

TITLE 6
POLICE AND PUBLIC SAFETY

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CHAPTER 1
POLICE DEPARTMENT

SECTION:

- 6-1-1: Department Created; Chief
- 6-1-2: Duties
- 6-1-3: Officers
- 6-1-4: Unclaimed Property

6-1-1: **DEPARTMENT CREATED; CHIEF:** There shall be a police department, the head of which is the chief of police, or the police chief, appointed by the town board of trustees and removable by the town board. The police chief is an officer of the town and has supervision and control of the police department. (1999 Code § 13-301)

6-1-2: **DUTIES:** It is the duty of the police department:

- A. To apprehend and arrest on view or on warrant and bring to justice violators of the ordinances of the town;
- B. To suppress all riots, affrays and unlawful assemblies which may come to their knowledge, and generally to keep the peace;
- C. To serve warrants, writs, executions and other processes properly directed and delivered to them;
- D. To apprehend and arrest persons violating federal or state laws as provided by law, and to turn them over to proper authorities; and
- E. In all respects to perform all duties pertaining to the offices of police officers. (1999 Code § 13-302)

6-1-3: OFFICERS:

- A. Appointment: Police officers shall be appointed by the police chief subject to approval of the board of trustees of the town.
- B. Duties Generally: Police officers shall perform such duties as shall be required of them by the police chief, the town ordinances, federal, state or county laws or regulations, and other actions required in the maintenance of good order and public peace. (1999 Code § 13-303)

6-1-4: UNCLAIMED PROPERTY:**A. Complete Record Required:**

1. All personal property which comes into the possession of any police officer, which has been found or stolen or taken off the person or out of the possession of any prisoner or person suspected of or charged with being a criminal, and which is not known to belong to some person laying claim thereto, shall be, by the officer securing possession thereof, delivered into the charge of the police chief.

2. The police chief shall, in a permanent record book kept for that purpose, make a record sufficient to identify the property, with the date and circumstances of the receipt thereof and the name of the person from whom it was taken and the place where it was found. The record shall also disclose the subsequent disposal thereof, giving the date of sale, name and address of the purchaser, and the amount for which it was sold.

3. For the purpose of this section, "police chief" means the police chief or his designee. (1999 Code § 13-501)

B. Disposition Of Unclaimed Property:

1. The police chief is authorized to sell personal property, other than animals, money or legal tender of the United States, except as provided in subsection B3 of this section, which has come into his possession in any manner if:

a. The owner of the personal property is unknown or has not claimed the property; (1999 Code § 13-502)

b. The property has been in the custody of the police chief for at least ninety (90) days; or (1999 Code § 13-502; amd. 2013 Code)

c. The property or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with any litigation.

2. Any owner, to recover or claim property, must be able to satisfactorily prove ownership to the police chief.

3. Any property found by a person other than public official which shall be delivered to any police officer for "identification" and registration, if not claimed or identified within thirty (30) days, shall, within ten (10) additional days thereafter, if requested by the finder, be returned to him, and a record of such disposal made thereof. However, in all other cases, only property in which the finder relinquishes any future claim to its ownership will be stored in the town police property room.

4. The police chief shall file an application in the district court of the county requesting the authority of the court to conduct a sale of such personal property or money or legal tender which has a fair market value of more than its face value. The police chief shall attach to his application a list describing such property or money or legal tender including any identifying numbers and marks, the date the property or money or legal tender came into his possession, and the name of the owner and his address, if known. The court shall set the application for hearing not less than ten (10) days nor more than twenty (20) days after filing of the application. (1999 Code § 13-502)

5. In any instance where the property has an actual or apparent value of more than one hundred dollars (\$100.00), at least ten (10) days prior to the date of the hearing, notice of the hearing shall be sent by certified mail to each owner at his address as listed in the application. If the owner of any property with an actual or apparent value exceeding five hundred dollars (\$500.00) is unable to be served notice by first class mail, notice shall be provided by one publication in a newspaper of general circulation in the town. The notice shall contain a brief description of the property or money or legal tender of the owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of town notices, and at two (2) other public places in the town. (1999 Code § 13-502; amd. 2013 Code)

6. If no owner appears and establishes ownership to the property or money or legal tender at the hearing, the court shall enter an order authorizing the police chief to sell the personal property or money or legal tender for cash to the highest bidder at an auction sale, after at

least five (5) days' notice of the sale has been published. The police chief shall thereafter make a return of the sale, and the order of the court confirming the sale shall vest title to the property or money or legal tender in the purchaser. The money received from the sale of the personal property or money or legal tender shall be deposited in the town general fund after first paying court costs and other expenses.

7. All monies or legal tender of the United States, except as provided in subsection B3 of this section, which has come into the possession of the police chief pursuant to the circumstances provided for in subsection B1 of this section, shall be transferred by the police chief to the town clerk-treasurer for deposit in the general fund. Prior to any such transfer, the police chief shall file an application in the district court requesting the court to enter an order authorizing him to transfer the money for deposit in the general fund. The application shall describe the money or legal tender, any serial numbers, the date the same came into his possession, and the name of the owner and his address, if known. Upon filing the application which may be joined with an application as described in subsection B4 of this section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of the hearing shall be given as provided for in subsection B4 of this section. The notice shall state that, upon failure of anyone to appear to prove ownership to the money or legal tender, the court shall order the same to be deposited in the general fund. The notice may be combined with a notice to sell personal property as provided for in subsection B4 of this section. If no one appears to claim and prove ownership of the money or legal tender at the hearing, the court shall order the same to be transferred to the general fund as provided in this subsection.

8. The provisions of this subsection shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character, which the possession of is prohibited by law, nor to any property for which a specific procedure is otherwise established by law, ordinance or proper order. By order of the trial court, any such property filed as an exhibit or held by the town shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in such order.

9. Property authorized to be destroyed herein or by state or other law, or which cannot be sold or used by the town, shall be destroyed on order of the police chief. The destruction of personal property must be witnessed by at least three (3) members of the police

department who must sign a certificate of destruction listing all property destroyed, a general description of same, the date, time, place and manner of such destruction. (1999 Code § 13-502)

C. Seized Property:

1. Gambling, Report And Disposition:

a. If any personal property used for the purpose of violating any of the gambling laws of this state shall be seized by any officer or person with or without a search warrant, such officer or person is hereby required, within five (5) days of the seizure, to make a written report under oath and file the same with the county clerk, which report shall in detail state the name of the officer or person making the seizure, the place where seized and an inventory of the property or articles so taken into possession. Within five (5) days after seizing such property, the officer shall deliver the property to the sheriff of the county and take the sheriff's receipt therefor, in duplicate, and the sheriff shall retain the same and all thereof until the same shall be destroyed pursuant to the orders of the court.

b. In computing the time of five (5) days, Sundays and holidays shall be excluded and not counted.

c. A duplicate copy of the receipt shall be filed with the county clerk, who shall keep a record of same. However, the sheriff and his deputies shall be required to make the affidavit and issue the receipt and otherwise comply with the provisions of this section. The sheriff shall be liable on his bond for the safekeeping of all such property so turned over to him under the provisions of this section. (1999 Code § 13-503)

2. Alcoholic Beverages, Disposition: If town police officers seize:

a. Any apparatus, equipment, vehicle or instrumentality used for, or intended for use in, manufacturing or transporting any alcoholic beverages in violation of the state alcoholic beverage control laws; or

b. Any alcoholic beverages possessed, sold, transported, manufactured, kept or stored in violation of the state alcoholic beverage control laws, and if the court finds from a preponderance of the evidence that the property seized was lawfully subject to seizure, then the court shall render judgment accordingly and order the property forfeited to the town in which the seizure of the property

took place. Such seized property shall be sold by the town, after giving ten (10) days' notice by one publication in a legal newspaper of the county at least ten (10) days before such sale. Appeal from such an order may be taken as in civil cases. When such property is sold under the provisions of this section, the proceeds thereof shall be distributed as follows:

(1) First, to the payment of the costs of the case in which the order of forfeiture was made and the actual expenses of preserving the property; and

(2) Second, the remainder shall be deposited with the town. (1999 Code § 13-504)

D. **Property Of Deceased Person:** The personal property of a deceased person shall be delivered only to the next of kin of such person or to the legally appointed representative of his estate. If the personal property is claimed by the legally appointed representative of the estate of the deceased, a certified copy of the order of the district court appointing such person shall be deemed sufficient authority to support the claim. If the personal property is claimed by the next of kin, the claimant shall furnish an affidavit to the effect that he is the person entitled to possession of the property; the affidavit shall be deemed sufficient authority to support the claim. If personal property of a deceased person remains unclaimed for a period of ninety (90) days, it shall be disposed of in the appropriate manner provided in this section. (1999 Code § 13-505)

E. **Exchange Of Unclaimed Or Confiscated Weapons:**

1. Unclaimed or confiscated weapons which have been in the possession of the police department for one hundred twenty (120) days or more may be traded by the police chief or his designee, for new weapons for use by the police department. The unclaimed or confiscated weapons may only be traded to such gun dealers who have complied with applicable state and federal regulations concerning firearms and, in the opinion of the police chief or his designee, are reputable.

2. In trading such unclaimed or confiscated weapons, the police chief or his designee shall advertise for bids for such trade. Such advertisement for bids shall be done in accordance with prevailing and established bid procedure as formulated by the purchasing entity of the town.

3. The value of such unclaimed and confiscated weapons as hereinabove discussed shall in all cases be determined by the fair market value of the new weapons received in such trade. (1999 Code § 13-506)

- F. Recovery By Owner: If any property is sold as herein provided, and the owner thereof takes and recovers possession of same from the purchaser, the amount paid therefor shall be returned to the purchaser, upon verified claim being submitted and approved by the police chief. (1999 Code § 13-507)

CHAPTER 2
FIRE DEPARTMENT

SECTION:

- 6-2- 1: Department Established; Duties
- 6-2- 2: Volunteer Department
- 6-2- 3: Fire Chief
- 6-2- 4: Assistant Chief
- 6-2- 5: Company Officers
- 6-2- 6: Secretary-Treasurer
- 6-2- 7: Membership; New Members
- 6-2- 8: Bylaws
- 6-2- 9: Rules And Regulations
- 6-2-10: Fire Equipment
- 6-2-11: Authority Of Firefighters At Fires
- 6-2-12: Right Of Entry
- 6-2-13: Calls Outside Town Limits

6-2-1: **DEPARTMENT ESTABLISHED; DUTIES:**

- A. Arnett Fire Department: There is a fire department of the town which is known as the Arnett volunteer fire department. All references in this code to the fire department shall mean the Arnett volunteer fire department. (1999 Code § 13-201; amd. 2013 Code)
- B. Duties: It is the duty of the fire department, among others:
 - 1. To extinguish fires;
 - 2. To rescue persons endangered by fire;
 - 3. To resuscitate, and to administer first aid to, persons injured in or about burning structures or elsewhere in case of an emergency;
 - 4. To promote fire prevention; and

5. Unless otherwise provided, to enforce all ordinances relating to fires, fire prevention and safety of persons from fire in public and private buildings.

- C. **Adoption Of Rules By Board Of Trustees:** The town board of trustees may adopt rules from time to time, by motion or resolution, to govern the fire department. A copy of such rules shall be kept on file in the office of the town clerk-treasurer and are applicable as fully as if set out at length herein. (1999 Code § 13-201)

6-2-2: VOLUNTEER DEPARTMENT:

- A. **Voluntary; Number Of Members:** The fire department of the town is a volunteer department which has in its service not more than twenty five (25) volunteer firefighters. (1999 Code § 13-202; amd. Res. 323, 11-18-2002)
- B. **Firefighter Defined:** For the purpose of this chapter, a "volunteer firefighter" is considered as one who is enrolled as a member of the fire department and who serves in the capacity without receiving a regular salary. (1999 Code § 13-202)

6-2-3: FIRE CHIEF:

- A. **Administrative Head Of Department:** The fire chief shall be the administrative head of the department, subject to the laws of the state, ordinances of the town, and the rules and regulations adopted in this chapter.
- B. **Powers And Duties:** The chief shall have the following powers and duties, and he may assign duties to other members of the department: (1999 Code § 13-203)

1. The chief shall be responsible for the general condition and efficient operation of the department, the training of members, and the performance of all other duties imposed upon him. He shall have supervision and control of the fire department, subject to the supervision and control of the town board.

2. The chief may inspect or cause to be inspected by members of the department the fire hydrants, cisterns and other sources of water supply at least twice each year.

3. The chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members.
4. The chief shall make every effort to attend all fires and direct the officers and members in the performance of their duties.
5. The chief shall see that the citizens are kept informed on fire hazards in the community and on the activities of the department.
6. The chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism, shall notify proper authorities and secure and preserve all possible evidence for future use in the case of suspicion of incendiarism.
7. The chief shall attend all regular town board meetings for staff reports.
8. The chief shall file the appropriate activity report forms with the office of the state fire marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the state fire marshal and shall include, but not be limited to: the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire related civilian deaths and injuries in the town and of firefighter deaths in the line of duty and of firefighter injuries in the line of duty requiring the services of a hospital or physician, or both.
9. The chief shall keep the town board informed regarding the fire department and its needs. (1999 Code § 13-203; amd. 2013 Code)

6-2-4: **ASSISTANT CHIEF:**

- A. Elected From Members; Appointment: The assistant chief shall be elected from among the members of the department and be appointed by the chief, with approval of the town board. (1999 Code § 13-204; amd. 2013 Code)
- B. Duties: In the absence of the chief, the assistant chief on duty shall command the department and be held responsible therefor in all respects with the full powers and responsibilities of the chief. (1999 Code § 13-204)

6-2-5: **COMPANY OFFICERS:** Company officers shall be selected by the chief based on the following criteria:

- A. Knowledge of firefighting;
- B. Leadership ability; and
- C. Knowledge of firefighting equipment. (1999 Code § 13-205)

6-2-6: **SECRETARY-TREASURER:**

- A. Election By Members; Approval: One member elected by the members of the fire department, subject to approval of the chief, shall be a secretary-treasurer.
- B. Duties: His duties shall consist of the following:
 - 1. Calling the roll at the opening of each meeting;
 - 2. Keeping the minutes of each meeting; and
 - 3. Collecting any money due the department by the members. (1999 Code § 13-206)

6-2-7: **MEMBERSHIP; NEW MEMBERS:**

- A. Appointment; Qualifications: Membership of the department shall consist of such persons as may be appointed by the chief and shall be persons residing within the town. Determination of whether candidates for appointment are capable of performing their duties shall be made by the chief after a medical and physical examination has been made in a manner prescribed by the chief and approved by the town board of trustees.
- B. Probation Of New Members: New members of the department shall be appointed by the chief and shall be on probation for one year after their appointment. Upon completion of their probation period, new members must be approved by the majority of the other members of the fire department, the chief and the town board of trustees. (1999 Code § 13-207)

6-2-8: **BYLAWS:** The bylaws of the department shall include the following:

- A. All volunteer fire department members are required, when notified, to respond to alarms of fire and other emergencies.
- B. A member is required to be present at all regular meetings, called meetings and schools presented for the benefit of the firefighters.
- C. At least one regular business meeting of the members shall be held each month. (1999 Code § 13-208)
- D. Any member having two (2) unexcused absences in succession or three (3) unexcused absences in a period of three (3) months will be expelled from the fire department rolls.
- E. Any member leaving the town for an extended period of time is required to notify the chief.
- F. Any member refusing to attend training classes provided for members of the department will be expelled from the rolls.
- G. Any member of the fire department may be expelled from the rolls by a majority vote of the members of the company and approval of the chief for the following offenses: (1999 Code § 13-208; amd. 2013 Code)
 - 1. Conduct unbecoming a firefighter;
 - 2. Any act of insubordination;
 - 3. Neglect of duty;
 - 4. Any violation of rules and regulations governing the fire department; or
 - 5. Conviction of a felony. (1999 Code § 13-208)

6-2-9: **RULES AND REGULATIONS:** The town board of trustees, by motion or resolution, may adopt and change regulations relating to the fire department, its organization, operation and compensation. (1999 Code § 13-209)

6-2-10: FIRE EQUIPMENT:

- A. Required Equipment: The department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.
- B. Recommendations: Recommendations of apparatus and equipment needed shall be made by the chief, purchased after approval as other town purchases.
- C. Housing Of Equipment: All equipment of the department shall be safely and conveniently housed in such places as may be designated by the town.
- D. Alarms; Notifying Members: Suitable arrangements and equipment shall be provided for people to turn in alarms and to notify members of the department so that they may promptly respond.
- E. Private Use: No person shall use any fire apparatus or equipment for any private purpose, nor shall any person wilfully and without proper authority take away or conceal any article used in any way by the department. No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department. (1999 Code § 13-211)

6-2-11: AUTHORITY OF FIREFIGHTERS AT FIRES: The fire chief, assistant fire chiefs or other fire department officers in charge shall have complete charge and control at all fires. Fire orders shall be obeyed. The chief or his officers may prescribe limits in the vicinity of a fire which no persons except those residing or owning property therein shall be permitted to enter, except on the order of the officer in command. Police officers may aid in carrying into effect the provisions of this section. (1999 Code § 13-212)

6-2-12: RIGHT OF ENTRY: The chief of the fire department and his designee may at all reasonable hours enter any building or premises within his jurisdiction for the purpose of making any inspection or investigation which, under the provisions of this chapter and other provisions of this code, he may deem necessary to make. (1999 Code § 13-213)

6-2-13: CALLS OUTSIDE TOWN LIMITS:

- A. **Power To Contract:** The town is hereby authorized and empowered to enter into contracts or agreements with individuals, firms, private corporations or associations, or military installations or commands, or political subdivisions of the state for fire protection outside the corporate limits of the town, and to contract to provide fire protection jointly with other organizations and municipal subdivisions of the state. (1999 Code § 13-221)
- B. **Contracts For Service:** Any contract entered into by the town, with an individual owner, a firm, private corporation, association or political subdivision, for outside aid or mutual aid for fire protection, shall provide for the payment by the owner, firm, private corporation, association or political subdivision for such service, equipment or personnel in an amount reached through negotiation by the parties. (1999 Code § 13-222)
- C. **Authority To Answer Calls:** The fire department is authorized to answer all calls outside the town within five (5) miles outside the town limits if first approved by the fire chief on duty. The fire chief shall determine that the equipment and personnel to be dispatched for such calls are not needed for other purposes within the town. (1999 Code § 13-223)
- D. **Charges For Calls Made Outside Town:** The town may enter into a contract with persons, organizations or associations to provide fire protection service outside the town limits. Such contracts shall be conditioned upon the determination of the fire chief that the property in question is within a reasonable distance from the town and that, prior to any fire protection equipment being dispatched for any fire call for such property, the fire chief on duty shall first approve such call and determine that the equipment and personnel to be dispatched are not needed for other purposes within the town. The charges for such calls shall be as specified in the fee schedule. (1999 Code § 13-224)
- E. **Firefighters Serving In Regular Line Of Duty:** All firefighters attending and serving at fires or doing fire prevention work outside the corporate limits of the town, as herein provided, shall be considered as serving in their regular line of duty as fully as if they were serving within the corporate limits of the town. The firefighters shall be entitled to all the benefits of any fire pension and relief fund in the same manner as if the firefighting or fire prevention work was being done within the corporate limits of the town. (1999 Code § 13-225)

- F. Department Considered Agent Of State: The fire department, when answering any fire alarm or call or performing any fire prevention services outside the corporate limits of the town, shall be considered as an agent of the state, and acting solely and alone in a governmental capacity; and the town shall not be liable in damages for any act of commission, omission or negligence while answering or returning from any fire, or reported fire, or doing any fire prevention work under and by virtue of this section. (1999 Code § 13-226)

CHAPTER 3

**EMERGENCY MANAGEMENT AND CIVIL
DEFENSE ORGANIZATION**

SECTION:

- 6-3-1: Purpose
- 6-3-2: Emergency Management Department
- 6-3-3: Responsibilities And Duties Of Director, Deputies
- 6-3-4: Emergency Powers Of Organization

6-3-1: **PURPOSE:** The purpose of this chapter is to create an emergency management and civil defense organization for the town to be prepared for, and to function in the event of, emergencies endangering the lives and property of the people of the town. The duty of such civil defense organization shall be the protection of the lives and health of the citizens of the town and the property and property rights, both private and public, and to perform all functions necessary and incident thereto. (1999 Code § 13-401)

6-3-2: **EMERGENCY MANAGEMENT DEPARTMENT:**

- A. Purpose Of Department: The purpose of the emergency management department (hereinafter "department") is to prepare for, and function in the event of, emergencies endangering the lives and property of the citizens of the town.
- B. Director: The department is headed by a director, appointed by the town board of trustees for such compensation and under such terms as the town board may establish. (1999 Code § 13-402; amd. 2013 Code)

6-3-3: **RESPONSIBILITIES AND DUTIES OF DIRECTOR, DEPUTIES:** The director of the department shall be the administrative head of the department and shall be responsible for carrying

out the emergency management and civil defense program of the town in coordination with the civil defense advisory committee. He shall have such further duties and responsibilities to cooperate with all emergency services and civil defense agencies of other governmental units including the state and the federal government. (1999 Code § 13-403)

6-3-4: EMERGENCY POWERS OF ORGANIZATION:

- A. In the event of an enemy caused emergency or emergency resulting from natural causes, the director, after due authorization from the mayor, shall have the power and authority to enforce all rules and regulations relating to emergency management and civil defense and, if necessary, to take control of transportation, communications, stocks of fuel, food, clothing, medicine, and public utilities for the purpose of protecting the civilian population. He shall cooperate in every way with other governmental agencies, emergency management services and civil defense organizations.
- B. The director, other members of the department and members of any emergency services and the civil defense organization established herein shall have the power and authority to enforce the laws of the state and ordinances of the town during the period of emergency, and shall at such time have the further power to make arrests for violations of such laws or ordinances. (1999 Code § 13-404)

CHAPTER 4

GENERAL OFFENSES

SECTION:

- 6-4- 1: Offense And Violation Defined
- 6-4- 2: Attempt To Commit An Offense
- 6-4- 3: Aiding In An Offense
- 6-4- 4: Capacity To Commit Offense
- 6-4- 5: Intoxication, No Defense
- 6-4- 6: Witness, Self-Incrimination
- 6-4- 7: Nuisances
- 6-4- 8: Conspiracy
- 6-4- 9: Limitations Of Actions
- 6-4-10: Lawful Use Of Force
- 6-4-11: Penalty Not To Excuse Offense

6-4-1: **OFFENSE AND VIOLATION DEFINED:**

OFFENSE:

The word "offense", whenever used in this code or in any title, chapter, article or ordinance of the town, means the unlawful act of doing, or failing to do, some particular act or thing construed therein to be detrimental to the general welfare, morals, peace, health or safety of the inhabitants of the town.

VIOLATION:

The doing of any of the acts or things prohibited, or failing to do any of the acts or things commanded to be done, as more fully specified and set forth by any provision of this code or any title, chapter or article hereof, or future ordinances of the town, is hereby declared to be an offense against the good order, public peace, morals, health, proper government and welfare of the town, and unlawful. (1999 Code §§ 10-103, 10-104)

6-4-2: **ATTEMPT TO COMMIT AN OFFENSE:** Every person who attempts to commit an offense against the ordinances of the town, and in such attempt does any act toward the commission of such offense, but fails or is prevented or intercepted in the perpetration thereof, is guilty of an offense, and shall be punished in the manner prescribed for the attempted offense itself. (1999 Code § 10-101)

6-4-3: **AIDING IN AN OFFENSE:** When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such is guilty of an offense, or misdemeanor, and punishable in the same manner as the principal offender. (1999 Code § 10-102)

6-4-4: **CAPACITY TO COMMIT OFFENSE:** All persons are capable of committing an offense as herein provided, except those belonging to the classes following:

- A. Children under the age of seven (7) years;
- B. Children over the age of seven (7) years, but under the age of fourteen (14) years, in the absence of proof that at the time of committing the act or neglect charged against them, they knew its wrongfulness; (1999 Code § 10-106)
- C. Persons who are impaired by reason of mental retardation, mentally ill persons, and all persons of unsound mind, including persons temporarily or partially deprived of reason, upon proof that at the time of committing the act charged against them they were involuntarily incapable of knowing its wrongfulness;
- D. Persons who committed the act, or made the omission charged, under an ignorance or mistake of fact which disproves any criminal intent. But ignorance of the law does not excuse from punishment for its violation;
- E. Persons who committed the act charged without being conscious thereof; and
- F. Persons who committed the act, or made the omission charged, while under involuntary subjection to the power of superiors. (1999 Code § 10-106; amd. 2013 Code)

6-4-5: **INTOXICATION, NO DEFENSE:** No act committed by any person while in a state of intoxication, whether from liquor or drugs, shall be deemed less an offense by reason of his being in such condition. (1999 Code § 10-107)

6-4-6: **WITNESS, SELF-INCRIMINATION:** No person, otherwise competent as a witness, shall be incapacitated, excused or disqualified from testifying concerning the offense mentioned in any section, chapter or title of this code, or any ordinances hereafter enacted on the grounds that his testimony might incriminate him, but the testimony which may be given by such witness shall in no case be used against him. (1999 Code § 10-108)

6-4-7: **NUISANCES:** It is unlawful and an offense for any person to permit, maintain, aid, abet, or sanction a nuisance on or about any premises owned by him or under his control at any place within the corporate limits of the town. (1999 Code § 10-109)

6-4-8: **CONSPIRACY:** Any two (2) or more persons assembled or who shall assemble with the intent to mutually agree to do any unlawful act with force or violence and shall make any movement therefor against the property of the town or the person or property of another person shall be guilty of an offense. (1999 Code § 10-110)

6-4-9: **LIMITATIONS OF ACTIONS:** The time within which a charge may be filed under the provisions of this chapter shall be one year from the date of the commission or omission or in cases involving fraud, deception or deceit, one year from the discovery of the fraud, deception or deceit unless otherwise provided by the statutes of the state. (1999 Code § 10-111)

6-4-10: **LAWFUL USE OF FORCE:**

- A. Cases Where Force Allowed: To use or to attempt to offer to use force upon or toward the person of another is not unlawful in the town, in the following cases:

1. When necessarily committed by a public officer in the performance of any legal duty, or by any other person assisting him or acting by his direction.

2. When necessarily committed by any person in arresting one who has committed any felony, and delivering him to a public officer competent to receive him in custody.

3. When committed either by the party about to be injured, or by any other person in his aid or defense, in preventing or attempting to prevent an offense against his person, or any trespass or other unlawful interference with real or personal property in his lawful possession; provided, the force used is not more than sufficient to prevent such offense, and that the same shall be necessary for the self-defense of his person or property.

4. When committed by a parent or authorized agent of any parent, or by any guardian, master or teacher, in the exercise of a lawful authority to restrain or correct his child, ward, apprentice or scholar, provided restraint or correction has been rendered necessary by the misconduct of such child, ward, apprentice or scholar, or by his refusal to obey the lawful command of such parent or authorized agent or guardian, master or teacher, and the force used is reasonable in manner and moderate in degree.

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them at their request, in expelling from any carriage, interurban car, vessel or other vehicle, any passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than is sufficient to expel the offending passenger, with a reasonable regard to his personal safety. (1999 Code § 10-112)

6. When committed by any person in preventing a person who is impaired by reason of mental retardation or developmental disability, a mentally ill person, insane person or other person of unsound mind, including persons temporarily or partially deprived of reason, from committing an act dangerous to himself or to another, or enforcing such restraint as is necessary for the protection of his person or for his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of such person. (1999 Code § 10-112; amd. 2013 Code)

7. In preventing or interrupting an intrusion upon the lawful possession of property.

8. To preserve the peace or prevent the commission of an offense.

- B. Limitation Of Force: Where force is permitted to effect a lawful purpose, only that degree of force necessary to effect such purpose shall be used. (1999 Code § 10-112)

6-4-11: **PENALTY NOT TO EXCUSE OFFENSE:** The imposition of one penalty for an offense shall not excuse it or permit it to continue, nor prevent the imposition of further penalties, should the offenses be continued or permitted to continue. (1999 Code § 10-105)

CHAPTER 4

GENERAL OFFENSES

**ARTICLE A. OFFENSES AGAINST THE
PUBLIC AND PERSONS**

SECTION:

- 6-4A- 1: Assault And Battery
- 6-4A- 2: Weapons And Firearms
- 6-4A- 3: Disturbing The Peace
- 6-4A- 4: Disturbing Funerals
- 6-4A- 5: Disorderly Conduct
- 6-4A- 6: Unnecessary Noise
- 6-4A- 7: Public Intoxication
- 6-4A- 8: Marijuana Prohibited
- 6-4A- 9: Drug Paraphernalia
- 6-4A-10: Sniffing Glue, Paint And Other Substances
- 6-4A-11: False Representation
- 6-4A-12: Prowling On Premises
- 6-4A-13: Obscenity, Threats Or Harassment By Telephone Or Other
Electronic Communication
- 6-4A-14: Disorderly House
- 6-4A-15: Nudity; Indecent Exposure
- 6-4A-16: Gambling And Gambling Devices
- 6-4A-17: Prostitution
- 6-4A-18: Offenses Near Schools
- 6-4A-19: Sleeping In Public Or Private Places

6-4A-1: ASSAULT AND BATTERY:

- A. Terms Defined: For the purpose of this section, the following terms shall have the meanings ascribed to them in this subsection:

ASSAULT: Any wilful and unlawful attempt or offer with force or violence to do corporal hurt to another.

BATTERY: Any wilful and unlawful use of force or violence upon the person of another. (1999 Code §§ 10-202, 10-203)

- B. Committing Offense: No person shall commit an assault or battery, or both, upon the person of another. (1999 Code § 10-201)

6-4A-2: WEAPONS AND FIREARMS:

- A. Reckless Conduct With Weapon Or Firearm:

1. Term Defined: "Reckless conduct", as used in this section, consists of an act which creates a situation of unreasonable risk and probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another.

2. Prohibited Act: It is unlawful for any person to endanger another's safety by reckless conduct in the operation or handling of any weapon or instrument, including a pistol, revolver or other firearm. (1999 Code § 10-204)

- B. Weapons Prohibited In Town Buildings, Parks And Property:

1. The town clerk-treasurer is directed to post in all town buildings, facilities, parks and areas under town control or ownership that all weapons, as defined by 21 Oklahoma Statutes section 1272, are prohibited from all such publicly posted places. All persons who attempt to carry weapons into such facilities or public places shall be immediately denied access.

2. This posting shall not restrict or apply to law enforcement officers or security personnel who are authorized to carry weapons in the course of their employment and who are under contract to the town to provide security services. (1999 Code § 2-112)

6-4A-3: DISTURBING THE PEACE:

- A. Prohibition: It is unlawful to disturb or alarm the peace of another or others by doing any of the acts set out in subsection B of this section.

- B. Prohibited Acts Enumerated: Disturbing the peace is the doing of any of the following in such a manner as would foreseeably alarm or disturb the peace of another or others:
1. Using obscene, offensive, abusive, profane, vulgar, threatening, violent or insulting language or conduct.
 2. Appearing in an intoxicated condition.
 3. Engaging in a fistic encounter.
 4. Lewdly exposing one's person, or private parts thereof, in any public place or in any place where there are present other persons to be offended or annoyed thereby.
 5. Pointing any pistol or any other deadly weapon, whether loaded or not, at any other person either in anger or otherwise. (1999 Code § 10-401)
 6. Holding an unlawful assembly of three (3) or more persons, including being assembled together and acting in concert, to do any unlawful act against the peace or to the terror of others or preparing for or moving toward such acts, or otherwise assembling unlawfully or riotously. (1999 Code § 10-401; amd. 2013 Code)
 7. Interrupting any lawful assembly of people by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of assembly or within hearing distance thereof.
 8. Obstructing the free passage of pedestrians or vehicles on a street, right of way or sidewalk, or other public place.
 9. Obstructing, molesting or interfering with any person lawfully in a public place.
 10. Making unnecessarily loud, offensive noises.
 11. Disturbing any congregation or assembly of persons meeting for religious worship by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of worship or within hearing distance thereof.

12. Committing any other act in such a manner calculated as to unreasonably disturb, interfere or alarm the public or the comfort and repose of any person.

- C. **Police Authority To Disperse:** Whenever any police officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing any of the conditions enumerated in subsection A of this section, he may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place; and any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.
- D. **Exception:** This section shall not apply to peaceful picketing, public speaking or other lawful expressions of opinion not in contravention of other laws. (1999 Code § 10-401)

6-4A-4: **DISTURBING FUNERALS:** No person shall wilfully disturb, interrupt or disquiet any assemblage of people who have met for the purpose of any funeral, or obstruct or detain any person engaged in accompanying any funeral to a place of burial. (1999 Code § 10-402)

6-4A-5: **DISORDERLY CONDUCT:** A person shall be guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance, alarm or recklessly creating the risk thereof, he:

- A. Acts in a violent or tumultuous manner toward another whereby any person is placed in fear of safety for his life, limb or health.
- B. Acts in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
- C. Endangers the lawful pursuits of another by acts of violence, angry threats and abusive conduct.
- D. Jostles or crowds or pushes any person in any public place.
- E. Uses "fighting words" directed toward any person and thus creates a turmoil.
- F. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another.

- G. By acts of violence interferes with another's pursuit of a lawful occupation. (1999 Code § 10-403)

6-4A-6: **UNNECESSARY NOISE:**

- A. Prohibition: No person shall make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the town.
- B. Permit For Certain Activities: Permits may be granted by the town for certain activities and events which are exempt from the provisions of this section. (1999 Code § 10-404)

6-4A-7: **PUBLIC INTOXICATION:** No person shall be in any public place in a state of intoxication. A "state of intoxication" means the condition in which a person is under the influence of drugs, intoxicating liquors or low point beer to such an extent as to deprive the person of his full mental or physical power or be unable to exercise care for his own safety or the safety of others. (1999 Code § 10-501)

6-4A-8: **MARIJUANA PROHIBITED:**

- A. Definition: For the purpose of this section, "marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of 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 such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. (1999 Code § 10-502; amd. 2013 Code)
- B. Prohibited Acts: It is unlawful for any person:
1. To appear or be upon or in any street, alley, place of business, or other public place while under the influence of marijuana.

2. To use, have, or possess marijuana upon or in any street, alley, place of business, or other public place within the town.
3. To use marijuana in any place within the town except as legally prescribed by a physician licensed to practice in the state.
4. To be about a place where marijuana is sold or furnished illegally. (1999 Code § 10-502)

6-4A-9: DRUG PARAPHERNALIA:

A. Definition: For the purpose of this section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in violation of the uniform controlled dangerous substances act, 63 Oklahoma Statutes section 2-101 et seq., hereinafter referred to as "the act", and adopted by reference herein. It includes, but not limited to:

1. Kits used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived.
2. Kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances.
3. Isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance.
4. Testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances.
5. Scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances.

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances.
7. Separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances.
9. Capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances.
10. Containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body.
11. Hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body.
12. Objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons and cocaine vials;
 - g. Chamber pipes;

- h. Carburetor pipes;
- i. Electric pipes;
- j. Air driven pipes;
- k. Chillums;
- l. Bongs; or
- m. Ice pipes or chillers.

13. All hidden or novelty pipes.

14. Any pipe that has a tobacco bowl or chamber of less than one-half inch ($\frac{1}{2}$ ") in diameter in which there is any detectable residue of any controlled dangerous substance as defined in the act, or any other substances not legal for possession or use.

Provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation in which no detectable amount of an illegal substance is found or pipes designed and used solely for smoking tobacco, traditional pipes of an American Indian tribal religious ceremony, or antique pipes that are thirty (30) years of age or older.

B. Factors To Consider: In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use.
2. The proximity of the object, in time and space, to a direct violation of the act.
3. The proximity of the object to controlled substances.
4. The existence of any residue of controlled substances on the object.
5. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intended to use the object to

facilitate a violation of the act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of the act shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

6. Instructions, oral or written, provided with the object concerning its use.
 7. Descriptive materials accompanying the object which explain or depict its use.
 8. The manner in which the object is displayed for sale.
 9. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
 10. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
 11. The existence and scope of legitimate uses for the object in the community.
 12. Expert testimony concerning its use. (1999 Code § 10-503; amd. 2013 Code)
- C. Use Or Possession: It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the act.
- D. Delivery: It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the act.
- E. Advertising: It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the

purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. (1999 Code § 10-503)

6-4A-10: **SNIFFING GLUE, PAINT AND OTHER SUBSTANCES:** No person shall sniff or inhale paint, glue, gasoline or other volatile substances for purposes of intoxication. (1999 Code § 10-504)

6-4A-11: **FALSE REPRESENTATION:**

- A. **False Representation To Obtain Money Or Aid:** No person shall falsely represent himself as blind, deaf, crippled or physically defective for the purpose of obtaining money or other things of value, or to secure aid or assistance on account of such false representation. (1999 Code § 10-506; amd. 2013 Code)
- B. **Misrepresenting Age By False Documents:** No person shall, for the purpose of violating any statutes of the state or any ordinances of the town, wilfully and knowingly misrepresent his age by presenting a false document purporting to state his true age or by presenting a document not his own. (1999 Code § 10-508)

6-4A-12: **PROWLING ON PREMISES:** No person shall be upon the property or premises of another with the intent to peer or peep into the window or door of the dwelling. (1999 Code § 10-507)

6-4A-13: **OBSCENITY, THREATS OR HARASSMENT BY TELEPHONE OR OTHER ELECTRONIC COMMUNICATION:**

- A. **Definition:** As used in this section, "telecommunication" and "electronic communication" mean any type of telephonic, electronic or radio communications, or transmission of signs, signals, data, writings, images and sounds or intelligence of any nature by telephone, including cellular telephones, wire, cable, radio, electromagnetic, photoelectronic or photo optical system; or the creation, display, management, storage, processing, transmission or distribution of images, text, voice, video or data by wire, cable or wireless means, including the internet. The terms include:

1. A communication initiated by electronic mail, instant message, network call, or facsimile machine; and

2. A communication made to a pager.
- B. Prohibited Acts: It shall be unlawful for a person who, by means of a telecommunication or other electronic communication device, wilfully to:
1. Make any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent.
 2. Make a telecommunication or other electronic communication with intent to terrify, intimidate or harass, or threaten to inflict injury or physical harm to any person or property of that person.
 3. Make a telecommunication or other electronic communication, whether or not conversation ensues, with intent to put the party called in fear of physical harm or death.
 4. Make a telecommunication or other electronic communication, whether or not conversation ensues, without disclosing the identity of the person making the call or communication and with intent to annoy, abuse, threaten, or harass any person at the called number.
 5. Knowingly permit any telecommunication or other electronic communication under the control of the person to be used for any purpose prohibited by this section.
 6. In conspiracy or concerted action with other persons, make repeated calls or electronic communications or simultaneous calls or electronic communications solely to harass any person at the called number(s).
- C. Use Of Facility: Use of a telephone or other electronic communications facility under this section shall include all use made of such a facility between the points of origin and reception. Any offense under this section is a continuing offense and shall be deemed to have been committed at either the place of origin or the place of reception. (1999 Code § 10-509; amd. 2013 Code)

6-4A-14: **DISORDERLY HOUSE:**

- A. Definition; Prohibited Acts: A "disorderly house" means any structure or vehicle by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

1. The sale, distribution, possession or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by state statute.

2. The violation of any of the ordinances of the town or statutes of the state regulating the sale, distribution, possession or use of alcoholic beverages or low point beer as defined by law.

3. The performance of any sexual act declared unlawful by state statute or town ordinance including, but not limited to, soliciting for purposes of prostitution.

4. The violation of any state statute or town ordinance prohibiting gambling.

B. Maintaining Or Leasing:

1. No person shall keep or maintain, or aid, abet or assist in keeping and maintaining a disorderly house.

2. No owner, lessee, lessor, or other person, partnership or corporation having control over any house, building, structure, tent, vehicle, mobile home, or recreational vehicle shall knowingly use, lease, sublease or otherwise permit the use of same for the purpose of keeping therein any disorderly house, and knowing or ascertaining that such house, building, structure, tent, vehicle, mobile home, or recreational vehicle is so occupied as a disorderly house. No person, partnership or corporation shall continue to grant permission to so use such premises as a disorderly house.

C. Residents And Visitors:

1. No person shall knowingly reside in, enter into, or remain in a disorderly house. In any prosecution for violation of this section, the town shall have the burden to prove such knowledge by direct evidence only and not by circumstantial evidence.

2. This section shall not apply to physicians or officers in the discharge of their professional or official duties. (1999 Code § 10-510)

6-4A-15: **NUDITY; INDECENT EXPOSURE:** It is unlawful for any person to:

- A. Appear in any public place in the town in a state of nudity;
- B. Make an indecent public exposure of his or her person. (1999 Code § 10-511; amd. 2013 Code)

6-4A-16: **GAMBLING AND GAMBLING DEVICES:**

- A. Prohibited Acts Or Conditions: The following acts or conditions are hereby prohibited:

1. Playing or carrying on, or opening or causing to be opened, or conducting, either as owner or employee, roulette, craps, or any banking or percentage game, played with dice, cards or any other device, for money, checks, credit or any representative of value, or any other gambling game.

2. Betting on or playing at any of the prohibited games mentioned in subsection A1 of this section, or otherwise gambling.

3. Exhibiting or exposing to view in any building, or in any part of or room in any building, any table, cards, dice, roulette wheel or other article or apparatus designed for or used for gambling purposes.

4. Keeping, owning, operating, using, conducting or causing to be kept, operated, used or conducted, either as owner, manager, dealer, clerk or employee, and whether for hire or not, any punch-board, machine, cards, game, parlay card or any other device or paraphernalia, wherein or whereby any money or property or any representative of either, or other valuable thing, may be played, bet, staked, wagered or hazarded, won, lost or obtained upon any change, combination of numbers, emblems or any uncertain or contingent event or condition, or football or baseball contest.

5. Playing any prohibited game described in this section.

6. Barring or barricading any building, or any part of or room in any building, in order to render the same difficult of access or ingress to the police officers of the town, in which building, or any part of or room in any such building, any table, cards, dice, roulette wheel or other article or apparatus designed for or being used for gambling purposes are exhibited or exposed to view.

7. Being about or in the immediate vicinity where persons are gambling, whether by playing games, operating a slot machine or other device, or otherwise.

- B. Seizure Of Apparatus And Paraphernalia: The apparatus and paraphernalia used in the conduct of any of the gambling games prohibited by this section are hereby declared to be a public nuisance and subject to seizure and suppression by any officer, and shall be abated, forfeited and destroyed upon the order and decree of any court of competent jurisdiction.
- C. Exception: Nothing herein contained shall be construed to prevent the sponsoring and operation of bingo games by nonprofit religious, fraternal, charitable or educational organizations; provided, that the organizations are properly licensed and operated in accordance with law. (1999 Code § 10-512)

6-4A-17: **PROSTITUTION:**

- A. Definition: As used in this section, "prostitution" means:
1. The giving or receiving of the body for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any thing of value; or
 2. The making of any appointment or engagement for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value. (1999 Code § 10-513; amd. 2013 Code)
- B. Prohibited Acts: It is unlawful:
1. To engage in prostitution, lewdness or assignation;
 2. To solicit, induce, entice or procure another to commit an act of lewdness, assignation or prostitution; or
 3. To aid, abet or participate in the doing of any of the acts herein prohibited.

- C. Keeping Or Housing Prostitute: No person shall in any way or manner whatever keep, harbor or house any prostitute. (1999 Code § 10-513)
- D. Enticing Person Into House Of Prostitution: No person shall entice or attempt to entice any person into a house of prostitution, or have illicit sexual intercourse with any person under eighteen (18) years of age. (1999 Code § 10-513; amd. 2013 Code)
- E. Maintaining Or Leasing House Of Prostitution:
1. No person shall keep or maintain a house of prostitution or house of assignation.
 2. No person shall lease, let or furnish any building, room, tent or structure of any kind, or any conveyance used or to be used as a place of prostitution or assignation within the town, or knowingly permit the same to be so used. (1999 Code § 10-513)
- F. Accepting Money From Prostitute: No person shall knowingly accept, receive, levy or appropriate any money or other thing of value without consideration from a prostitute or from the proceeds of any persons engaged in prostitution. (1999 Code § 10-513; amd. 2013 Code)
- G. Securing Or Transferring Another For Prostitution:
1. No person shall offer, or offer to secure another for the purpose of prostitution, or for any other lewd or indecent act.
 2. No person shall direct, take or transport, or offer or agree to take or transport or aid or assist in transporting, any person to any house, place, building or other structure, vehicle, trailer or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation.
- H. Soliciting In Public; Arrest:
1. It is unlawful for a person to be present in a public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such a purpose is manifested are: that such person is a known prostitute or procurer; that such person repeatedly

beckons to, stops or attempts to stop or engage passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture.

2. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such person an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

3. For the purpose of this section, a "known prostitute or procurer" is a person who, within one year prior to the date of the suspected violation of this section has, within the knowledge of the arresting officer, been convicted of a violation of this section or has been convicted of violating any statute or ordinance of any jurisdiction which makes prostitution or soliciting for the purpose of prostitution unlawful. (1999 Code § 10-513)

6-4A-18: **OFFENSES NEAR SCHOOLS:** No person shall engage in any of the conduct or acts hereinafter set forth around, in or near any school or school grounds, or streets and alleys adjacent to any school:

- A. Any conduct that would disturb the orderly conduct of the school;
- B. Annoying or molesting any student or employee of the school;
- C. Lewd or wanton conduct in, near or around any of the schools or school grounds, or streets and alleys adjacent to the schools;
- D. Moving or parking any vehicle in the vicinity of any school for the purpose of annoying or molesting any student or employee of the school; or
- E. Any other act or conduct calculated to or likely to annoy or molest any student or employee of such school. (1999 Code § 10-514)

6-4A-19: **SLEEPING IN PUBLIC OR PRIVATE PLACES:** It is unlawful for any person, without lawful reason, between the hours of twelve o'clock (12:00) midnight and sunrise, to sleep on any street, in any other public place, or on any property of another without the expressed or tacit consent of the owner or person in charge of such place. (1999 Code § 10-513)

CHAPTER 4

GENERAL OFFENSES

ARTICLE B. OFFENSES AGAINST PROPERTY

SECTION:

- 6-4B- 1: Larceny
- 6-4B- 2: Altering Keys
- 6-4B- 3: Possession Of Stolen Property
- 6-4B- 4: Defrauding Public Accommodations
- 6-4B- 5: Concealing Unpurchased Merchandise
- 6-4B- 6: Failure To Pay Fare For Public Conveyance
- 6-4B- 7: False Or Bogus Checks
- 6-4B- 8: Harmful Deception
- 6-4B- 9: Property Destruction Or Removal
- 6-4B-10: Motor Vehicles, Damaging
- 6-4B-11: Utilities, Tampering With Or Damaging
- 6-4B-12: Trees And Shrubbery, Destruction
- 6-4B-13: Trespassing; Notice; Soliciting
- 6-4B-14: Congregating, Parking On Premises After Hours
- 6-4B-15: Unlawful Intrusion On Land
- 6-4B-16: Throwing Objects Or Shooting At Persons
- 6-4B-17: Littering, Deposits Unlawful
- 6-4B-18: Posting Advertising Matter
- 6-4B-19: Interference With Radio Or Television Reception
- 6-4B-20: False Weights
- 6-4B-21: Electric Fences Prohibited
- 6-4B-22: Garbage Container Of Another, Unlawful Use
- 6-4B-23: Fireworks Prohibited; Exceptions

6-4B-1: **LARCENY:**

A. Petit Larceny:

1. Definitions:

GRAND LARCENY: Larceny committed in either of the following cases:

a. When the property taken is of value exceeding five hundred dollars (\$500.00).

b. When such property, although not of value exceeding five hundred dollars (\$500.00), is taken from the person of another.

**PETIT
LARCENY:**

Larceny in other cases is "petit larceny".

2. Petit Larceny; Embezzlement: No person shall steal, take and carry away by fraud or stealth, with intent to deprive another thereof, any personal property under the value of five hundred dollars (\$500.00) or embezzle any money, personal property or effects of another under the value of five hundred dollars (\$500.00). This subsection does not apply to taking property from the "person" of another. (1999 Code § 10-301; amd. 2013 Code)

- B. Larceny By False Pretense: No person shall induce, or attempt to induce, any person to give up or pay over any money or other thing of value, which money or value does not exceed five hundred dollars (\$500.00), by any false representation or pretense, or in exchange for any false or bogus coin or check, draft or other false evidence of value, or in consideration of refraining from a lawful or unlawful arrest, or in consideration of refraining from reporting any unlawful act to any public official. (1999 Code § 10-302; amd. 2013 Code)

6-4B-2: **ALTERING KEYS:** No person shall make or alter or attempt to make or alter any key or other instrument that will open the lock of a building unless requested to do so by some person having the right and authority to make such request. (1999 Code § 10-303)

6-4B-3: **POSSESSION OF STOLEN PROPERTY:** No person shall keep in his possession, or dispose of, or conceal any stolen property, or fail promptly to inform some proper official of the possession thereof, under circumstances indicating that such property had been stolen or the possession thereof obtained unlawfully. (1999 Code § 10-304)

6-4B-4: **DEFRAUDING PUBLIC ACCOMMODATIONS:**

- A. Taking With Intent To Defraud: No person shall obtain food, lodging or other accommodation in any hotel, motel, inn, boarding, eating or

rooming house or place, or any other lodging place, with the intent to defraud the owner or keeper.

- B. **Proof Of Attempt To Defraud:** Proof that lodging, food and other accommodations were obtained by false pretense or fictitious show of any package or other property or that the person gave a check or negotiable paper on which payment was refused or that the person left the hotel, motel, inn, boarding, eating or rooming house or place, or other lodging place, without paying or offering to pay for the food, lodging or other accommodation or that the person surreptitiously removed or attempted to remove the package or property, or that the person registered under a fictitious name shall be prima facie proof of attempt to defraud.
- C. **Refusal To Pay Legal Fare Of Vehicle:** No person shall refuse to pay the legal fare of any of the vehicles mentioned in section 6-4B-6 of this article after having hired the same, and no person shall hire any vehicle with intent to defraud the person from whom it is hired of the value of such service.
- D. **Exception; Agreement For Delay In Payment:** This section shall not apply where there has been an agreement in writing for delay in payment. (1999 Code § 10-305)

6-4B-5: CONCEALING UNPURCHASED MERCHANDISE: Any person concealing unpurchased merchandise of any establishment, either on the premises or outside the premises of the establishment, shall be presumed to have so concealed the merchandise with the intention of committing a wrongful taking of such merchandise. Such concealment or the finding of such unpurchased merchandise concealed upon the person or among the belongings of such person shall be conclusive evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time of such person by a merchant, his agent or employee; any such reasonable detention shall not be deemed to be unlawful nor render any such merchant, his agent or employee, criminally or civilly liable. (1999 Code § 10-306)

6-4B-6: FAILURE TO PAY FARE FOR PUBLIC CONVEYANCE: No person shall use or accept the use and services of any streetcar, taxicab, omnibus, automobile or any other means of public conveyance of passengers, operating under this code, ordinance, franchise, permit or license of the town or state, and refuse or fail to pay to the

operator of the conveyance the usual, customary, regulation or legal charge, or price as fare immediately upon the performance of the service. (1999 Code § 10-307)

6-4B-7: **FALSE OR BOGUS CHECKS:**

A. Definition: The term "false or bogus check or checks" shall include checks or orders, including those converted to electronic fund transfer, which are not honored on account of insufficient funds of the maker to pay same or because the check or order was drawn on a closed account or on a nonexistent account when such checks or orders are given:

1. In exchange for money or property;

2. In exchange for any benefit or thing of value; or

3. As a down payment for the purchase of any item of which the purchaser is taking immediate possession, as against the maker or drawer thereof.

B. Intent To Defraud: The making, drawing, uttering, or delivering of a check, draft, or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, that such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with the protest fees, within five (5) days from the date the same is presented for payment; and provided, further, that said check or order is presented for payment within thirty (30) days after same is delivered and accepted.

C. Refusal To Accept Check: A check offered for the purchase of goods or livestock that is refused by a drawee shall not be considered to be an extension of credit by the seller of goods or livestock to the maker or drawer of the check. (1999 Code § 10-308; amd. 2013 Code)

6-4B-8: **HARMFUL DECEPTION:** It is unlawful for any person knowingly to deceive another, whether by impersonation, misrepresentation, or otherwise, when such deception results in or contributes to the loss, damage, harm or injury of the person deceived or of a third party, or results in or contributes to the benefit of the deceiver. (1999 Code § 10-309)

6-4B-9: PROPERTY DESTRUCTION OR REMOVAL:**A. Defacing Building, Damaging Property:**

1. No person shall purposely deface or damage any public or private building or appurtenances thereof, or any fence, street, bridge, sidewalk, driveway, street, or public work.

2. No person shall:

a. Destroy, injure, deface, damage or molest any structure, building, work or other property, real or personal, belonging to another;

b. Use such property wrongfully to the detriment of the owner or other person entitled to its use; or

c. Interfere wrongfully with the use of any such property by its owner or any other person entitled to its use. (1999 Code § 10-310)

B. Removing Or Breaking Private Property: No person shall wilfully, unlawfully or maliciously take and carry or cause to be taken and carried away any part of a house, barn, fence, gate or other structure, or maliciously break, tear down or destroy any part of a house, barn or other structure not his own. (1999 Code § 10-311)**C. Damaging Private Property:** No person shall wilfully and wantonly damage or destroy the personal property of another. (1999 Code § 10-312)**D. Public Works Under Construction:**

1. Any person who removes, destroys, disturbs, or in any manner injures any grade stake, stone or other mark or monument set by or under authority of the town to designate or mark grades, lines, corners or bench marks on any public work in the town prior to the completion and acceptance of the contract for which such stakes or monuments are set, without lawful authority, is guilty of an offense.

2. Any contractor or other person constructing any public work in the town shall protect such work by barriers or obstructions. It is unlawful for any person to cross the barriers or to remove them until the work has been completed and opened by authority of the town. (1999 Code § 10-313)

6-4B-10: **MOTOR VEHICLES, DAMAGING:** It shall be unlawful for any person or persons to loiter in or upon any automobile or motor vehicle, or to deface or injure such automobile or motor vehicle, or to molest, drive, or attempt to drive any automobile, for joyriding or any other purpose, or to manipulate or meddle with any machinery or appliances thereof without the consent of the owner of such automobile or motor vehicle. (1999 Code § 10-314; amd. 2013 Code)

6-4B-11: **UTILITIES, TAMPERING WITH OR DAMAGING:**

- A. **Damaging Or Tampering With Wires, Pipes:** No person shall alter, remove, tamper with, molest, damage or injure any wires, cable, appurtenance, structure, pipes or equipment of any utility of the town, or any public utility, or connect or tamper with the wires, cables or pipes of any electric, water, sewer, cable television or gas utility or of the town without consent of the utility or town having been first obtained.
- B. **Opening Manhole Or Sewer:** It is unlawful to open up any manhole or opening to a sewer unless authorized by the town, or to leave a manhole or other opening so opened without replacing the fixture or appliances thereto in their proper place and position.
- C. **Use Or Blocking Of Fire Hydrants:** No person except a member of the fire department or a person acting on lawful order or permit issued by the town shall open or use water from any fire hydrant or take off the caps or damage the same. No person may block the approach or access to a fire hydrant or attach, fasten, stand or brace anything against or on the hydrant.
- D. **Additional Prohibited Acts:** No person shall in any manner whatsoever:
1. Cut into, attach to or intercept the wires, cables or pipes of any electric, water, cable television or gas utility or of the town for the purpose of fraudulently taking therefrom electric current, water, transmissions or gas;
 2. Cut into, attach to or intercept the wires, cables or pipes for the purpose of conducting around any meter electric current, water or gas in order to prevent the current, water or gas from being measured by the meter, or in such other manner so as to consume or use the utility or cable service so as to evade payment therefor,

with the unlawful intent to defraud the company or town out of the value of the service; or

3. By any device or manipulation whatsoever, to cause current, transmissions, water or gas used upon any premises to be fraudulently conveyed upon any premises for the purposes of use thereof, and with the intent to defraud and cheat the utility or town from payment thereof.

- E. Each Day A Separate Offense: Each day that any person maintains any such fraudulent connection with any wires, cables or pipes, or fraudulently takes from any such wires, cables or pipes either electric current, transmissions, water or gas shall constitute a separate offense. (1999 Code § 10-315)

6-4B-12: TREES AND SHRUBBERY, DESTRUCTION:

- A. Destruction On Property Of Another: No person shall wilfully, maliciously and without lawful authority cut down, root up, sever, injure or destroy any fruit tree, shade or ornamental tree, cultivated root or plant, grape or strawberry vine, shrub or plant whatever standing on or attached to the land of another, or pick, destroy, carry away therefrom, or in any way interfere therewith, any of the fruit thereof.
- B. Destruction On Public Ground: No person shall wilfully or without lawful authority cut down, destroy, root up or in any manner injure any fruit, shade or ornamental tree, shrub or vine planted or growing on any street, land, avenue, alley or other public ground of the town. (1999 Code § 10-316)

6-4B-13: TRESPASSING; NOTICE; SOLICITING:

- A. Trespass Prohibited: It is unlawful and an offense for any person to commit a trespass within the town upon either public or private property.
- B. Trespass Defined: Trespass shall include each and every actual entry upon the premises of an owner or other person in lawful possession of the premises without the express consent of the owner or other person in lawful possession. Trespass shall also mean remaining upon the premises of an owner or other person in lawful possession after having been told to leave the premises by the

owner, or the agent, or employee of the owner or other person in lawful possession of the premises. Trespass shall also mean the act of entering upon or remaining on private property when such is plainly forbidden by signs, markings, or otherwise, by verbal command of the owner, his agent, or employee, of after having been directed to do so by a police officer, although this sentence shall not apply to persons, including employees, whose presence upon the premises is authorized by the owner or by a person in lawful possession of such premises. Trespass shall also include the act of returning to private property after having been directed to vacate the premises by the owner, his agent, employee or police officer under the terms of this section.

C. Additional Prohibited Acts: Any of the following acts by any person shall be deemed a violation of this section:

1. The doing of an injury or misfeasance to the person of another;
2. The doing of any injury or misfeasance to the property of another when done with force and violence, either actual or implied;
3. Each and every actual entry upon the premises of another owner or person in possession of real property, whether the property is public or private, without the owner's or occupant's consent, express or implied;
4. An entry upon the premises, or any part thereof, of another in violation of a notice exhibited thereon prohibiting entry at specified times;
5. An entry upon the premises, or any part thereof, of another in violation of any notice, warning or protest given orally or in writing by any owner or other lawful occupant thereof;
6. An entry upon any public property, including parks or parking areas, in violation of a notice exhibited there prohibiting entry at specified times;
7. An entry upon any public property in violation of any notice, warning or protest given orally or in writing by a town official;
8. If on the property of another, or upon public property lawfully, a failure or refusal to depart in case of being requested to so depart orally or written, by any owner, lawful occupant, or by a town official;

9. An entry upon any portion of a public park, where the entry involves the use of any vehicle, equipment or device where such use is specifically prohibited;

10. An entry of any public building, except for the purpose of dispatching business with the public corporation or consent is obtained from the town board of trustees or other public official which is lawfully authorized to give consent; or

11. Remaining on public or private property at any time other than during posted hours of business operation after having been directed to vacate such premises by a police officer. The provisions of this subsection shall not apply to persons, including employees, whose presence upon such premises is authorized by the owner or by a person in lawful possession of such premises; nor shall the provisions of this subsection apply unless hours of business operation are posted upon such premises. Trespass also includes the act of returning to private property before the posted time of opening for business operation on the next business day after having been directed to vacate such premises under the terms of this subsection.

D. Notice Criteria: For purposes of constituting a violation of this section, the exhibited notice required under subsections C4, C5, C6, C7 and C9 of this section shall meet the following criteria:

1. The notice shall be plainly posted in a place or places conspicuous to those who would enter the property;

2. The notice shall be legible so as to afford reasonable warning prior to the commission of a trespass; and

3. If upon property to which the public is invited at least some part of the day, the notice shall clearly specify the days and times of day entry is prohibited, and further specify that entry at such times constitutes a punishable offense under this code. (1999 Code § 10-317)

6-4B-14: CONGREGATING, PARKING ON PREMISES AFTER HOURS:

A. Congregating Prohibited: No person shall stand, walk, sit, lie, congregate or otherwise occupy or remain upon the premises of any

place or business within the town after business hours without consent of the lawful owner, occupant, lessee or employee thereof.

- B. **Parking Prohibited; Towing:** No person shall stop, stand, park, leave, or place any motor vehicle, whether occupied or not, upon any public or private property without the consent of the owner, occupant, lessee or employee thereof, except where such property is provided for public parking and the use for such parking is not restricted by proper notice. In addition to fine or other punishment for a violation of this subsection, the vehicle so parked, left or placed shall be subject to impoundment upon complaint of the property owner or lawful occupant; the person violating this subsection shall be wholly responsible for payment of towage and storage charges.
- C. **Posting Of Premises Required:** No person may be charged under this section unless the premises in question is posted with a conspicuous sign which states, substantially, that the premises are posted, and that any person congregating, occupying or remaining upon the premises or parking or leaving a motor vehicle thereon, is subject to prosecution pursuant to this code.
- D. **After Business Hours Described:** When used in this section, the term "after business hours" shall mean that the doors of the business which are open to the public during business hours are closed and locked and that the business is no longer admitting customers. The term applies to places of business which are vacant or permanently or temporarily closed or otherwise unoccupied. The term "place of business" means any private property upon which a building, house or other structure is used for commercial or public purposes, e.g., without limitation, restaurants, gas stations, shopping malls or centers, theaters, convenience stores, grocery stores, drugstores or pharmacies, recreational facilities, wholesale or retail sales activities, offices, banks or other financial institutions, manufacturing, professional services (medical, legal, accounting, insurance, consulting).
- E. **Rebuttable Presumption:**
1. There is a rebuttable presumption that any person or motor vehicle upon the premises of a place of business that is properly posted pursuant to this section after such time as the front door or other such door that admits members of the public is closed and locked is on the premises of such business unlawfully under this section; however, this presumption shall not be applied within thirty (30) minutes of any opening or closing times posted by such place of

business. This presumption may only be rebutted by proof beyond a reasonable doubt that any person held by the municipal judge to be subject to this rebuttable presumption was on the premises in question with permission of the lawful owner, occupant, lessee or employee thereof.

2. If a motor vehicle is alleged to be unlawfully parked or left under this section, it shall be rebuttably presumed that the person in whose name the motor vehicle was last registered was the person who parked or left the motor vehicle.

- F. Unlawful Parking; Penalty: The parking or leaving of a motor vehicle as set forth herein shall constitute the offense of unlawful parking or leaving a motor vehicle after business hours, punishable as provided in section 1-4-1 of this code.
- G. Unlawful Presence On Property; Penalty: If a person violates subsection A of this section, it shall constitute the offense of unlawful presence on property after business hours or congregating after business hours and is punishable as provided in section 1-4-1 of this code.
- H. Provisions Cumulative: The provisions of this section are cumulative of other applicable offenses enacted in this code or state law. (1999 Code § 10-318)

6-4B-15: UNLAWFUL INTRUSION ON LAND:

- A. No person shall intrude or remain upon any lot or piece of land, or in any building within the town without license or authority from the owner thereof, or erect or occupy thereon any structure whatever without such license or authority.
- B. No person shall place, erect or occupy within the bounds of any street, alley or avenue of the town any structure whatever unless such person is granted a license by the town to do so. (1999 Code § 10-319)

6-4B-16: THROWING OBJECTS OR SHOOTING AT PERSONS:

- A. Throwing Or Shooting At Persons Or Property: No person shall throw or shoot any object into or across any street or alley, or in any place where he is likely to hit another person wrongfully, or injure property,

or to throw any object at any person, vehicle, structure, or property of another, whether public or private, except where such is done in defense of oneself or another person or property. (1999 Code § 10-320)

- B. Throwing Lighted Substances Or Debris: No person shall throw, drop, deposit or otherwise place in, upon or within the limits of any street, avenue, public ground, public waterway or town owned property or waterway any lighted cigarette, cigar or other flaming or glowing substances, or any substance or thing which may cause a fire. (1999 Code § 10-321)

6-4B-17: **LITTERING, DEPOSITS UNLAWFUL:** It is unlawful to throw, deposit or discharge any item or waste material, liquid or solid, on any street or public place in the town or upon the property of another without express authority to do so. (1999 Code § 10-322)

6-4B-18: **POSTING ADVERTISING MATTER:**

- A. Buildings Of Another:

1. No person shall place upon any building any advertising matter of any kind, nor print or exhibit printing on a building or any part thereof, in words, signs or characters, except with the express consent of the owner, lessee or authorized agent of the owner of the building.

2. No person shall place, post, paint, mark, write, print or put any sign, poster, picture, announcement, writing, device, advertisement or other marking upon any public or private building, fence, sidewalk, bridge, post, automobile or vehicle or property of another without the consent of the owner or person in charge thereof. (1999 Code § 10-323)

- B. Utility Poles; Streets And Sidewalks:

1. It is unlawful for any person to place any advertising matter of any kind on any utility pole, or to place any advertising on the streets or sidewalks of the town or to place any advertising on any signs or banners stretched over the streets or sidewalks of the town.

2. Nothing herein shall be construed to prevent any permanently located commercial or business establishment in the town from

erecting and maintaining business or commercial signs in accordance with the ordinances of the town, nor to prohibit the granting of permission by the town to religious, charitable, patriotic or civic bodies to use banners across the streets of the town in such places as may be designated by the town clerk-treasurer for the observance of holidays, charitable drives and the commemoration and celebration of other public or civic occasions. (1999 Code § 10-324)

6-4B-19: **INTERFERENCE WITH RADIO OR TELEVISION RECEPTION:** It is unlawful for any person, or any officer or employee of any person, to operate or use any citizen band radio, ham radio or other electrical apparatus or machine which materially and unduly interferes with radio, television or telephone reception of others. (1999 Code § 10-325)

6-4B-20: **FALSE WEIGHTS:** It is unlawful for any person to sell any commodity or article of merchandise and in the sale thereof knowingly make or give a false or short weight therefor or for any person owning or keeping or having in charge any scale used in weighing any animal, commodity or article to knowingly and wilfully report any false or untrue weight whereby another person shall be defrauded or damaged. (1999 Code § 10-326)

6-4B-21: **ELECTRIC FENCES PROHIBITED:** It is unlawful for any person to erect, install or maintain any electrically charged fence within the town, except that the building official may issue a permit for an electrically charged fence to retain animals upon proof that the fence will not be hazardous to life, and upon proof that the electric charge is regulated by a controlling device. (1999 Code § 10-327)

6-4B-22: **GARBAGE CONTAINER OF ANOTHER, UNLAWFUL USE:**
It is unlawful and an offense for any person to dispose of garbage, refuse, rubbish or waste into any refuse container, dumpster or other receptacle for the deposit of same belonging to or leased by another, whether by rental agreement, lease or agreement with the town or a public or private trash, garbage or refuse hauling service, without the permission of the owner, lessee or other person entitled to the possession or use thereof. (1999 Code § 10-328)

6-4B-23: FIREWORKS PROHIBITED; EXCEPTIONS:

- A. Definition: For the purpose of this section, "fireworks" shall have the same meaning as in state law, 68 Oklahoma Statutes section 1621 et seq.
- B. Bottle Rockets Prohibited: It is unlawful for any person to manufacture, display, sell, possess for sale, discharge or use fireworks known as bottle rockets within the town except as provided in this section.
- C. Time Sale Or Use Allowed: Unless otherwise prohibited by state law, the sale, possession for sale, discharge and use of fireworks is hereby permitted between June 15 and July 6. However, no fireworks may be used or discharged between the hours of twelve o'clock (12:00) midnight and eight o'clock (8:00) A.M. on any day.
- D. Displays: Pyrotechnic or fireworks displays may be authorized in accordance with the town fire code when under proper control and the time, place and manner of the display is permitted by the town. (1999 Code § 10-329)

CHAPTER 4

GENERAL OFFENSES

ARTICLE C. OFFENSES AGAINST PUBLIC AUTHORITY

SECTION:

- 6-4C- 1: Escaping Or Assisting In Escape
- 6-4C- 2: Delivery Of Articles To Person In Confinement
- 6-4C- 3: Assaulting Town Officer
- 6-4C- 4: Resisting Police Officer
- 6-4C- 5: Citizen Duty To Assist
- 6-4C- 6: Obedience To Orders Of Police And Firefighters
- 6-4C- 7: Eluding Police Officer By Motor Vehicle
- 6-4C- 8: Use Of Siren Or Whistle
- 6-4C- 9: Impersonating Police Or Town Officer
- 6-4C-10: False Statements, Reports Or Complaints
- 6-4C-11: False Alarms
- 6-4C-12: Removal Of Barricades
- 6-4C-13: Resisting Public Officials
- 6-4C-14: Public Conduct At Fires And Emergencies
- 6-4C-15: Tampering With Signs, Equipment

6-4C-1: ESCAPING OR ASSISTING IN ESCAPE:

- A. Escaping Custody: No person lawfully in custody or confined in the town jail, before or after conviction for any violation of the ordinances of the town, or held in custody going to the town jail, or working upon the streets or other public grounds of the town, or in custody of any officer of the town, shall break or attempt to break such town jail or custody, and escape or attempt to escape therefrom. (1999 Code § 10-601)
- B. Conveying Instruments To Assist Escape: No person shall convey into the town jail any disguised instrument or anything proper or useful to facilitate the escape of any prisoner lawfully committed to or detained in the town jail for any violation of the town ordinances,

for any criminal offense, or lawfully detained or imprisoned therein, whether such escape is effected or attempted or not. (1999 Code § 10-602)

- C. **Assisting Prisoner To Escape:** No person shall in any way aid, remove or assist any person to resist or escape from custody of any police officer or from any lawful confinement in the town. (1999 Code § 10-603)

6-4C-2: **DELIVERY OF ARTICLES TO PERSON IN CONFINEMENT:**
No person shall deliver any article or thing to any person under arrest without the consent of the officer having charge and custody of the prisoner. (1999 Code § 10-604)

6-4C-3: **ASSAULTING TOWN OFFICER:** No person shall knowingly commit any assault, battery or assault and batter on any town official, police officer or firefighter while in the performance of their duties. (1999 Code § 10-605)

6-4C-4: **RESISTING POLICE OFFICER:**

- A. **Resisting Officer:** It is unlawful to resist, oppose or assault, prevent, fail to cooperate with or in any way interfere with a police officer or any person duly authorized to act as such, while the officer or person is discharging or attempting to discharge his official duties within the limits of the town.
- B. **Assisting To Escape Or Evade:** It is unlawful for any person to warn or signal another so as to assist such other person to flee, escape or evade an officer seeking to make an arrest or for any person to bar or lock any door or barrier in the face of or in front of an approaching officer.
- C. **Resisting Described:** Resisting an officer is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity, and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

D. Obstruction Described: The words "obstruction of" shall, in addition to their common meaning, include:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest;
2. Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is under arrest; or
3. Refusal by the arrested party to give his name and make his identity known to the arresting officer. (1999 Code § 10-606)

6-4C-5: **CITIZEN DUTY TO ASSIST:** It is the duty of all persons in the town, when called upon by any police officer, to promptly aid and assist him in the execution of his duties. (1999 Code § 10-607)

6-4C-6: **OBEDIENCE TO ORDERS OF POLICE AND FIRE-FIGHTERS:** No person shall fail to heed a reasonable order of a police officer or firefighter while such officer is in the discharge of an official duty in maintaining the public safety or welfare. (1999 Code § 10-608)

6-4C-7: **ELUDING POLICE OFFICER BY MOTOR VEHICLE:** No operator of a motor vehicle who has received a visual or audible signal, a red light or a siren from a police officer driving a motor vehicle, showing the same to be an official police, sheriff or highway patrol car directing the operator to bring his vehicle to a stop, shall wilfully increase his speed or extinguish his lights to elude or attempt to elude such police officer, or attempt in any other manner to elude the police officer. (1999 Code § 10-609)

6-4C-8: **USE OF SIREN OR WHISTLE:**

A. Police Whistle: No person shall use any police whistle or any other instrument used by a police officer to give signals to each other, or imitate any signal given by one police officer to another, or any special signal used by police officers, for the purpose of improperly or causelessly attracting the attention of the police.

- B. Siren: No person, except members of police department, fire department or ambulance services, shall ring, use or otherwise sound any gong, siren, whistle or any other device for making similar noise. (1999 Code § 10-610)

6-4C-9: **IMPERSONATING POLICE OR TOWN OFFICER:**

A. Police Officers:

1. No person, other than police officers of the town, shall wear or carry the uniform, apparel, badge, identification card or any other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the police officers of the town.

2. No person shall do or attempt any act to impersonate a police officer.

- B. Town Officer Or Employee: It is unlawful to falsely impersonate any officer or employee of the town, or falsely represent himself to be an officer or employee of the town, by any kind of representation, pretense, insignia, sound, clothing or conduct, or exercise or attempt to exercise any of the duties, functions or powers of an officer or employee of the town without being authorized to do so. (1999 Code § 10-611)

6-4C-10: **FALSE STATEMENTS, REPORTS OR COMPLAINTS:**

- A. No person shall knowingly make or file or cause to be made or filed a false or misleading report or misrepresentation, allegation or complaint with the police department or any officer or employee of the town, or on any official application or to commit perjury before any tribunal of the town.

- B. No person shall wilfully and without probable cause make a false report to any person of any crime, violation of the town ordinances, or circumstances indicating the possibility of crime or violation having been committed, including, but not limited to, the unlawful taking of personal property, which report causes or encourages the exercise of police or other official action or investigation. (1999 Code § 10-612)

6-4C-11: **FALSE ALARMS:** It is unlawful for any person to turn in a false alarm of any nature or in any manner to deceive or attempt to deceive the fire department, police department or any other emergency personnel, or summon any officer or employee thereof with reference to any fire alarm or reported fire, accident or other emergency or knowingly to cause the fire department or police department or its officers or employees to make a useless or unnecessary run to any part of the town or outside the town. (1999 Code § 10-613)

6-4C-12: **REMOVAL OF BARRICADES:** It is unlawful for any person, except by proper authority, to remove any barricade or obstruction placed by authority of the town to keep traffic off any pavement, street, curb, sidewalk or other area. (1999 Code § 10-614)

6-4C-13: **RESISTING PUBLIC OFFICIALS:** It is unlawful for any person knowingly or wilfully to:

- A. Resist, oppose or obstruct the chief of police, any other police officer, the municipal judge, or any other officer or employee of the town in the discharge of his official duties;
- B. Obstruct, threaten or otherwise intimidate or attempt to intimidate any officer or employee from the discharge of his official duties; or
- C. Assault or beat, or revile, abuse, be disrespectful to, use abusive or indecent language toward or about, any such officer or employee while such officer or employee is in the discharge of his official duties. (1999 Code § 10-615)

6-4C-14: **PUBLIC CONDUCT AT FIRES AND EMERGENCIES:**

- A. All persons at fires or other emergencies or accidents shall conduct themselves in an orderly and lawful manner and to assist in maintaining law and order.
- B. No person at or near any fire or emergency shall conduct himself in a disorderly manner or neglect or refuse to promptly obey any order of the fire chief or his assistants relative to such fire; and no person shall resist, obstruct, hinder or abuse any officer of the fire department or any firefighter in the proper discharge of his duty.

- C. Every police officer present at a fire shall keep back all persons who are in the way or impeding the work of the fire department, and so far as possible protect all property from loss or injury, and cooperate with and assist the fire department in every way possible while at the fire. The fire chief or an assistant fire chief or any police officer shall have the power to designate persons to guard any goods.
- D. No person shall follow or block the way of any emergency vehicle engaged in emergency run, or knowingly interfere with officers at the location of any fire or emergency. (1999 Code § 10-616)

6-4C-15: **TAMPERING WITH SIGNS, EQUIPMENT:** It is unlawful for any person to tamper with any sign, signal equipment or other device placed, operated and maintained by the town in connection with the administration of its code provisions, ordinances, regulations, services, functions or performance of duties thereto. (1999 Code § 10-617)

CHAPTER 5

MINORS

SECTION:

- 6-5-1: Contributing To Delinquency Of A Minor
6-5-2: Tobacco To Minors Prohibited

6-5-1: CONTRIBUTING TO DELINQUENCY OF A MINOR:

- A. Definitions: As used in this section, the following terms have the meanings ascribed to them in this subsection:

ANY PERSON: Any human being, without regard to the legal or natural relationship to a minor, as well as legal or corporate entities.

MINOR: Any person under the age of eighteen (18) years.

- B. Committing Offense: Any person who shall knowingly or wilfully cause, aid, abet or encourage a minor to be, to remain, or to become a delinquent child, as defined by state law, shall be guilty of an offense. (1999 Code § 10-516)

6-5-2: TOBACCO TO MINORS PROHIBITED: It is unlawful and an offense for any person to sell, barter, give or otherwise furnish cigarettes, cigars or tobacco in any form to a minor, or to permit such minor to frequent any premises owned, held or managed by him for the purpose of using or procuring cigarettes, cigars or tobacco in any form. (1999 Code § 10-517)

CHAPTER 5

MINORS

ARTICLE A. CURFEW

SECTION:

- 6-5A-1: Definitions
6-5A-2: Age And Hour Restrictions; Exceptions
6-5A-3: Allowing Minors To Violate Curfew
6-5A-4: Special Exemptions
6-5A-5: Law Enforcement Officer Authority

6-5A-1: **DEFINITIONS:** For the purpose of this article, the following terms shall have the meanings respectively ascribed to them in this section:

CUSTODIAN: Any person over the age of twenty one (21) years who is in loco parentis to a minor.

GUARDIAN: Any person other than a parent who has legal guardianship of a minor.

MINOR: Any person under the age of eighteen (18).

PARENT: The natural or adoptive parent of a minor.

PUBLIC PLACE: Any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose. A public place shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, cafe, theater, drugstore, poolroom, shopping center and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above. (1999 Code § 10-505)

6-5A-2: **AGE AND HOUR RESTRICTIONS; EXCEPTIONS:** It is unlawful for any minor below the age of thirteen (13) years to remain, wander, stroll or play in any public place on foot or to cruise about without a set destination in any vehicle in, about or upon any public place in the town between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M., on any day; and it is unlawful for any minor between the ages of thirteen (13) years and eighteen (18) years to remain, wander, stroll or play in any public place on foot or to cruise about without a set destination in any vehicle in, about or upon any public place in the town between the hours of twelve o'clock (12:00) midnight and five o'clock (5:00) A.M., unless: (Ord. 10-505, 9-22-2008; amd. 2013 Code)

- A. The minor is accompanied by a parent, guardian, custodian or other adult person having custody or control of such minor;
- B. The minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian or other adult person having the care and custody of the minor; or
- C. Where the presence of such minor is connected with or required by some legitimate employment, trade, profession or occupation. (Ord. 10-505, 9-22-2008)

6-5A-3: **ALLOWING MINORS TO VIOLATE CURFEW:**

- A. **Business Owner Or Operator:** It is unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors between the hours of curfew designated in section 6-5A-2 of this article.
- B. **Parent Or Guardian; Exceptions:**
 - 1. It is unlawful for any parent, guardian, custodian or other adult person having custody or control of any minor to suffer or permit, or by inefficient control, to allow such person to be on any public place within the town between the hours of curfew designated in section 6-5A-2 of this article.
 - 2. The provisions of this section do not apply if:
 - a. The minor is accompanied by a parent, guardian, custodian or other adult person having the care, custody or control of the minor;

b. The minor is on an emergency errand or specific business or activity directed by his parent, guardian, custodian or other adult having the care and custody of the minor; or

c. The parent, guardian or other adult person herein has made a missing person notification to the town police department. (1999 Code § 10-505)

6-5A-4: **SPECIAL EXEMPTIONS:**

A. Special Events Or Functions; Advance Notice: The board of trustees may permit by resolution or motion procedures for advance notice or registration with the town of special events or functions sponsored by churches, schools, clubs or other organizations which require minors to be out at a later time. The board of trustees may also prescribe the procedures for taking into custody minors found in violation of this subsection.

B. Request To Police Chief By Parent Or Guardian:

1. A parent, guardian or custodian of such minor may file a written application directed to the chief of police of the town who may grant a special exemption of enforcement of the curfew provided by this article being required as to such minor, which exemption shall not exceed five (5) consecutive days, or in the alternative, two (2) days of any week for a period not to exceed thirty (30) days. All requests shall be filed with the town clerk-treasurer.

2. The chief of police shall have the authority to grant or reject any request for an exemption to enforcement of the curfew provided by this article or may reduce the time limit of such exemption. However, any applicant for such exemption, feeling aggrieved by the action of the chief of police, may file a request for hearing before the judge of the municipal court of the town who shall summarily hear same, and his judgment shall be final. (1999 Code § 10-505)

6-5A-5: **LAW ENFORCEMENT OFFICER AUTHORITY:** Any law enforcement officer who shall witness a violation of this article may take such offender into his custody to be prosecuted for such violation, require the posting of a sufficient bond for such minor's appearance in court, or may place the minor in the custody of his or her parents or some responsible person. (1999 Code § 10-505)

CHAPTER 5

MINORS

**ARTICLE B. GATHERINGS WHERE MINORS
CONSUME ALCOHOLIC BEVERAGES**

SECTION:

- 6-5B-1: Definitions
6-5B-2: Consumption In Public Or Private Places
6-5B-3: Hosting Or Allowing Party Or Gathering

6-5B-1: **DEFINITIONS:** For purposes of this article, the following words and phrases shall have the meanings given herein, and shall apply:

ALCOHOL: Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE: Includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent (0.5%) or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances. This term includes "intoxicating beverage" and "low point beer", as defined herein.

GATHERING: A party, gathering, or event, where a group of three (3) or more persons have assembled or are assembling for a social occasion or social activity.

INTOXICATING BEVERAGE: Includes beverages containing more than three and two-tenths percent (3.2%) alcohol by weight.

- LEGAL GUARDIAN:** A. A person who, by court order, is the guardian of a minor; or
- B. A public or private agency with whom a minor has been placed by the court.
- LOW POINT BEER:** Means and includes beverages containing more than one-half of one percent (0.5%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including, but not limited to, beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion of barley or other grain, malt, or similar products.
- MINOR:** Any person under the age of twenty one (21) years.
- PARENT:** A person who is the natural parent, adoptive parent, foster parent, or stepparent of another person.
- PREMISES:** Any residence or other private party, place, or premises, including any commercial or business premises. (Ord. 333, 1-22-2008)

6-5B-2: **CONSUMPTION IN PUBLIC OR PRIVATE PLACES:** Except as permitted by state law, it is unlawful for any minor to:

- A. Consume at any public place or any place open to the public alcoholic beverages; or
- B. Consume at any place not open to the public any alcoholic beverage, unless, in connection with the consumption of the alcoholic beverage, that minor is being supervised by his or her parent or legal guardian. (Ord. 333, 1-22-2008)

6-5B-3: **HOSTING OR ALLOWING PARTY OR GATHERING:**

A. Responsibility Of Person Having Control Of Premises:

1. It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to

take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps is controlling access to alcoholic beverages at the gathering, controlling the quantity of alcoholic beverages present at the gathering, verifying the age of persons attending the gathering by inspecting drivers' licenses or other government issued identification cards to ensure that minors do not consume alcoholic beverages while at the gathering, and supervising the activities of minors at the gathering.

2. It is unlawful for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection A1 of this section.

B. Exception, Minor With Parent Or Guardian: This section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or legal guardian.

C. Intoxicated Minor Leaving Family Gathering:

1. Nothing in this section should be interpreted to prohibit any family activity held in the confines of the family home from providing the use of alcohol to immediate family members with the supervision of parents and guardians. However, if a minor leaves such family gathering intoxicated and is found in public, then said providers of alcohol will be held responsible in the same manner as nonfamily gathering.

2. Nothing in this section should be interpreted to prohibit any religious practice which includes the use of alcohol. However, if a minor leaves such religious practice intoxicated and is found in public, then said providers of alcohol will be held responsible in the same manner as nonfamily gathering.

D. State Licensed Premises: This section shall not apply to any premises licensed by the state of Oklahoma to dispense alcoholic beverages. (Ord. 333, 1-22-2008)

E. Penalty: Any person who violates this section is guilty of an offense and, upon conviction thereof, shall be punishable as provided in

section 1-4-1 of this code per offense. (Ord. 333, 1-22-2008; amd. 2013 Code)

CHAPTER 6
ANIMAL CONTROL

SECTION:

- 6-6- 1: Definitions
- 6-6- 2: Vaccination Of Dogs And Cats
- 6-6- 3: Commercial Animal Establishments
- 6-6- 4: Running At Large; Citing Owner
- 6-6- 5: Control Of Animals Required; Regulations
- 6-6- 6: Buildings For Animals; Location; Livestock
- 6-6- 7: Noisy Animals; Nuisance; Vicious Animals
- 6-6- 8: Pasturing In Public Areas
- 6-6- 9: Permit For Certain Domestic Livestock And Fowl
- 6-6-10: Cruelty To Animals
- 6-6-11: Impoundment, Redemption And Disposition Of Animals
- 6-6-12: Rabies And Animal Bites, Procedure
- 6-6-13: Penalty

6-6-1: **DEFINITIONS:** For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section, and all other words or phrases used in this chapter shall be defined and interpreted according to their common usage:

ANIMAL: Any horse, mule, donkey, pony, cow, sheep, goat, hog, dog, cat, rabbit, turkey or other animal or fowl.

AT LARGE: A. Not securely confined by a fence or other means on premises under the control of, or occupied by, the owner; or

B. Not under the control of the owner, a member of his immediate family over twelve (12) years of age or an agent of the owner, by leash not more than six feet (6') in length if off the premises of the owner.

COMMERCIAL
ANIMAL
ESTABLISHMENT:

- Type A: Any stable or boarding facility, grooming or bathing facility, veterinarian clinic or boarding facility, carriage horse, or pony service or sentry or guard dog service.
- Type B: Any business keeping animals in stock for retail or wholesale trade which shall include, but not limited to, wholesale distributors, pet stores, stockyards, slaughterhouses and hatcheries.
- FOWL: Chickens, guineas, geese, ducks and pigeons.
- KENNEL: Any structure or premises on which three (3) or more dogs and/or cats over four (4) months of age are kept.
- OWNER OR KEEPER: Any person, group of persons or corporation owning, keeping, maintaining or harboring, or having care or custody of, an animal or animals or fowl or birds.
- PROVOKE OR PROVOCATION: Means, with respect to an attack by an animal, that the animal was hit, kicked or struck by a person with an object or part of a person's body or that any part of the animal's body is pulled, pinched or squeezed by a person.
- VICIOUS ANIMAL: Any animal:
- A. That inflicts an injury upon a human as a result of an unprovoked attack regardless if the vicious animal is on or off the property on which it is harbored; or attempts to bite or attacks a human requiring that person to take evasive action regardless of the location;
- B. That, when unprovoked, either kills, bites or attacks another animal off the property on which the vicious animal is harbored; or

C. That is owned, trained, used, or harbored, primarily or in part for the purpose of animal fighting.

**WITHOUT
PROVOCATION:**

Means that an animal was not teased, tormented or abused; and also means where the animal was not protecting its owner or owner's property from criminal activity by a perpetrator of a crime. (1999 Code § 4-101; amd. Ord. 327, 1-23-2006; Ord. 327 revised, 9-22-2009; Ord. 353, 11-22-2010; 2013 Code)

6-6-2: VACCINATION OF DOGS AND CATS:

- A. Vaccination Required: No person shall own, keep or harbor any dog or cat within the town limits unless such dog or cat six (6) months of age or older is vaccinated for rabies annually.
- B. Written Proof Necessary: Unless the owner of any dog or cat furnishes written proof that the dog or cat has been vaccinated for rabies by a licensed veterinarian in the past twelve (12) months, the owner shall be guilty of an offense.
- C. Issuance Of Tag: When a veterinarian vaccinates a dog or cat against rabies, he shall issue to the owner of such dog or cat a metal tag or check evidencing such vaccination and the year of vaccination.
- D. Tag Attached To Animal: It shall be the duty of the owner of the dog or cat to attach the tag or check issued to him pursuant to subsection C of this section to the dog or cat and it shall be unlawful for any person to remove such tag or check without the owner's consent. (1999 Code § 4-121)

6-6-3: COMMERCIAL ANIMAL ESTABLISHMENTS:

- A. Condition Of Animals And Holding Facilities: Each commercial animal establishment, of any type, shall keep and maintain its animals and all pens, cages, tanks or other holding facilities in which animals are kept in such a manner as to prevent a nuisance or health hazard to humans and to avoid injury and minimize illness to such animals. All holding areas shall be disinfected periodically to reduce disease pathogens.

B. Care Of Animals; Disease Control; Complaint Of Abuse:

1. All animals housed in any commercial animal establishment shall have a wholesome, adequate diet and potable water consistent with the requirements and habits of the animal species, type, size, age and condition and available shelter with adequate ventilation and protection from the elements.

2. Such animal showing evidence of disease or injury shall be immediately isolated and shall receive treatment by a licensed veterinarian or euthanized by the same. Euthanasia of any domestic animal shall be performed by a licensed veterinarian. The reason and the procedure used for such euthanasia shall be documented.

3. Upon receipt of a signed report or complaint alleging animal abuse or other conditions not in compliance with this section at any commercial animal establishment, an investigation shall be made by the animal control officer. The findings of the officer shall be documented and appropriate action taken.

C. Type B Commercial Animal Establishments:

1. Registration Papers: No registration papers for animals not on the premises may be kept on the premises, except those attached to a contract of sale.

2. Vaccination; Health Records: Vaccination and other medical care of such animals shall be current and the purchaser shall receive complete health records.

3. Documentation Of Origin: The establishment shall provide written documentation of each animal's origin, including the breeder's name and the state where the animal was born, to the purchaser at the time of sale.

4. Permit Requirements; Fees:

a. All operators of a type B commercial animal establishment shall apply to the board of trustees for a permit to operate such establishment in the town. No type B commercial animal establishment shall sell animals in the town without the permit.

b. The board of trustees shall cause to be performed a background check encompassing the past ten (10) years, to

ascertain if the applicant has been convicted of animal abuse or cruelty charges in that time.

c. Conviction of animal abuse or cruelty shall be grounds for denial or revocation of the commercial animal establishment permit.

d. The permit fee shall be twenty five dollars (\$25.00) annually.

e. An application processing fee of twenty five dollars (\$25.00) shall be assessed for the first application. (Ord. 327, 1-23-2006)

6-6-4: RUNNING AT LARGE; CITING OWNER:

- A. Running At Large Prohibited: No owner shall permit any animal, including fowl, owned, harbored or kept by him, to be at large within the town. It is unlawful for any animal to be at large within the town.
- B. Impoundment; Citing Owner: Any animal running at large in the town may be taken up and impounded at the animal shelter. The animal control officer may, at his discretion, cite the owner of such animal to appear in municipal court to answer charges of violation of this chapter. (1999 Code § 4-102)

6-6-5: CONTROL OF ANIMALS REQUIRED; REGULATIONS: It is unlawful for any owner or person to:

- A. Fail to prevent any animal from running at large within the town;
- B. Perform, do or carry out any inhumane treatment against any animal;
- C. Keep, possess, own, control, maintain, use or otherwise exercise dominion over any animal or animals which by reason of noise, odor or sanitary conditions become offensive to a reasonable and prudent person of ordinary tastes and sensibilities, or which constitute or become a health hazard as determined by the health officer or animal control officer; or
- D. Turn any animal at large or release an animal which is restrained or confined in an enclosure as required by this chapter. (1999 Code § 4-103)

6-6-6: BUILDINGS FOR ANIMALS; LOCATION; LIVESTOCK:

- A. Construction For Ease Of Cleaning: Every building or place where any animal or fowl is kept shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.
- B. Location: No place where an animal is kept shall be kept closer than forty feet (40') to the premises of an apartment, hotel, restaurant, boarding house, food store, building used for educational, religious or hospital purposes, or dwelling other than that occupied by the owner or occupant of the premises upon which the animal is kept.
- C. Receptacles For Manure: Every building where any animal is kept, if located within two hundred feet (200') of any apartment, hotel, restaurant, boarding house, food store, building used for educational, religious or hospital purposes, or any dwelling other than that occupied by the owner or occupant of the premises upon which the animal is kept, shall be provided with a watertight and flytight receptacle for manure, of such size as to hold all accumulation of manure. The receptacle shall be emptied sufficiently often and in such manner as to prevent it from being or becoming a nuisance, and shall be kept covered at all times, except when open during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate on such premises except in the receptacle.
- D. Inspection: The animal control officer or health officer shall inspect any structure or place where an animal is kept, on his own initiative or upon complaint. He may issue any such reasonable order as he may deem necessary to the owner of such animal to cause the animal to be kept as required in this chapter or in a manner so as not to constitute a nuisance. He may make a complaint before the town court against any person for violation of any provision of this chapter, or of any such reasonable order.
- E. Keeping Livestock: It is unlawful for any person to keep cows, sheep, goats, cattle, horses or other livestock of any kind within the limits of the town unless such animals are kept within an enclosure or fenced area. Any such enclosure or fenced area shall have at least five thousand (5,000) square feet for each animal kept in the enclosed area. (1999 Code § 4-104)

6-6-7: NOISY ANIMALS; NUISANCE; VICIOUS ANIMALS:

- A. Noise Disturbances: No person shall keep any animal which causes frequent or long continued noise or otherwise so as to disturb the comfort or repose of any person in the vicinity. Any violation of this section is declared to be a nuisance and as such may be abated.
- B. Nuisance Or Vicious Animals: No person shall keep any animal which is a nuisance or is vicious as defined in this code. (1999 Code § 4-105)

6-6-8: PASTURING IN PUBLIC AREAS: It is unlawful for any person to pasture any animal on any public property or private property without the consent of the person owning or controlling the property. (1999 Code § 4-106)

6-6-9: PERMIT FOR CERTAIN DOMESTIC LIVESTOCK AND FOWL:

- A. Permit Required: No person may keep any horse, mule, donkey, cow, calf, sheep, goat, chicken, turkey or any similar animal or fowl in the town without first securing a permit therefor from the town clerk-treasurer.
- B. Exception: This section shall not apply to any horse kept three (3) days before and ending three (3) days after the annual rodeo and the annual horseraces.
- C. Permit Issuance: The clerk-treasurer may issue the permit after approval of the board of trustees, upon such conditions as may be required by the board. (1999 Code § 4-107)

6-6-10: CRUELTY TO ANIMALS:

- A. Cruelty: It is unlawful for any person, wilfully and maliciously, to pour on, or apply to, any animal any drug or other thing which inflicts pain on the animal; or to knowingly treat an animal in a cruel or inhumane manner; or to knowingly neglect an animal belonging to him or in his custody in a cruel or inhumane manner. (1999 Code § 4-141)

- B. **Poisoning Animals:** It is unlawful for a person wilfully to poison any dog or other animal except a noxious, nondomesticated animal, or to knowingly expose poison so that the same may be taken by an animal. (1999 Code § 4-142)
- C. **Encouraging Animals To Fight:** It is unlawful for any person to instigate or encourage a fight between animals or to encourage one animal to attack, pursue or annoy another animal, except a noxious, nondomesticated animal, or to keep a house, pit or other place used for fights between animals. (1999 Code § 4-143)

6-6-11: **IMPOUNDMENT, REDEMPTION AND DISPOSITION OF ANIMALS:**

- A. **Impoundment; Disposition:**
 - 1. The town may operate on its own or contract with an outside agency to serve as the town animal shelter or pound to provide for the impoundment of animals pursuant to this chapter.
 - 2. Any animal found running at large shall be picked up and immediately impounded in the animal shelter and there confined in a humane manner. Fees for impoundment shall be as provided by the shelter or the town board. (1999 Code § 4-131)
- B. **Breaking Pound Or Interfering With Officers:**
 - 1. If any person breaks open, or in any manner directly or indirectly aids in, or counsels or advises the breaking open of any town pound or contract pound, or hinders, delays or obstructs any person duly authorized in taking up or taking to the town pound any animal liable to be impounded, he shall be guilty of an offense.
 - 2. No person shall interfere with, or hinder, or molest any agent of the town in the performance of any duty of such agent, or seek to release any animal in the custody of the town or its agents, except as provided by law. (1999 Code § 4-132)
- C. **Redemption, Adoption Of Animal:**
 - 1. An owner of an impounded animal or his agent may redeem the animal prior to its sale or destruction as provided for herein by paying the required fees against the animal and meeting any other requirements which may be prescribed in this chapter. If the owner

or his agent has not redeemed the animal within the first five (5) days after the impoundment of the animal, the animal may be otherwise disposed of as provided for herein.

2. A person desiring to adopt an animal from impoundment shall pay an adoption fee, costs of any necessary vaccinations, and a deposit of ten dollars (\$10.00) to guarantee the neutering or spaying of the dog or cat, and shall sign an agreement with the town ensuring that the dog or cat will be spayed or neutered. (1999 Code § 4-133)

6-6-12: RABIES AND ANIMAL BITES, PROCEDURE:

A. Animal Bites; Rabies Examination; Quarantine:

1. Every animal that bites or scratches a person shall be reported within four (4) hours to the animal control officer and shall thereupon be securely quarantined at a veterinarian hospital for a period of ten (10) days from the date the person was bitten, and shall not be released from such quarantine except by permission of the animal control officer of the town and the veterinarian in charge of the quarantined animal. Such quarantine may be at any veterinarian hospital chosen by the owner. Failure of the owner or keeper to quarantine his animal within the four (4) hour period herein will make him guilty of an offense.

2. The owner, upon demand by any town officer or animal control officer, shall surrender any animal that has bitten or scratched a human, or which is suspected of having been exposed to rabies, for supervised quarantine testing or euthanasia, the expense for which shall be borne by the owner; and the animal may be reclaimed by the owner if adjudged free of rabies. (1999 Code § 4-151)

B. Rabies Diagnoses; Quarantine Of Town; Time Limit:

1. When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under such observation, the animal control officer or veterinarian shall immediately send the head of such animal to the state health department for pathological examination, and shall notify the proper public health officer of reports of human contacts and diagnosis made of the suspected animal.

2. When one or both reports give a positive diagnosis of rabies, the health or animal control officer of the town may recommend a

townwide quarantine for a period of six (6) months; and upon the invoking of such quarantine, no animal shall be taken into the streets or permitted to be in the streets during such period of quarantine. During such quarantine, no animal shall be taken or shipped from the town without written permission of the animal control officer of the town.

3. During such period of rabies quarantine as herein designated, every animal bitten by an animal adjudged to be rabid shall be treated for such rabies infection by a licensed veterinarian, or held under six (6) months' quarantine by the owner in the same manner as other animals are quarantined.

4. In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended for an additional six (6) months. (1999 Code § 4-152)

C. Killing Or Removing Rabid Animal Prohibited:

1. No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting or scratching a human, except as herein provided, nor remove the animal from the town limits without written permission from the health officer of the town, or the animal control officer.

2. The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the animal control officer.

3. The animal control officer shall direct the disposition of any animal found to be infected with rabies.

4. No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefor by an employee empowered to enforce this chapter. Such refusal shall be deemed an offense. (1999 Code § 4-153)

D. Reports Of Bite Cases; Report By Veterinarian:

1. It is the duty of every physician, veterinarian or other practitioner to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

2. It is the duty of every licensed veterinarian to report to the animal control officer his diagnosis of any animal observed by him to be a rabid suspect. (1999 Code § 4-154)

E. Investigations For Violations:

1. For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the animal control or health officers are empowered to call upon the residents of any premises upon which a dog or cat or small animal is kept or harbored, and to demand the exhibition by the owner of such dog or cat or small animal.

2. The animal control or health officer, in the manner authorized by law, may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal, and to take possession of such animal when, in his opinion, it requires humane treatment. The officer may demand, at the front door of any residence, exhibition by the owner of current animal licenses at any time. (1999 Code § 4-155)

F. Records: The animal control officer shall keep or cause to be kept:

1. An accurate and detailed record of the licensing, impounding and disposition of all animals coming into his custody; and

2. An accurate and detailed record of all bite cases reported to the town, with a complete report of the investigation of each case. (1999 Code § 4-156)

6-6-13: **PENALTY:** Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in section 1-4-1 of this code. (1999 Code § 4-161)

CHAPTER 7
FAIR HOUSING

SECTION:

- 6-7- 1: Policy
- 6-7- 2: Definitions
- 6-7- 3: Unlawful Practices
- 6-7- 4: Sale Or Rental Of Housing
- 6-7- 5: Financing Of Housing
- 6-7- 6: Brokerage Services
- 6-7- 7: Exemptions
- 6-7- 8: Administration
- 6-7- 9: Education And Conciliation
- 6-7-10: Enforcement; Complaints
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6-7-1: **POLICY:** It is the policy of the town to provide, within constitutional limitations, for fair housing throughout the town. (1999 Code § 5-801)

6-7-2: **DEFINITIONS:** For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section:

DISCRIMINATORY HOUSING PRACTICE: An act that is unlawful under sections 6-7-4, 6-7-5 and 6-7-6 of this chapter.

DWELLING: Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location

thereon of any such building, structure, or portion thereof.

FAMILY: Includes a single individual.

PERSON: Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

TO RENT: Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (1999 Code § 5-802)

6-7-3: UNLAWFUL PRACTICES: Subject to the provisions of subsection B of this section and section 6-7-7 of this chapter, the prohibitions against discrimination in the sale or rental of housing set forth in this section shall apply to:

A. **Application Of Provisions:** All dwellings except as exempted by subsection B of this section.

B. **Exceptions:** Nothing in section 6-7-4 of this chapter shall apply to:

1. Any single-family house sold or rented by an owner; provided:

a. That such private individual owner does not own more than three (3) such single-family houses at any one time;

b. That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty four (24) month period;

c. That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time;

d. That the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:

(1) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(2) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of subsection 6-7-4C of this chapter, but nothing in this provision shall prohibit the use of attorneys, escrow, agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

C. Business Of Selling Or Renting Dwellings: For the purposes of subsection B of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

1. He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein;

2. He has, within the preceding twelve (12) months, participated as an agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein;

3. He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (1999 Code § 5-803)

6-7-4: **SALE OR RENTAL OF HOUSING:** As made applicable by section 6-7-3 of this chapter and except as exempted by subsection 6-7-3B and section 6-7-7 of this chapter, it shall be unlawful:

- A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, gender, age, color, religion, national origin, disability, or familial status.
- B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, gender, age, color, religion, national origin, disability, or familial status.
- C. To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, gender, age, color, religion, national origin, disability, or familial status or an intention to make any such preference, limitation, or discrimination.
- D. To represent to any person because of race, gender, age, color, religion, national origin, disability, or familial status that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, gender, age, color, religion, national origin, disability, or familial status. (1999 Code § 5-804; amd. 2013 Code)

6-7-5: **FINANCING OF HOUSING:** It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or their financial assistance, because of the race, gender, age, color, religion, national origin, disability, or familial status of such person or of any person associated with

him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in subsection 6-7-3B of this chapter. (1999 Code § 5-805; amd. 2013 Code)

6-7-6: **BROKERAGE SERVICES:** It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, rental or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, gender, age, color, religion, national origin, disability, or familial status. (1999 Code § 5-806; amd. 2013 Code)

6-7-7: **EXEMPTIONS:** Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of a dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, gender, age, color, religion, national origin, disability, or familial status. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (1999 Code § 5-807; amd. 2013 Code)

6-7-8: **ADMINISTRATION:**

- A. Officer: The authority and responsibility for administering this chapter shall be in the chief executive officer of the town.
- B. Board: The town board of trustees shall serve as the fair housing board for the town. (1999 Code § 5-808)

6-7-9: **EDUCATION AND CONCILIATION:** Immediately after the enactment of this chapter, the chief executive officer shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (1999 Code § 5-809)

6-7-10: **ENFORCEMENT; COMPLAINTS:**

- A. Filing Of Complaint; Investigation; Informal Resolution: Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the chief executive officer. Complaints shall be in writing and shall contain such information and be in such form as the chief executive officer requires. Upon receipt of such a complaint, the chief executive officer shall furnish a copy of the same to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection C of this section, the chief executive officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the chief executive officer decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the chief executive officer who shall make public any information in violation of this provision shall be (upon conviction) punished as provided in section 1-4-1 of this code.
- B. Time Limit For Filing; Contents Of Written Complaint: A complaint under subsection A of this section shall be filed within one hundred eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the chief executive officer, which shall be

granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

- C. **Filing Complaint With Secretary Of HUD:** If within thirty (30) days after a complaint is filed with the chief executive officer, the chief executive officer has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the secretary of the department of housing and urban development. The chief executive officer will assist in this filing.
- D. **Civil Action:** If the chief executive officer has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days thereafter commence a civil action in any appropriate court, against the respondent named in the complaint to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.
- E. **Burden Of Proof On Complainant:** In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.
- F. **Trial; Halt Efforts For Voluntary Compliance:** Whenever an action filed by an individual shall come to trial, the chief executive officer shall immediately terminate all efforts to obtain voluntary compliance. (1999 Code § 5-810)

6-7-11: INVESTIGATIONS; SUBPOENAS; GIVING OF EVIDENCE:

- A. **Conduct Of Investigations:** In conducting an investigation, the chief executive officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the chief executive officer first complies with the provisions of the fourth amendment relating to unreasonable searches and seizures. The chief executive officer may issue a subpoena to compel his access to or the production of

such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The chief executive officer may administer oaths.

- B. Issuance Of Subpoenas: Upon written application to the chief executive officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief executive officer to the same extent and subject to the same limitations as subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.
- C. Witness And Mileage Fees: Witnesses summoned by subpoena of the chief executive officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.
- D. Petition To Revoke Or Modify Subpoena: Within five (5) days after services of a subpoena upon any person, such person may petition the chief executive officer to revoke or modify the subpoena. The chief executive officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.
- E. Refusal To Obey Subpoena: In case of contumacy or refusal to obey a subpoena, the chief executive officer or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.
- F. Violations; Penalty: Any person who wilfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the chief executive officer shall be punished as provided in section 1-4-1 of this code. Any person who, with intent thereby to mislead the chief executive officer, shall make or cause to be made any false entry or statement

of fact in any report, account, record, or other document submitted to the chief executive officer pursuant to his subpoena or other order, or shall wilfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall wilfully mutilate, alter, or by any other means falsify any documentary evidence, shall be punished as provided in section 1-4-1 of this code.

- G. **Litigation By Town Attorney:** The town attorney shall conduct all litigation in which the chief executive officer participates as a party or as amicus pursuant to this chapter. (1999 Code § 5-811)

6-7-12: ENFORCEMENT BY PRIVATE PERSONS:

- A. **Civil Action:** The rights granted by sections 6-7-3 through 6-7-6 of this chapter may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred eighty (180) days after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this section or subsection 6-7-10D of this chapter from time to time before bringing it to trial if the court believes that the conciliation efforts of the chief executive officer are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the chief executive officer and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this chapter, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this chapter shall not be affected.
- B. **Decision Of Court:** The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and punitive damages as provided by law, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff. Provided, that the plaintiff in the opinion of the court is not financially able to assume the attorney fees. (1999 Code § 5-812)

- 6-7-13: INTERFERENCE, COERCION OR INTIMIDATION:** It shall be unlawful to coerce, intimidate, threaten, or interfere with

any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 6-7-3 through 6-7-6 of this chapter. This section may be enforced by appropriate civil action. (1999 Code § 5-813)

6-7-14: **PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES:** Whoever, whether or not acting under color of law, by force or threat of force wilfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

- A. Any person because of his race, gender, age, color, religion, national origin, disability, or familial status and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings.
- B. Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:
 - 1. Participating, without discrimination on account of race, gender, age, color, religion, national origin, disability, or familial status, in any of the activities, services, organizations or facilities described in subsection A of this section;
 - 2. Affording another person or class of persons opportunity or protection so to participate; or
- C. Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, gender, age, color, religion, national origin, disability, or familial status, in any of the activities, services, organizations or facilities described in subsection A of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be punished as provided in section 1-4-1 of this code. (1999 Code § 5-814; amd. 2013 Code)