shall be thrown or swept into any street, sidewalk, gutter, sewer, intake, alley, vacant lot or other real property.

(5) Building Materials To Be Removed From Construction Sites: All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from wrecking, construction or reconstruction of any sort shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise, and as soon as possible be removed by the person responsible for such work. Such person

shall be responsible for any scattering of such refuse upon adjacent property.

(7) Removal of Refuse From Business Required: Discarded automobile parts, stoves, furniture, wool, hides, junk yard refuse and packing house or slaughterhouse refuse shall be removed periodically from such respective establishments by the proprietor so that the premises are clear of such material at all times. Silt and similar deposits from vehicle and equipment wash establishments or racks shall be removed to an approved disposal site by the establishment creating such deposit. Any accumulation of refuse that is highly explosive or inflammable which might endanger life or property shall be removed to such place as is approved by the Town or the Chief of the Fire Department or their designees; such removal is to be effected by the proprietors responsible therefor.

(8) Accumulation And Use Of Manure: Other than a spread not exceeding an average of one inch of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any purpose, or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant, or agent of the owner or occupant of said property.

(9) Burning Of Garbage And Waste Material: No person shall set on fire or burn any refuse, garbage, rubbish or waste material or any hay, grass clippings or other combustible materials in an open fire, incinerator or similar device. Any such act is a nuisance because of smoke and odor.

410 SIDEWALK SNOW AND ICE REMOVAL

No owner, manager, agent, or occupant of real property within the Town of Breckenridge shall allow snow or ice to accumulate on public sidewalks and pedestrian passageways abutting their property and they shall have joint and several responsibilities for the removal of all such snow and ice, such removal to commence within eighteen hours of the accumulation of one inch of snowfall.

411 FIREWORKS

(1) It shall be unlawful, except as permitted in subsection (3) of this section, to sell fireworks of any class, including those defined and marked pursuant to the United States Interstate Commerce Commission as "Class C, Common Fireworks," either at retail or wholesale within the Town of Breckenridge.

(2) No person shall ignite, activate or use any fireworks which are defined to include any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion explosion, deflagration, including but not limited to the following articles and devices commonly known and used as fireworks: Toy cannons or toy canes in which explosives are used, blank cartridges, firecrackers torpedoes, skyrockets, Roman candles, dayglo bombs, sparklers, and torches. Provided, blank cartridges may be utilized as part of a bona fide sporting event.

(3) The Town Council of the Town of Breckenridge shall have the power to grant permits for supervised public display of fireworks by municipalities, fair associations, amusement parks, and other organizations and groups and to adopt reasonable rules and regulations for the granting of such permits. Application for a permit shall be made in writing at least ten days in advance of the date of display. Every display shall be held by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. The Town Manager shall require each person obtaining such permit to give a bond or other security acceptable to the Town Manager conditioned for the payment of all damages which may be caused either to persons or property by reason of the licensed display and arising from any acts of the permittee, his agents, employees or subcontractors.

(4) All stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this ordinance shall be seized, taken and removed by the Town at the expense of the violator.

412 IDLING OF MOTOR VEHICLES

(1) The unreasonable and prolonged idling of motors of any motor vehicle of any kind whatsoever is hereby declared to be a public safety and health hazard.

(2) It shall be unlawful for any person to idle or permit the idling of the motor of any motor vehicle of any kind whatsoever for a prolonged and unreasonable period of time within the limits of the Town of Breckenridge at any time of the day or night.

(3) Proof that the motor vehicle was left idling for a period of time of fifteen minutes or longer shall be a prima facie proof that said vehicle was idling for a prolonged and unreasonable period of time.

413 LEAVING CELLAR DOORS AND OTHER OPENINGS UNCOVERED

OR UNSAFE

It shall be unlawful for any person to leave open, uncovered, unguarded, or in unsafe condition, any cellar door, hatchway, pit, vault or excavation upon any sidewalk, street, alley or public place or so near thereto as to constitute a hazard to any passerby.

414 UNSAFE ICEBOX STORAGE AND SIMILAR ITEMS

(1) It shall be unlawful for any person to store, maintain, abandon, discard, or place any icebox, refrigerator, or freezer which is not being used for refrigeration purposes in any public or private place foreseeably accessible to children without first doing one or more of the following to any such icebox, refrigerator, or freezer;

(a) Removing the door or doors; or

(b) Removing the latches and affixing a block or wedge or other device to the inner door surface in a manner such that the door or doors cannot shut to form a tight seal; or

(c) Padlocking the door or doors shut; or

(d) Securing the door or doors shut with permanent metal strapping.

(2) It shall be unlawful for any person to abandon or discard in any public or private place foreseeably accessible to children or for the owner, lessee, or manager of any property to knowingly permit to remain abandoned or discarded in any place under his control which is foreseeably accessible to children, any chest, closet, piece of furniture or other article having a compartment of a capacity of one and one-half cubic feet or more and having a door or lid which, when closed, cannot be opened from the inside by a means that is reasonably obvious and can be performed by reasonable effort.

OFFENSES RELATING TO GOVERNMENTAL OPERATIONS

501 RESISTING ARREST

(1) It shall be unlawful for any person to knowingly prevent or attempt to prevent any police officer acting under color of official authority from effecting an arrest of the actor or another by;

(a) Using or threatening to use physical force or violence against the police officer or another; or

(b) Using any other means which creates a substantial risk of causing physical injury to the police officer or another; or

(c) Running from, eluding or hiding from a police officer or officers attempting to effect an arrest; or

(d) While ambulatory, knowingly refusing to stand, walk or move in a manner as reasonably directed by a police officer; or

(e) Attaching one's self to, holding onto, allowing one's self to be held onto, or clinging onto another person or object.

(2) It is no defense to a prosecution under this section that the police officer was attempting to make an arrest which in fact was unlawful, if he was acting under color of official authority, and, was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts "under color of his official authority" when, in the regular course of assigned duties, he 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.

502 INTERFERENCE; ASSISTING, RESCUING PERSON IN CUSTODY

(1) It shall be unlawful for any person to interfere with or hinder any peace officer, member of the police department, or a person duly empowered with police authority, while in the discharge or apparent discharge of his or her duty.

(2) It shall be unlawful for any person to offer or endeavor to assist any person who because of a misdemeanor or civil matter, is in the custody of a peace officer, member of the police department, or a person duly empowered with police authority, to escape or to attempt to escape from custody.

(3) It shall be unlawful for any person to rescue or to attempt to rescue any person who because of a misdemeanor or civil matter, is in the custody of a peace officer, a member of the police department, or a person duly empowered with police authority.

503 OBSTRUCTING A POLICE OFFICER

(1) It shall be unlawful for any person, by using or threatening to use violence, force or physical interference or obstacle, to knowingly obstruct, impair, or hinder the enforcement of the penal law or the preservation of the peace by a police officer, or any person duly empowered with police authority.

(2) A peace officer may stop any person whom he reasonably suspects is committing, has committed, or is about to commit a crime and may require the person to give his or her name, address, date of birth, and an explanation of his or her actions. The stopping shall not constitute an arrest. It shall be unlawful to knowingly refuse to provide the information required by this subsection.

(3) When a peace officer has stopped a person for questioning pursuant to this section and reasonably suspects that personal safety requires it, such peace officer may conduct a pat-down search of that person for weapons.

504 DISOBEYING AN ORDER OF A POLICE OFFICER OR FIREFIGHTER

It is unlawful for any person to willfully disobey the lawful or reasonable order or direction of any police officer, firefighter, emergency personnel or military personnel given incident to the discharge of the official duties of such police officer or firefighter, or incident to the duties of emergency personnel or military personnel when coping with an emergency, explosion or other disaster within their official concern.

505 REFUSING TO AID A POLICE OFFICER

It shall be unlawful for any person eighteen years of age or older, upon command by a person known to him to be a police officer, to unreasonably refuse or fail to aid the police officer in effecting an arrest or preventing the commission by another of any offense.

506 DISTURBING LAWFUL ASSEMBLIES OR ACTIVITIES

(1) It shall be unlawful for any person, by conduct in, on or near the premises, property or facilities of the Town or any public place, institution, office, or buildings, or any school, congregation or assembly meeting for religious worship or any other lawful meeting or assembly intentionally, knowingly, or recklessly:

(a) (i) To obstruct a street, highway, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway, or

hallway to which the public or a substantial segment of the public has access; or any other place used for the passage of persons, vehicles, or conveyances, whether the obstruction arises from that persons acts alone or from his or her acts and the acts of others; or

(ii) To disobey a reasonable request or order to move issued by a person he knows to be a peace officer, a firefighter, or a person with authority to control the use of the premises, to prevent obstruction of a highway, passageway, or the premises, or facilities, or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard;

(b) Substantially to disrupt, obstruct or interfere with any lawful meeting, procession, or gathering in or such premises by intentional physical action, verbal utterance or any other means;

(c) To deny any public servant official, employee, invitee, or student:

(i) Lawful freedom of movement on the premises;

or

(ii) Lawful use of the property, premises or facilities; or

(iii) The right of lawful ingress and egress to such property; or

(d) To impede any public servant, official, employee, invitee, or student in the lawful performance of their duties, or activities through the use of restraint, coercion, or intimidation or when force and violence are present or threatened;

(e) To refuse or fail to leave such premises, property or facilities upon being reasonably requested to do so by a peace officer chief administrative officer, or designee, dean of an educational institution or other individual or public servant with authority to control the use of the premises if such person is committing, threatens to commit, or incites others to commit, any act which would obstruct, disrupt, restrict or impede the lawful missions, processes, procedures, or functions in or on such premises, property or facilities.

(2) Nothing in this section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances.

507 IMPERSONATING POLICE OFFICERS

(1) It is unlawful for any person other than a police of the Town to wear the insignia of office of a police officer of the Town or any other insignia of office like or similar to or a colorable imitation of that adopted and worn by the polices of the Town.

(2) It shall be unlawful for any person to falsely represent himself or herself to be a peace officer or attempt to impersonate any peace officer or without authority perform any official act therein on behalf of an officer. A person shall be considered a peace officer as that term is defined in C.R.S., 1973 S18-1-901 (1) (1).

508 IMPERSONATING TOWN OFFICERS AND EMPLOYEES UNLAWFULLY

(1) It is unlawful for any person other than a Town officer or Town employee to willfully or fraudulently represent himself or herself to be a Town Officer or an employee of the Town.

(2) It is unlawful for any person to purport to perform the duties of any Town officer or employee when that person is not an authorized officer or employee of the Town.

509 COUNTERFEIT INSIGNIA

It is unlawful for any person to counterfeit, imitate, or cause to be counterfeited, imitated, or colorably imitated, the badge or insignia of office used by the Police Department of the Town.

510 INTERFERENCE WITH PUBLIC OFFICIALS IN THE PERFORMANCE OF THEIR DUTIES

(1) No person shall unlawfully threaten violence, reprisal or any other injurious act to any Town employee or other public official who is engaged in the performance or attempted performance of their official duties or to make such a threat due to the performance or attempted performance of their official duties.

(2) It is an affirmative defense to prosecution under this section that the benefit received by the defendant did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the crime.

EQUIPMENT 511 LIMITATIONS ON THE USE OF CERTAIN VEHICLES AND

It is unlawful for any person to drive, install, cause the installation to be made, or use upon any motor vehicle any siren, exhaust whistle, or bell, or any red lights visible from the front of a motor vehicle, or any red spot light, except nothing in this ordinance shall prevent the possession, use or installation of such equipment on any Town, State or Federally - owned vehicle, or any vehicle authorized, or permitted to have or use any such equipment by the laws of the State, if there shall be compliance with all requirements of any such State laws, including obtaining necessary permits or licenses, or approval or approvals, as required by any such State laws, or by any applicable municipal Ordinance.

512 COMPOUNDING

(1) A person commits compounding if that person accepts or agrees to accept any pecuniary benefit as consideration for:

(a) Refraining from seeking prosecution of an offender; or

(b) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime.

(2) It is an affirmative defense to prosecution under this section that the benefit received by the defendant did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the crime.

OFFENSES RELATING TO WEAPONS

601 DISCHARGE OF FIREARMS, DEADLY WEAPONS, AND DESTRUCTIVE DEVICES PROHIBITED

It shall be unlawful for any person to discharge firearms, deadly weapons, or explosive devices of any kind or description within the limits of this Town; provided, however, that this section shall not apply to police officers in the discharge of their duties.

602 EXCEPTIONS: PERMITS

The Town Council may at any time upon receipt of proper application, grant permits to shooting galleries, gun clubs, rifle ranges, and other establishments for shooting in fixed localities and under specified rules. Such permits shall be in writing attested by the Clerk, conforming to such requirements as the Town Council shall demand, and the permit thus issued shall be subject to revocation at any time by action of the Town Council.

603 ILLEGAL WEAPONS - UNLAWFUL TO POSSESS OR USE

(1) It is unlawful for any person to knowingly possess, conceal or cause to be concealed in any vehicle, or to use, any blackjack, gravity knife, multifixed bladed stellate throwing knife, switchblade knife, nun-chucks or brass or metallic knuckles.

(2) Nothing in this section shall apply to peace officers or to members of the armed forces of the United States or the Colorado National Guard acting in the lawful discharge of their duties so long as such weapons have been issued or approved by their supervisor or superior officer.

604 UNLAWFUL CONCEALMENT OF DEADLY WEAPONS

(1) It shall be unlawful for any person to wear under his or her clothes, or conceal about his or her person, any dangerous or deadly weapon.

(2) For purposes of this section only, "conceal" shall mean placement of the dangerous or deadly weapon in question about the person, or within his immediate reach, in such a manner as to be either completely hidden from view or partially hidden to such an extent that another person making normal contact with that person cannot ascertain the true nature of the weapon.

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

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

(b) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit to carry the weapon by an official lawfully authorized to issue such permit, and the written permit states that it shall be effective in all areas of the state; or

(c) A peace officer, as defined in section 18-1-901 (3) (1); C.R.S. 1973, as amended; or

(d) Carrying a folding-type knife with a blade not exceeding three and one-half inches in length.

605 POSSESSION WITHIN LICENSE PREMISES

(1) It shall be unlawful for any person as a patron of an establishment where alcoholic beverages are sold for consumption on the premises, to possess or carry or display any dangerous or deadly weapon whether concealed or not, while on the premises of such establishment.

(2) It shall be an affirmative defense to a charge of possession or carrying a dangerous or deadly weapon under this section that said weapon was a folding-type knife with a blade not exceeding three and one-half inches. This defense does not apply to a charge of displaying such a weapon.

606 SELLING WEAPONS TO INTOXICATED PERSONS

It shall be unlawful for any person to purchase, sell, loan, or furnish any dangerous or deadly weapon to any person intoxicated or under the influence of alcohol or any narcotic or dangerous drug or glue

607 EXCEPTIONS

Nothing in sections 601, 603, 604 and 605 of this ordinance shall be construed to forbid any enforcement officer of the various law enforcement agencies of the United States Government, or the State of Colorado, or any sheriff or his deputies, or any regular, special or ex-officio peace officer from carrying, wearing or using such weapon as shall be necessary in the proper discharge of his duties so long as such weapons have been issued or approved by their supervisor or superior officer.

608 FORFEITURE

Any dangerous or deadly weapon as defined by this ordinance used or possessed in violation of sections 601, 603, through 606, inclusive, of this ordinance, is hereby declared to be contraband and shall be forfeited to the Town upon a conviction resulting from such use or

possession.

609 DISPOSITION OF CONFISCATED WEAPONS

It shall be the duty of every peace officer upon making an arrest and taking such a weapon, thing, or substance from the person of the offender to deliver or cause to be delivered the same to the Chief of Police to be held in his custody until the final determination of the prosecution of said offense. The Chief of Police, or his authorized agent, shall dispose of weapons forfeited pursuant to ordinance by destruction, sale, or retention for Department use in accordance with procedures and regulations of the Police Department. Any proceeds received from such sale shall, after deducting costs or other expenses of sale, be paid into the General Fund or such other fund as Town Council may direct.

610 CONCEALMENT, USE AND SALE OF INJURIOUS SUBSTANCES

(1) It shall be unlawful for any person to wear under his clothes or conceal about his or her person, with intent to use as a weapon or to use or to attempt to use as a weapon, *stance or article containing* any substance whatsoever which is capable of inflicting bodily harm to any person or animal, or may be the cause of illness to any person or animal; provided however, where such a substance is used by a person as a deadly weapon and causes bodily injury to another person, this section does not apply.

(2) It shall be unlawful for any person to have in his possession, to sell, to offer for sale, to give away, to lend, or to furnish, to use, or to threaten to use any device for dispensing mace, paralyzing gas, or any similar chemicals or combination of chemicals, or other ingredients, designed to injure, maim, paralyze, immobilize or cause the illness of a person or animal, whether or not such substance is packaged in a container under pressure; provided, however, that any *such device designed to be carried in a handbag or pocket and which does not contain more than one ounce of chemical* may be possessed by and sold to persons eighteen years of age and older and may be used by such persons in self-defense. Nothing in this section shall be construed to prohibit the use of such devices by peace officers and mailcarriers in the discharge of their duties, nor by town employees who have obtained the approval of the Town Manager to use such devices in the discharge of their duties.

OFFENSES RELATING TO ALCOHOLIC BEVERAGE
AND AMUSEMENT ESTABLISHMENTS

701 AGE RESTRICTIONS

(1) Providing to Minors; It shall be unlawful for any person to sell, serve, give away, dispose of, exchange, deliver, or permit the sale, serving, giving or procuring or any;

(a) Malt, vinous, or spiritous liquor, or fermented malt beverage (beer containing not more than three and two-tenths percent alcohol), to or for any person under the age of eighteen years.

(b) Malt, vinous or spiritous liquor, to or for any person under the age of twenty-one years.

(2) Minors Obtaining; It shall be unlawful for any person:

(a) Under eighteen years of age to obtain or attempt to obtain malt, vinous, or spiritous liquor, or fermented malt beverage (beer containing not more than three and two-tenths percent alcohol) by misrepresentation of age or by any other method in any place where malt, vinous, or spiritous liquor, or fermented malt beverage (beer containing not more than three and two-tenths percent alcohol) by misrepresentation of age or by any other method in any place where malt, vinous, or spiritous liquor, or fermented malt beverages (beer containing not more than three and two-tenths percent alcohol) are sold.

(b) Under the age of twenty-one years of age to have in his possession malt, vinous or spiritous liquor in any stores, or in any public place, or inside of vehicles in any public place.

(4) Parent's Responsibility: It shall be unlawful for any parent or guardian knowingly or under conditions a reasonable parent or guardian should have knowledge of, to suffer or permit any minor of whom he or she may be a parent or guardian, to violate the provision of the ordinance.

(5) False Statement of Card Prohibited

(a) It shall be unlawful for any minor under the age of eighteen years to make false statements or to furnish, present or exhibit any fictitious or false registration card, identification card, or note or other document or documents to a person other than the one presenting the same, for the purpose of gaining admission to any place which established a minimum age for entrance, or for the purpose of procuring the sale, gift or delivery of articles for which a minimum age possess, purchase or receive is established, including beer, liquor, wine,

cigarettes and tobacco.

(b) It shall be unlawful for any person to furnish to any minor any fictitious or false registration card, identification card, or note or other document or documents issued to a person other than the minor, for the purpose of assisting the minor in procuring admission to any place which established a minimum age for entrance, or for the purpose of assisting the minor in procuring the sale, gift or delivery of articles for which a minimum age to possess, purchase or receive is established, including beer, liquor, wine, cigarettes and tobacco.

(6) Services of Others Prohibited: It shall be unlawful for any minor under the age of eighteen years to engage or utilize the services of any other person, whether for remuneration or not, to procure for such minor any article which the minor is forbidden by law to purchase or possess.

(7) Unlawful Purchasing Prohibited: It shall be unlawful for any person, whether for remuneration or not, knowingly to procure for any minor under the age of eighteen years any article which the minor is forbidden by law to purchase or possess.

702 LICENSEE'S LIABILITY

(1) It shall be unlawful for any licensee to permit any assault, harrassment or disorderly conduct as those offenses are defined in this ordinance, to be committed by any person or group of persons upon any premises licensed for the sale of malt, vinous, spiritous liquors or fermented malt beverages, or any premises licensed as a place of amusement or recreation. (Reg. 47-105.1)

(2) It shall be unlawful for a licensee, in any manner, to encourage or participate in any assault, harrassment or disorderly conduct as those offenses are defined in this ordinance upon premises selling malt, vinous or spirituous liquors or fermented malt beverages, or any premises licensed as a place of amusement or recreation, provided however, that such licensee may use such reasonably necessary and lawful means as may be proper to protect himself or herself, the person of another, or property from damage or injury.

(3) No licensee for the sale of malt, vinous or spiritous liquors or fermented malt brverages for consumption on the premises shall install, amintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine, apparatus which is kept or used for the

purpose of gambling either directly or indirectly. This section 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 for gambling, directly or indirectly, and for the scoring, achievement, use or operation for which no prize, reward or thing of value is offered or paid by any person.

(4) Each licensee shall conduct his establishment in a manner, such that no provision of the Chapter is violated, (Reg. 47.105.1) nor shall such licensee knowingly permit within or upon the licensed premises any of the following:

(a) The loitering of habitual drunkards or obviously intoxicated persons;

(b) Lewd or indecent displays;

(c) Any disturbance or activity constituting conduct in violation of this ordinance or any criminal provision of Colorado law.

(5) No licensee shall knowingly permit the consumption of malt, vinous, or spiritous liquors or fermented malt beverages is prohibited by municipal, Colorado or federal law.

(6) (a) No licensee, manager or agent shall permit the removal of any malt, vinous, or spiritous liquors or fermented malt beverages from the licensed premises. (Reg. 47-128.8)

(b) It shall be unlawful for any person to remove any malt, vinous or spirituous liquors or fermented malt beverages from a licensed premises.

(c) This subsection (6) shall not apply to a duly licensed package liquor store or vendor.

(7) No licensee, manager or agent shall employ or permit upon any premises licensed for the sale of malt, vinous or spiritous liquors or fermented malt beverages for consumption on the 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 consumption by the one begging, procuring, or soliciting or for the use or consumption by any other employee waiter, waitress, entertainer, host or hostess. (Reg. 47-128.9)

(8) No licensee, manager or agent shall permit upon any premises licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises anyone to loiter in or about said premises for the purpose of begging or soliciting any patron or customer or visitor in such premises to purchase any drinks or beverages of any nature whatsoever for the one soliciting or begging.
(Reg. 47-128.9)

(9) No licensee for the sale of malt, vinous, or spirituous liquors or fermented malt beverages for consumption on the premises shall knowingly permit any person or persons to appear in the state of nudity within or upon the premises.

(10) No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall permit the showing of film still pictures, electronic reproductions, or other visual reproductions depicting any lewd or indecent displays, or person in any state of nudity.

703 REPORTS

Any licensee shall immediately report to the Police Department of the Town any unlawful act, conduct or disturbance committed on the premises. Failure to comply with the requirements of this Section may be considered by the licensing authority in any action relating to revocation suspension or renewal of a license. Proof of repeated failure on at least three occasions to comply with the requirements of this section shall constitute prima facie grounds for the suspension, revocation or denial or renewal of a license.

704 ABSENCE OF LICENSEE NOT A DEFENSE

It shall not be a defense to a prosecution under this section that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in, provided, however, that an agent, servant or employee of the licensee shall not be responsible hereunder when absent from the premises and not on duty.

OFFENSES CONCERNING PUBLIC DECENCY

801 PUBLIC INDECENCY

It shall be unlawful for any person knowingly to perform any of the following acts in a public place or place with in a view:

- (1) An act of sexual intercourse; or
- (2) A lewd and indecent display.

802 INVASION OF PRIVACY

It is unlawful for any person to look into the windows of anyone's domicile or residence without the permission of the person being observed, the owner or possessor of the domicile or residence or their agents, either from within the real property surrounding the domicile or residence, or from without with the use of magnifying devices such as binoculars, monoculars, telescopes, spy glasses and other devices.

803 PROSTITUTION

It shall be unlawful for any person to engage in prostitution. A person engages in prostitution when he or she performs, offers, or agrees to perform any act of sexual intercourse, with any person not his or her spouse, in exchange for money or other thing of value. For the purposes of this ordinance, a prostitute is any person who engages in prostitution.

804 SOLICITING

It shall be unlawful for any person to solicit for prostitution. A person solicits for prostitution if he:

- (1) Solicits another for the purpose of prostitution; or
- (2) Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- (3) Directs another to a place knowing such direction is for the purpose of prostitution.

805 PANDERING

It shall be unlawful for any person to pander. A person panders when, for money or other thing of value he knowingly arranges or knowingly offers to aid, abet or advise another so that any person may engage in prostitution.

806 KEEPING A PLACE OF PROSTITUTION

It shall be unlawful for any person to keep a place of prostitution. Any person who has or exercises control over the use of any premises which offers seclusion or shelter for the practice of prostitution, keeps a place for prostitution if he:

- (1) Knowingly grants or permits the use of such place for the purpose of prostitution; or
- (2) Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he or she should reasonably know that the place is being used for purposes of prostitution.

807 PATRONIZING A PROSTITUTE

It shall be unlawful for any person to patronize a prostitute.

Any person who performs any of the following patronizes a prostitute:

(1) Knowingly engages in an act of sexual intercourse with a prostitute; or

(2) Enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse with a prostitute.

808 GAMBLING

(1) Gambling Offenses: It shall be unlawful for any person to engage in gambling, or professional gambling.

(2) Gambling Devices and Proceeds: Except as provided in subparagraph (3) hereof, all gambling devices, instruments and things used for the purpose of gambling, as well as gambling proceeds are hereby declared to be contraband and shall be subject to seizure by any peace officer and may be confiscated and destroyed by order of the Court. All gambling proceeds shall be forfeited to the Town and transferred by Court order to the general fund of the Town.

(3) If a gambling device is an antique gambling device and is not operated for gambling purposes for profit or for business purposes, it shall not be confiscated or destroyed pursuant to subparagraph (2) of this section. If a gambling device is confiscated and the owner shows that such gambling device is an antique gambling device and is not used for gambling purposes, the court acquiring jurisdiction shall order such gambling returned to the person from whom it was confiscated. For the purpose of this section, a gambling device shall be conclusively presumed to be an antique gambling device if it was manufactured prior to 1950.

(4) Possession of a Gambling Device: It shall be unlawful for any person to own, manufacture, sell, transport, possess, or engage in any transaction designed to affect the ownership, custody, or use of a gambling device, knowing that it is to be used in professional gambling.

(5) Gambling Premises: It shall be unlawful for any person as owner, lessee, agent, employee, operator, or occupant, knowingly to maintain, aid or permit the maintaining of a gambling premise.

OFFENSES CONCERNING ANIMALS

901 WILDLIFE

(1) Harassing, Killing or Injuring Wildlife:

(a) It is unlawful for any person to willfully and unnecessarily shoot, throw objects at, capture, chase, injure or destroy any bird or animal anywhere within this Town.

(b) No person shall willfully destroy, rob or injure the nest, nesting place, burrow, eggs or young of any wild bird or animal anywhere within the this Town.

(c) Wild bird includes all undomesticated birds native to North America and undomesticated game birds implanted in North America by governmental agencies and includes any domestic duck or goose released by any private person or recreational authority upon any recreational area within this Town.

(d) Wild animal includes any animal native to the State of Colorado but does not include fish or any species of amphicians, Norway rats and common house house mice.

(e) The provisions of this section do not apply to personnel of any police, fire or animal control agency or the Colorado Division of Wildlife or Department of Health or other State or Federal agency when such persons are acting within the scope of their official duties as employees of said agencies.

(f) The provisions of this section are not intended to allow the destruction of any bird or animal protected by the laws of the State of Colorado or the United States of America.

902 RABIES CONTROL AND LICENSING

(1) License Required: The owner, possessor or keeper of any dog within the Town shall procure a license and town tag for such dog from the Town on or before the first day of January of each year or within thirty days after such acquisition. No such license shall be required for non-residents temporarily within the Town for less than thirty days.

(2) Prerequisite to Issuance of License:

(a) Upon application for a dog license, the applicant shall exhibit to the Town, a certificate from a licensed veterinarian that the dog has been inoculated against rabies as required by this section.

(b) If any dog has inflicted a bite on any person within a ten day period preceding the date on which such animal is to be vaccinated, the owner of such animal shall report such fact to the veterinarian and no rabies vaccine shall be administered until after the ten day observation period. Further, the veterinarian shall inquire before any rabies inoculation is given whether such animal to be vaccinated is under quarantine or has inflicted a bite upon any person within the last ten days.

(c) The requirements for rabies inoculation as set forth hereinabove is intended primarily to apply to dogs: provided, however, that whenever it shall be deemed advisable in the interest of the public health, welfare, and safety, the Town may order that all animals, or certain specified animals, within the Town which are susceptible to the rabies virus shall be vaccinated against rabies such vaccination to be performed by a licensed veterinarian.

(3) Fee: The annual license fee for dogs within the Town shall be five dollars for spayed females and castrated males and ten dollars for males and unspayed females. Dogs shall be presumed to be unspayed and not castrated unless the owner presents written proof from a licensed veterinarian.

(4) Attachment of Tags to Collar:

(a) The owner, keeper, or possessor of any dog shall place upon such dog a collar, harness, or similar device of durable material to which the Town tag herein provided for shall be attached.

(b) If a dog within the Town is of the age of less than six months and accordingly, is not required by this Article to have a Town rabies vaccination tag as hereinabove described, the owner, or keeper of such a dog shall obtain an identification tag for said dog setting forth the name and address of the owner thereof and said identification tag shall be attached to the dog's collar.

(c) It shall be unlawful for the owner, possessor, or keeper of any dog to permit said dog to remain within the Town without said Town tag securely affixed to the dog's collar at all times.

(5) Rabies Tags - Not Transferable: Town tags are not transgerable and it shall be unlawful for any person to affix any said dog other than the dog for which said tag has been issued.

(6) False and Stolen Documents - Tags: It shall be unlawful for any person to make use of, or have in his possession or under his control, any stolen, counterfeit, or forged Town tag, rabies inoculation cerfificates, or other form provided for by this Article.

(7) Designation of Qualified Persons: All veterinarians who are licensed as such by the State of Colorado and who maintain a practice of veterinary medicine within the Town are hereby designated as authorized to execute Town Certificates of Inoculation.

(8) Reporting Animal Bites:

(a) Whenever any dog, cat, or other animal has bitten any person, it shall be the duty of the owner of such animal or of any person, having knowledge thereof to immediately report such fact to the Humane Officer or to the Police Department, stating, if known, where such animal may be found.

(b) Whenever any dog, cat, or other animal is affected by rabies, or suspected of having rabies, or has been bitten by an animal known or suspected to be affected by rabies, the owner of such animal or any person having knowledge thereof shall immediately report such fact to the Humane Officer or to the Police Department stating, if known, where such animal may be found.

(c) Consistent with part (a) of this subsection, every physician or medical practitioner after his first professional attendance upon a person bitten by a dog, cat, or other animal within the Town shall within twelve hours report to the Humane Officer or to the Police Department the name, age, and address of the perosn so bitten and treated, with the permission of said person. It shall be the duty of every physician or midical practitioner to request such permission to so advise the Humane Officer.

(d) It shall be the duty of every veterinarian who diagnoses rabies in any animal to immediately report such fact to the Humane Officer or to the Police Department.

(9) Confinement - Quarantine.

(a) Any animal that has bitten any person, or has been exposed to rabies, or in any manner is suspected of having rabies shall be immediately confined for a period of ten days from the date of the incident or for a longer period of time upon the advise of the Humane Officer or a veterinarian. The Humane Officer or other officers and employees of the Town charged with the enforcement of this Ordinance shall serve notice of such confinement on the owner or harborer of such animal. Such confinement may be on the premises of the owner if deemed appropriate by the Humane Officer. If the animal is not confined on the owner's premises, confinement shall be wither in the Town Animal Shelter or at a veterinary hospital of the owner's choice. Such confinement shall be at the expense of the owner.

(b) It shall be unlawful for the owner or harborer of any animal that has bitten a person, or has been exposed to rabies, or in any manner is suspected of having rabies, to destroy or to dispose of such animal before said animal can be properly confined by the Humane Officer.

(c) It shall be unlawful for the owner or for any other person to allow any animal which is under confinement to come into contact with the public or with any other animal or to remove any such animal from the place of confinement or quarantine without the written consent of the Humane Officer.

(d) The owner or harborer of any animal that has been reported to have bitten any person or is suspected of having bitten any person shall, on demand of the Humane Officer or of any Town officer or employee charged with the enforcement of this Article, produce and surrender said animal for examination and quarantine as prescribed in this Article. If the owner or harborer of any such animal refuses to produce said animal, said owner or harborer shall be subject to immediate arrest if there shall be probable cause to believe said animal has inflicted a bite upon a person and the owner or harborer is keeping said animal and willfully refuses to produce said animal upon such demand,

and shall be taken by an officer of the Police Department before a judge of the Municipal Court who may order the immediate production of said animal. If the owner or harbinger of any such animal shall willfully and knowingly secrete or refuse to produce said animal, each day of such secretion or refusal shall constitute a separate and individual violation of this section.

(e) When an animal under confinement and quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify the Humane Officer or the Police Department and the applicable County Health Officer of such fact and shall advise them of any reports of human contact with such rabid animal. If any animal under confinement dies while under observation, the Humane Officer shall immediately take action to obtain a pathological and inoculation examination of the animal. As soon as a diagnosis is made available, the Humane Officer shall notify the appropriate County Public Health Officer of any reports of human contact with the animal.

10) Emergency Conditions: Whenever the Town Council finds or has been notified by the Colorado Department of Health that there is imminent danger that rabies may spread within the Town, the Town Council may require every owner, keeper, or possessor of any dog, cat, or other specified animals to confine such animals for such periods as may be necessary to prevent the spread of rabies within the Town.

903 ANIMALS RUNNING AT LARGE - DISURBANCES

(1) Animals Running at Large: It shall be unlawful for any person owning or having charge of any animal except an ordinary domesticated house cat, to permit said animal to run at large within the Town; provided, however, an animal which is upon the premises of the owner or upon the premises of the person having charge of said animal may be constrained in one of the following manners:

(a) Within the confines of any building or improvements;

(b) Within the confines of a fence sufficient to keep the animal on the premises;

(c) By voice and visual control which control shall require the owner or his agent to be outside any building or improvement;

or
(d) Chain, cord, rope, cable, or other similar physical device sufficient to restrain an animal within the boundaries of the premises.

(2) Competent Control: It shall be unlawful for any person owning any animal to permit said animal to be in the care and custody of a person who is not competent to restrain and control said animal.

(3) Cats - Reasonable Control: Any person owning or having charge of any cat shall maintain reasonable control over such cat. For purposes of this Ordinance, a cat shall not be deemed under reasonable control when such cat inflicts damage or injury to the person or property of anyone other than the owner or keeper thereof or when such cat is in violation of subsection (6) of this section.

(4) Injured and Stray Animals: Any stray animal or any animal injured on public property shall be deemed to be running at large and shall be impounded. The Humane Officer may take those injured animals in need of medical attention to a veterinarian for adequate veterinary medical treatment, pending notification of the animal's owner. The owner of such animal shall be liable for and shall pay all expenses of such treatment and impoundment.

(5) Dead Animals: Any animal killed in any public street or on any public property may be removed therefrom and disposed of by the Humane Officer. The owner of such animal, if ascertainable shall be so notified and advised by the Humane Officer.

(6) Disturbances:

(a) It shall be unlawful for any animal owner or for any person in charge of any animal to permit such animal to disturb the peace and quiet of any person or neighborhood by barking, fighting, howling, crying, or by emitting any other similar sound; provided however, that said animal owner or said person in charge of any such animal shall not be found guilty of a violation of this subsection unless he or she has received or unless such animal has been the subject of at least one prior complaint within the twelve month period immediately preceding the date of issuance of the summons and complaint charging a violation of this subsection.

(b) For purposes of this subsection, the term "complaint" means a signed statement of fact that the animal in question created the disturbance described in part (a) of this subsection.

(1) Vicious Animals Prohibited: It shall be unlawful for any person to own, keep, harbor, or possess any vicious animal anywhere in the Town.

(2) Impoundment: It shall be the duty of the Humane Officer or any police officer to seize and to impound any vicious animal. After making every reasonable attempt to seize such animal, including the solicitation of assistance from the animal's owner if such owner be immediately ascertainable and available, if said officer determines that said vicious animal cannot be seized without exposing the officer or other persons to danger or personal injury from such vicious animal, it shall be lawful for said officer to destroy such animal without notice to the animal owner, keeper, or possessor.

(3) Powers of Municipal Judge: The Judge of the Municipal Court may order any person found guilty of violating this section to destroy or dispose of such vicious animal within twenty-four hours from the date of the Court Order therefor and the refusal or failure of said person to comply with said Order shall subject said person to all of the penalties prescribed by this Chapter and said person shall be deemed guilty of a separate offense for violation of said Court Order. Further, upon the failure of said person shall be deemed guilty of a separate offense for violation of said Court Order. Further, upon the failure of said person to comply with said Court Order, the Humane Officer shall impound and shall cause said animal to be humanely destroyed. The owner of such animal shall be liable for and shall pay all costs of the impoundment and destruction of said animal.

(4) Multiple Offenses: Where the Municipal Judge, upon complaint of any person, finds that any animal has, without provocation, bitten a person more than once, said animal shall be immediately impounded by the Humane Officer and held for a period of five days and shall thereafter be humanely destroyed unless the owner or possessor of said animal, within said five day period, shows just cause to the Municipal Judge why said animal should not be destroyed. If the owner decides to enter such a plea, said owner must provide the Municipal Judge prior written notice therefor. The owner of said animal shall be responsible for and shall pay all costs of impoundment and destruction.

(1) Confinement During Estrus: Any spayed female animal in the stage of estrus (heat) shall be securely confined during such period of time within a house, building, or other secure enclosure which is so constructed as to prevent other animals of the same species from gaining access to the confined animal. Any owner or any person in charge of said animal who does not adequately so confine the animal during the stage of estrus or whose animal during estrus causes or attracts a disturbance as defined in section 903 (6) (a) of this Chapter shall be ordered by the Humane Officer to remove said animal to a boarding kennel, to a veterinary hospital, or to the Town Animal Shelter. All expenses incurred as a result of such confinement shall be paid by the animal owner. Failure to comply with the Humane Officer's removal order shall be a violation of this Article and the animal shall then be impounded at the owner's expense. This section shall not apply when animals are intentionally brought together within an enclosed area of the owner's premises or an enclosed area of the owner's authorized agent's or licensee's premises for purposes of breeding.

(2) Cruelty to Animals: A person commits cruelty to animals if, except as authorized by law, he knowingly overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicles in a cruel manner, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge and custody of any animal, fails to provide it with proper food, drink, or protection from the weather or abandons it.

(3) Disposition of Dead Animals: When any animal shall die within the Town, it shall be the duty of the owner or keeper thereof to remove and properly dispose of such animal within twenty-four hours after the death thereof. If such dead animal is not so removed and disposed of, the Humane Officer shall be authorized to remove and dispose of said animal, with the owner or keeper of said animal being liable for all costs related to disposition of the animal.

(4) Animals Prohibited Within Town - Exotic, Dangerous and Unusual Animals:

(a) It shall be unlawful for any person to keep, maintain, possess, or harbor any livestock or fowl such as, but not limited to, horses, mules, donkeys, burros, cattle, sheep, goats, swine, chickens, geese, ducks, or turkeys within the residential and urbanized areas of the Town; provided however, that this subsection shall be coordinated with the Town Code of Development wherein certain animals and numbers thereof may be permitted within certain land use districts.

(b) It shall be unlawful for any person to own, keep, maintain, possess, harbor, sell, or in any manner deal or traffic within the Town in any living exotic, wild, dangerous or unusual animals, whether domesticated or tamed, including but not necessarily limited to the following: Bats of any species; felines, other than ordinary domesticated house cats; gorillas, chimpanzees, orangutans, baboons, or any other infra-human primate; any member of the Mustelidae family, including but not limited to, fishers, ferrets, martens, minks, otters, porcupines, raccoons, skunks, weasels, and wolverines; poisonous reptiles; wolves, foxes, coyotes, or other species of canines other than dogs; any animal or bird which has received State or Federal government designation as an endangered species; any other terrestrial predator or other animal determined to be a public nuisance pursuant to the provisions, procedures and means of abatement therefor established by the Ordinance of this Town; provided however, owners of any member of the Mustelidae family as hereinabove defined may apply to the Town for an annual permit to possess and harbor such animal subject to review by the Town Manager, licensing procedures as herein provided for dogs and compliance with the provisions of this Article and all other ordinances of the Town of Breckenridge.

(5) Regulations Pertaining to the Keeping of Horses
Within all Residential Areas: No horses shall be kept within residential areas of the Town of Breckenridge except upon application to the Town and receipt of an annual permit, which permit shall be revocable upon violation of any regulations pertaining thereto.

(6) Rules and Regulations of Operation Pertaining to Commercial Stable: No commercial stables shall be operated within the Town of Breckenridge, except upon application to the Town and receipt of an annual permit, which permit shall be revocable upon violation of any regulation pertaining thereto.

(7) Picketing: It shall be unlawful for any person to

(7) Picketing: It shall be unlawful for any person to picket or tether any animal in or upon the streets or other public places of the Town or upon the private property of other persons without the permission of the property owners.

(8) Poisoning of Animals: It shall be unlawful for any person to poison any domesticated or any wild animal or to distribute poison in any manner whatsoever with the intent to or for the purpose of poisoning any such animals with the exception of bats, rats, mice and insects.

(9) Prohibition and Removal of Animal Excrement: It shall be unlawful for any person owning or for any person having charge of any animal to allow or to permit such animal to defecate or to void excrement on the property of another person and, in the event of such defecation or excrement, it shall be the duty of the person owning or having charge of such animal to remove and clean up such defecation or excrement.

(10) Promotion of Animal Fights and Keeping Places Therefor: It shall be unlawful for any person to cause, instigate, or encourage any animal to fight or to enter into combat in any manner and it shall be unlawful for any person to maintain any place where animals are suffered to fight for exhibition, wager, or sport.

906 IMPOUNDMENT

(1) Animal Shelter: The Town Manager is hereby authorized to establish an Animal Shelter for the Town to be operated by Town personnel, or at his election he may, subject to the approval of the Town Council, contract with the public or private person or organization for the operation of an animal shelter for and on the behalf of the Town.

(2) Impoundment: Any animal in violation of this Article or of any other applicable Town Ordinance or State Law may be taken into custody by the Humane Officer or any other officer or employee of the Town charged with the enforcement of this Article and impound. Such officers and employees are hereby authorized to go upon private property to take custody of any animal violating this Article or other applicable law provided said officers or employees have witnessed said violation. Whenever it is necessary to make an inspection of private property to enforce any of the provisions of this Article or other applicable law, such inspection shall be made pursuant to the requirements and procedures.

therefor set forth in section 907 of this Ordinance.

(3) Release from Impoundment - Fees. Any animal impounded under the provisions of this Article shall not be released from such impoundment until such animal is vaccinated for rabies and registered with the Town as required by this Article and not until impoundment fees have been fully paid in accordance with the fee schedule established by the governmental authority operating the animal shelter.

(4) Disposition of Animals.

(a) As soon as practicable after impoundment, notice of impoundment shall be given to the owner if known and if the animal is not claimed by the owner within five days thereafter, said animal shall be deemed abandoned, shall become the property of the Town, and shall thereafter either be placed for adoption subject to payment of the impoundment fees and other charges or shall be humanely destroyed and disposed of at the discretion of and in such manner as may be determined by the Humane Officer.

(b) In the event an unhealthy or seriously injured animal is impounded and is not registered with the Town and is without other means of ascertaining ownership thereof and a veterinarian determines that the condition of said animal is such that a healthy recovery is precluded or that such animal will transmit serious diseases to other animals, then the Humane Officer shall cause said animal to be humanely destroyed.

(5) Disposition by Court Order: If a complaint has been filed in the Municipal Court of the Town against the owner of an impounded animal for a violation of this Article, the Municipal Judge shall have the authority to and may, upon making a finding that such animal is vicious or that it represents a clear and continuing danger to the citizens or other animals in the community, order said animal to be destroyed in a humane manner. In the event such an order is issued by the Municipal Judge, the animal owner shall be responsible for and shall pay all costs for the destruction of such animal. Surrender of an animal by the owner thereof to the Humane Officer does not relieve or render the owner immune from the decision of the Municipal Court nor to the fees and fines which may result from a violation or violations of this Article.

(6) Refusal of Owner to Retrieve Impounded Animals:

The failure or refusal to retrieve any impounded animal by the owner of said animal shall not relieve said owner of the duty to pay the impoundment fee and other charges which have been assessed. The owner of any animal who shall fail or refuse to pay such fees and charges shall be in violation of this section and may be cited into the Municipal Court and fined or imprisoned or be subject to both such fine and imprisonment as provided by this Article, upon conviction of violation of this section.

907 GENERAL PROVISIONS

(1) Inspections

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of this Article or other applicable law, or to perform any duty imposed by this Article or other applicable laws, or whenever the Humane Officer has reasonable cause to believe that there exists in any building or upon any premises any violation of this Article or other applicable law, the Humane Officer is hereby authorized to enter such building or premises at any reasonable time to inspect the same and perform any duty imposed upon him by this Article or other applicable law; provided that:

(i) If such building or premises be occupied, the Humane Officer shall first present proper credentials to the occupant and request entry explaining his reasons therefor;

(ii) If entry is refused, the Humane Officer shall give the owner or occupant, or if said owner or occupant cannot be located after reasonable effort, the Humane Officer shall leave at the building or premises, a twenty-four hours written notice of intention to inspect/ Said notice given to the owner or occupant or left on the premises, shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made upon issuance of a search warrant by a Municipal Judge of the Town or by a Judge of any other court having jurisdiction.

(b) Notwithstanding the foregoing, if the Humane Officer has reasonable cause to believe that the keeping or maintaining of any animal is so hazardous, unsafe, or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the Humane Officer shall have the right, immediately to enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection, whether such property be occupied or unoccupied and whether or not permission to inspect has been obtained. If the property is occupied, the Humane Officer shall first present proper credentials to the owner or occupant and demand entry, explaining his reasons therefor and the purpose of the inspection.

(c) No person, firm or corporation shall fail or refuse, after proper demand has been made upon him as provided in part (b) above, to permit the Humane Officer to make any inspection provided for by said part (b). Any person, firm or corporation violating this Section shall be guilty of an unlawful act.

(d) The licensee or permittee of any license or permit issued pursuant to this Article does by accepting said license or permit consent and agree to the entry upon the premises described in said license or permit consent and agree to the entry upon the premises described in said license or permit by the Humane Officer for the purpose of conducting such inspections as are required by this Article or other applicable law.

(2) Penalty for Violation:

(a) Any person, firm, or corporation violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued, or permitted, and upon conviction, such person, firm, or corporation shall be punishable by a fine of not less than five dollars and not more than three hundred dollars or a jail sentence of not more than ninety days, or by both such fine and imprisonment.

(b) The following mandatory minimum fines shall be imposed for violations of this Ordinance:

- (i) First Conviction - Ten dollars;
- (ii) Second Conviction within a twelve month period - Twenty-five dollars;
- (iii) Third Conviction within a twelve month period - Fifty dollars;
- (iv) Fourth and Subsequent Convictions within a twelve month period - One hundred dollars.

(3) Prosecution - Strict Liability: For the purpose of prosecution for alleged violations of any section of this Article, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner of any animal in question that said animal is violating any of said sections of this Article at the time and place charged, it being the purpose and intent of this section to impose strict liability upon the owner of any animal for the action, conduct, and condition of that animal, in accordance with the terms of this Article.

MISCELLANEOUS OFFENSES

1001 POSSESSION OF CANNABIS

(1) Any person who possesses, transfers, cultivates, grows, produces, processes or manufactures or knowingly allows to be cultivated, grown, produced, processed or manufactured on land or real property owned, occupied or controlled by him, not more than one ounce of cannabis or cannabis concentrate or derivative is guilty of the offense of possession of cannabis.

(2) Penalty for violation of this Ordinance shall be by fine only. Fine shall be a maximum of one hundred dollars for each offense.

1002 MOTORIZED VEHICLES PROHIBITED

Any and all unauthorized motorized vehicles including but not limited to automobiles, trucks, motorcycles and snowmobiles are hereby prohibited from being operated or driven within the Breckenridge Town Parks contrary to posted restrictions.

1003 JUNK VEHICLES PROHIBITED

(1) It shall be unlawful for any person to store or keep

any junk vehicle or parts thereof unless in a fully enclosed structure or unless approved in the official Development Plan for a PUD district.

(2) Procedure:

(a) The Town of Breckenridge is authorized to have any junk vehicle towed to a storage yard designated by the Town.

(b) Prior to towing, a conspicuous warning notice shall be securely affixed to the vehicle indicating that the vehicle is believed to be a junk vehicle in violation of this section, the reason for such belief, that if the vehicle is not moved within five days from the date of notice, a citation will issue, the vehicle is subject to towing, that towing and storage charges will be payable prior to recovery of the vehicle, and the owner should contact the code enforcement officer or police department.

(c) If the vehicle is not moved and no response to the warning notice is received prior to the expiration of the five day period, a summons and complaint for violation of this section shall issue and be affixed to the vehicle.

(3) Procedure - Private Property

(a) In the event of the storage or keeping of any junk vehicle or parts thereof on private property, the person responsible for violation of the section shall include the owner of the vehicle or parts, the owner of the property where it is stored or the person in charge or control of the property whether as owner, tenant or occupant.

(b) Notice shall be personally served or sent by certified mail to the owner, tenant or occupant of the property where the vehicle or parts are stored to remove same within ten days after the giving or mailing of notice. The notice shall indicate that failure to remove the vehicle or parts will result in towing or removal and expenses being assessed against the owner or his property.

(c) Upon the failure, neglect or refusal of any owner, tenant or occupant so notified, to properly dispose of such vehicle or parts thereof within the time limits herein set forth, the Town is authorized and empowered to remove the same at the expense of such owner, tenant or occupant or agent of the owner, tenant or occupant.

(d) In case the owner, tenant or occupant of such property shall fail to pay such bill within thirty days after the same has been rendered, the Town may assess the costs against the property in question. Such assessment shall constitute a perpetual, first and prior lien on the property involved. The Town shall certify to the County Treasurer the assessments which are not paid within twenty days after the date of assessment. Ten percent of the amount shall be added to the assessments to pay the cost of collection.

(e) A summons and complaint in the Municipal Court may be issued to any owner, tenant or occupant of any premises for failure or refusal to remove any junk vehicle whenever the same is in violation of the Ordinance.

(f) It shall be an affirmative defense to a prosecution under this section that the owner or person in control of the real property upon which the junk vehicle is located did not authorize or consent to the placement of the vehicle on the said property and notified the Town within five days of said vehicle's placement seeking the vehicle's removal. This defense does not apply to any party responsible for the placement of the vehicle at that location nor to the owner of said vehicle.

1004 DISTRIBUTION OF HANDBILLS

No show bills, dodgers, newspapers, or advertising matter of any kind shall be posted, fastened or affixed to any building, post, fence, tree, motor vehicle, or other device or structure, or be scattered about the Town.

1005 SPECIAL OFFICERS

(1) All Special Officers shall wear uniform clothing marked with a badge or patch that is distinctive for each company and that is in no way deceptively similar to the uniform in use by the Breckenridge Police Department.

(2) All vehicles used by Specific Officers while working shall be marked with a distinctive sign or emblem for each company and that is in no way deceptively similar to the vehicles or emblem in use by the Breckenridge Police Department.

(3) All Special Officers shall carry in the performance of their duties a photo I.D. card issued by their company that in no way is deceptively similar to that carried by officers of the Breckenridge Police Department.

(4) All persons desiring to do business within the Town

of Breckenridge as Special Officers shall first apply for a business license. All such persons shall also be required to list the name, date of birth, and address along with other background and identification information on forms provided by the Police Department of each and every owner, operator, manager, and employee of the company or person.

(5) All persons associated or employed by any company or person in the occupation of Special Officer shall agree to submit to a background check by the Breckenridge Police Department.

(6) (a) If any employee or person associated with the company or person operating the business is, due to the background investigation, considered a security risk for the citizens of Breckenridge that person shall not be licensed as a Special Officer within the limits of the Town of Breckenridge.

(b) Should any person rejected for a license as a Special Officer request a hearing to show cause why his background investigation is erroneous or constitutes insufficient grounds to deny him a license, such hearing must be requested within seven days of his being informed of said denial or seven days after mailing of notice of denial at the applicant's last known address, whichever occurs first. Said hearing will be held before the Town Council at one of its regular meetings and its decision shall be final.

(7) In addition to the business license fees paid to the Town, the person requesting a background check shall submit a check in the amount of five dollars to the Town along with two sets of fingerprints and shall submit a check in the amount of ten dollars to the Town of Breckenridge to cover costs of investigations. Should a hearing under subsection (6) (b) be requested, an additional fee of fifteen dollars shall be required prior to setting a hearing.

1006 CAMPING RESTRICTIONS

(1) It shall be unlawful for any person to camp or sleep in any park, upon any public street or thoroughfare or upon any property or to set up a tent, shack or any other temporary shelter upon such property which could be used for such within the Town of Breckenridge.

(2) It shall be unlawful for any person to trespass or enter upon the land of another or in possession of another for the purpose of camping, sleeping or setting up a tent, shack or any other temporary shelter which could be used for such purpose or to allow any movable structure, recreational vehicle or motor vehicle to remain on such property without permission of the owner or the person in possession thereof.

INCHOATE OFFENSES

1101 ATTEMPTS

(1) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he 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.

(2) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his complicity under section 1102 of this Chapter were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

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

1102 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 aids, abets, or advises the other person in planning or committing the offense.

SECTION THREE: REPEAL:

All other ordinance and parts of any ordinances or other Breckenridge Code provisions in conflict herewith are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.


SECTION FOUR: SEVERANCE CLAUSE:

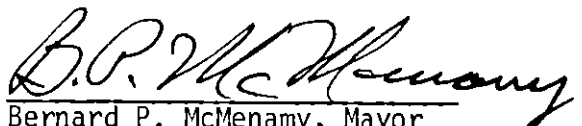
If any article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid or unconstitutional and to this end the provisions or applications of this ordinance are declared severable.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL, this 28th day of April, 1981. A Public Hearing on this Ordinance shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 12th day of May, 1981 at 7:00 p.m. or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST:

TOWN OF BRECKENRIDGE


Rosemary Ahern, Town Clerk

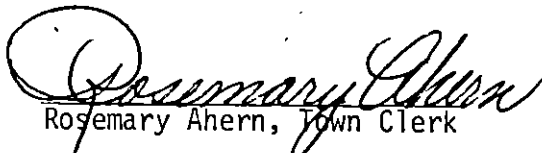

Bernard P. McMenemy, Mayor

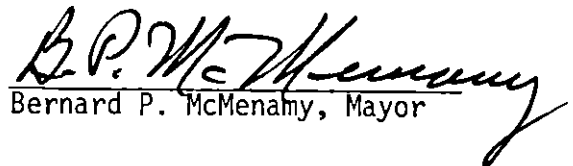
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE

THIS 12th day of May, 1981.

ATTEST:

TOWN OF BRECKENRIDGE


Rosemary Ahern, Town Clerk


Bernard P. McMenemy, Mayor

APPROVED BY TOWN ATTORNEY

Date