

## CHAPTER 10

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## ARTICLE 1

### General Offenses

#### Sec. 10-1-10. Criminal attempt.

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

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

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

(d) Criminal attempt to commit a misdemeanor is a misdemeanor.

(e) Criminal attempt to commit a petty offense is a crime of the same class as the offense itself. (Ord. 2007-04 §1)

#### Sec. 10-1-20. Conspiracy.

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

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

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

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

(e) Conspiracy to commit a misdemeanor is a misdemeanor.

(f) Conspiracy to commit a petty offense is a crime of the same class as the offense itself. (Ord. 2007-04 §1)

**Sec. 10-1-30. Complicity.**

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. 2007-04 §1)

**Sec. 10-1-40. Accessory to crime.**

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

(b) *Render assistance* means to:

- (1) Harbor or conceal the other;
- (2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;
- (3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;
- (4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or
- (5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

(c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class. (Ord. 2007-04 §1)

**Sec. 10-1-50. Aiding and abetting.**

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the City, whether individually or in connection with one (1) or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any ordinance of the City is likewise guilty of such offense. (Ord. 2007-04 §1)

## ARTICLE 2

### Government and Public Officers

#### Sec. 10-2-10. Definitions.

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

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

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

*Public servant* means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses. (Ord. 2007-04 §1)

#### Sec. 10-2-20. Impersonating a public servant.

(a) It is unlawful for any person to impersonate a public servant. A person commits impersonating a public servant if he or she falsely pretends to be a public servant other than a peace officer and performs any act in that pretended capacity.

(b) It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist. (Ord. 2004-16 §3)

#### Sec. 10-2-30. Obstructing a peace officer or firefighter.

(a) It is unlawful for any person to willfully fail or refuse to comply with the any lawful order, signal or direction of a police officer made or given in the discharge of his or her duties.

(b) It is unlawful for any person to knowingly resist, interfere with, impede or obstruct any police officer, firefighter, City employee or other public official who is discharging or apparently discharging the official duties of his or her position.

(c) It is unlawful for any person to threaten or use violence, reprisal, force or physical interference or obstacle, or any other injurious act to any police officer, firefighter, City employee or other public official engaged in the performance of his or her official duties, or to knowingly obstruct, impair or hinder the enforcement of the law or the preservation of the peace by a peace officer, acting under color of his or her official authority, or the prevention, control or abatement of fire by a firefighter, acting under color of his or her official authority.

(d) It is unlawful for any person to drive a vehicle to or close by the scene of a fire, explosion, traffic accident, riot, impending riot or other disaster or investigation so as to obstruct or impede the arrival, departure or operation of any fire truck, police vehicle, ambulance or any other emergency vehicle, or to fail to move a vehicle from the scene of such disaster when ordered to do so by police officers, firefighters, emergency personnel or military personnel in the performance of their duties in

coping with such fire, explosion, traffic accident, riot, impending riot or other disaster or investigation.

(e) It is no defense to a prosecution under this Section that the peace officer or firefighter was acting in an illegal manner, if the peace officer or firefighter was acting under color of his or her official authority as defined in Subsection 10-2-50(e) below. (Ord. 2004-16 §4; Ord. 2007-04 §1)

**Sec. 10-2-40. Resisting arrest.**

(a) It is unlawful to resist arrest.

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

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

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

(c) The term *peace officer* as used in this Section means any person who is in uniform or, if out of uniform, who has identified himself or herself by displaying his or her credentials as such peace officer to the person whose arrest is attempted.

(d) It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if the peace officer was acting under color of his or her official authority and, in attempting to make the arrest, the peace officer was not resorting to unreasonable or excessive force giving rise to the right of self-defense.

(e) A peace officer acts *under color of his or her official authority* when, in the regular course of his or her assigned duties, he or she is called upon to make, and does in fact make, a judgment in good faith, based upon surrounding facts and circumstances, that an arrest should be made by the peace officer. (Ord. 2004-16 §5; Ord. 2007-04 §1)

**Sec. 10-2-50. Escape.**

It is unlawful for any person to escape or attempt to escape, in any manner aid another to escape, attempt to rescue, or rescue a person from the custody of a peace officer or from the custody of any person aiding such peace officer to so take such person into custody; provided that the provisions of this Section shall not apply when the escapee is being held for a felony or charged with any felony. (Ord. 2004-16 §5; Ord. 2007-04 §1)

**Sec. 10-2-60. False reporting to authorities.**

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

(1) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;

(2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur;

(3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false;

(4) Knowingly gives false information to any law enforcement officer with the purpose of implicating another; or

(5) Provides false identifying information to law enforcement authorities.

(b) For purposes of this Section, *false identifying information* means a person's name, address, birth date, social security number, driver's license or State identification number. (Ord. 2004-16 §1; Ord. 2007-04 §1)

**Sec. 10-2-70. Duty of citizens to aid.**

(a) It is unlawful for any person knowingly to disobey the lawful or reasonable order of peace officers, firefighters, emergency personnel or military personnel, given incident to the discharge of the official duties of such peace officers or firefighters or incident to the duties of emergency personnel or military personnel when coping with an emergency, explosion or other disaster.

(b) A person commits an unlawful act when, upon command by a person known to him or her as a peace officer, he or she unreasonably refuses to aid such peace officer in coping with an emergency situation or in the discharge of his or her duties. (Ord. 2004-16 §6; Ord. 2007-04 §1)

**Sec. 10-2-80. Failure to appear in Court.**

(a) It is unlawful for any person willfully to fail to appear in the Municipal Court on the date when and at the time and place where summoned in writing to appear by any police officer or other officer of the City.

(b) It is unlawful for any person willfully to fail to appear in the Municipal Court on the date when and at the time and place where required by any lawful process duly served.

(c) It is unlawful for any person willfully to fail to appear in the Municipal Court on the date when and at the time and place where required by an order of the Municipal Court which has been:

(1) Made by the Court in the presence of such person; or

(2) Reduced to writing and served upon such person by personal service.

(d) The provisions of this Section shall not be deemed or construed to prevent or preclude an appearance by counsel when such appearance is allowed by the Colorado Rules of Municipal Court Procedure.

(e) The provisions of this Section shall not be deemed an exclusive remedy and shall not limit the contempt power of the Municipal Court. (Ord. 2004-16 §7)

### **ARTICLE 3**

#### **Streets and Public Places**

##### **Sec. 10-3-10. Unlawful conduct on public property.**

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

(1) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings, grounds and other structures, and any object of scientific, historical or scenic interest;

(2) Restriction or limitation of the use of such public buildings or property as to time, manner or permitted activities;

(3) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance;

(4) Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted;

(5) Use of all vehicles as to place, time and manner of use; and

(6) Control and limitation of fires and designation of places where fires are permitted.

(b) No conviction may be obtained under this Section unless notice of such limitation or prohibition is prominently posted at all public entrances to such building or property or unless such notice is actually first given the person by the office or agency, including any agent thereof or by any law enforcement officer having jurisdiction or authority to enforce this Section.

(c) Any person who violates this Section is guilty of unlawful conduct on public property. (Ord. 2007-04 §1)

**Sec. 10-3-20. Trespass or interference in public buildings.**

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

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

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

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

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

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

(g) Any person who violates any of the provisions of this Section commits an unlawful act. (Ord. 2007-04 §1)

**Sec. 10-3-30. Interfering with use of streets or sidewalks.**

It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the City shall obstruct, interfere with or prevent the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other person on that public highway, street, alley or sidewalk or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the City or other authorized peace officer. (Ord. 2007-04 §1)

**Sec. 10-3-40. Unlawful interference at educational institutions.**

(a) It is unlawful for any person, other than an authorized school official, on or within one hundred (100) feet of the premises or facilities of any educational institution to willfully deny to students, school officials, employees and invitees:

- (1) Lawful freedom of movement on the premises.
- (2) Lawful use of property or facilities of such institution.
- (3) The right of lawful ingress and egress to the institution's physical facilities.

(b) It is unlawful for any person on the premises of any educational institution or within one hundred (100) feet of any building or other facility being used by any educational institution to willfully impede the staff or faculty of such institution in the lawful performance of their duties or to willfully impede a student of such institution in the lawful pursuit of his or her educational activities through the use of restraint, coercion or intimidation or with force, violence or threatened violence.

(c) It is unlawful for any person to willfully refuse or fail to leave the property of, or any building or other facility used by, an educational institution upon being requested to do so by the chief administrative officer, his or her designees charged with maintaining order on the school premises and in its facilities, or a dean of such educational institution.

(d) Nothing in this Section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor or any employee thereof.

(e) *Educational institution*, as used in this Section, means any organization whose purpose is to instruct or train people to develop and use their mental, moral and physical powers, whether governmentally funded or otherwise. (Ord. 2004-16 §9)

**Sec. 10-3-50. Damage to or removal of street signs.**

It is unlawful for any unauthorized person to willfully remove, deface, injure, damage, tamper with or destroy any street sign or any traffic control or warning sign or device erected or placed in or adjacent to any street. This Section shall only apply where the aggregate damage to such street sign or traffic control or warning device is less than four hundred dollars (\$400.00). (Ord. 2004-08 §3; Ord. 2007-04 §1)

**Sec. 10-3-60. Damage to or removal of public signs.**

It is unlawful for any person without proper authorization to remove, deface, damage, tamper with or destroy any official sign erected or installed by the City in or upon any park, park building, recreational facility, public property or any street, highway, walkway, boulevard or sidewalk within or adjacent to any park. This Section shall only apply where the aggregate damage to such public sign is less than four hundred dollars (\$400.00). (Ord. 2004-08 §4; Ord. 2007-04 §1)

## ARTICLE 4

### Public, Private and Personal Property

#### **Sec. 10-4-10. Criminal mischief.**

It is unlawful for any person to knowingly or intentionally injure, deface, damage or destroy the real or personal property of another person, whether public or private, in the City, where the aggregate damage in any one (1) criminal episode to such real or personal property is less than five hundred dollars (\$500.00). (Ord. 2004-08 §1; Ord. 2007-04 §1)

#### **Sec. 10-4-20. Damaging or destroying public property.**

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner damage or destroy real property, improvements thereto or moveable or personal property belonging to the City. (Ord. 2007-04 §1)

#### **Sec. 10-4-30. Damaging or destroying private property.**

It is unlawful for any person to either willfully, maliciously or wantonly damage or destroy real property or improvements thereto, or moveable or personal property, belonging to any person. (Ord. 2007-04 §1)

#### **Sec. 10-4-40. Trespassing.**

(a) A person commits trespass when he or she unlawfully enters or remains in or upon premises of another person. It is unlawful for any person:

(1) To trespass intentionally on the premises of another person, and intentionally and without regard for the rights of the owner or lawful occupant to use, be in or upon or occupy such premises without authority to do so from the owner or lawful occupant thereof.

(2) To trespass intentionally on the premises of another person, when a sign or other device forbidding entry has been posted upon such premises, and intentionally and without regard for the rights of the owner or lawful occupant to use, be in or upon, occupy or cross such premises without authority to do so from the owner or lawful occupant thereof.

(3) To trespass and commit depredations upon the premises or property of another person.

(4) To trespass on the premises of another person and by negligence be responsible for any fire which results in damage to any building, structure or personal property.

(5) To trespass and cut, break, destroy, mar, deface or remove any tree, plant, gate, door, window, wall, fence or personal property on the premises of another person without authority to do so from the owner or lawful occupant thereof.

(6) Being lawfully upon the premises of another person, intentionally or willfully and without regard for the rights of the owner or lawful occupant to remain upon or refuse to leave such premises within a reasonable time after notice to quit the same.

(b) A person commits a trespass when he or she unlawfully enters or remains in or upon a motor vehicle, trailer or mobile home of another person. It is unlawful for any person:

(1) To intentionally enter, use or occupy a motor vehicle, trailer or mobile home without authority to do so from the owner or lawful occupant thereof.

(2) To trespass upon the motor vehicle, trailer or mobile home of another person and by negligence be responsible for any fire that results in damage to such motor vehicle, trailer or mobile home.

(3) To trespass and cut, break, destroy, mar, deface or remove any door, window, other part or accessory of any motor vehicle, trailer or mobile home without authority to do so from the owner or lawful occupant thereof.

(c) The provisions of this Section shall not apply to police officers, firefighters, building inspectors, City employees or other federal, state or local governmental employees in the lawful performance of their duties. The provisions of Paragraph (a)(2) above shall not apply to persons making deliveries of newspapers, periodicals, publications, mail or merchandise; to persons employed to read water, gas or electricity meters; to persons collecting trash or garbage; or to salesmen, solicitors, peddlers or canvassers licensed by the City. No conviction shall be had for violation of Paragraph (a)(1) above for trespass to an uninhabited or unoccupied building unless the building is locked or a sign or other device forbidding entry has been posted upon such building, or unless such building is contained within a fence; and no conviction shall be had under Paragraph (a)(1) above for trespass to any unimproved real property unless such property is posted by signs forbidding entry, at intervals of not less than one hundred (100) yards, along the exterior boundaries of the property with at least one (1) such sign facing each street or parcel of land adjoining the posted property.

(d) A sign forbidding entry, for the purposes of this Section, shall be sufficient when the same is legible, contains the words "No Trespassing" or other express statement forbidding entry, and is posted in a place where it is plainly visible; provided that any such sign posted on the property of a municipal or quasi-municipal corporation shall contain the name or official symbol of such municipal or quasi-municipal corporation. (Ord. 2004-08 §2)

#### **Sec. 10-4-50. Littering.**

(a) It is unlawful to throw or deposit in any street, alley, sidewalk or public grounds in the City any paper, old clothes cloth of any kind, boots, shoes, hats, leather, hair, grass, junk cars, straw, hay, trash or any other thing, except in public receptacles and authorized private receptacles.

(b) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the City or upon private property. (Ord. 2007-04 §1)

#### **Sec. 10-4-60. Theft.**

(a) It is unlawful for any person to commit theft. A person commits theft when he or she knowingly obtains or exercises control over anything of value belonging to another person without the other person's consent or authorization, or when he or she knowingly obtains or exercises control

over anything of value belonging to another person by threat or deception; provided that the thing of value has a value or worth of less than five hundred dollars (\$500.00); and the person:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;
- (2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
- (3) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use or benefit; or
- (4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person.

(b) A person commits theft when he or she knowingly receives or uses services available only for hire from another person with the intent to deprive the other person of the compensation or benefit that the other person ordinarily receives for providing or delivering such services; provided that the service has a value or worth of less than five hundred dollars (\$500.00). (Ord. 2004-08 §9; Ord. 2007-04 §1)

#### **Sec. 10-4-70. Shoplifting.**

(a) It is unlawful for any person to take or secrete, with the intent to avoid payment therefor, any goods, wares or merchandise displayed or otherwise offered for sale which has a value of less than five hundred dollars (\$500.00).

(b) It is unlawful for any person to switch or change in any way the price tags, with the intent to avoid full payment therefor, on any goods, wares or merchandise displayed or otherwise offered for sale which has a value of less than five hundred dollars (\$500.00).

(c) If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her person or otherwise, and whether in or off the premises of such store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of shoplifting. (Ord. 2004-08 §8)

#### **Sec. 10-4-80. Theft of rental property.**

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

- (1) Obtains the temporary use of personal property of another person, which is available only for hire, by means of threat or deception, or with knowledge that such use is without the consent of the person providing the personal property; or
- (2) Having lawfully obtained possession for temporary use of the personal property of the other person, which is available only for hire, knowingly fails to reveal the whereabouts of or fails to return said property to the owner thereof or his or her representative, or to the person from

whom he or she received it, within seventy-two (72) hours after the time at which he or she agreed to return it.

(b) This Section shall apply only when the value of the property involved is less than five hundred dollars (\$500.00). (Ord. 2004-08 §10; Ord. 2007-04 §1)

**Sec. 10-4-90. Theft by receiving.**

It is unlawful for any person to knowingly receive, retain or loan money by pawn or pledge on or dispose of anything having a value of less than five hundred dollars (\$500.00) belonging to another, knowing or believing that said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value. (Ord. 2004-08 §11)

**Sec. 10-4-100. Concealment of goods.**

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than five hundred dollars (\$500.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 2007-04 §1)

**Sec. 10-4-110. Damage to or removal of posters.**

It is unlawful for any person to intentionally tear down, deface or cover up any lawfully posted advertisement or bill of any person or entity; provided that this Section shall not apply to any person showing the lawful right or authority to tear down, deface or cover up any such advertisement or bill. (Ord. 2004-08 §5)

**Sec. 10-4-120. Tampering with property.**

It is unlawful for any person to tamper with the property of another person with intent to cause injury, inconvenience or annoyance to that person or to another. (Ord. 2004-08 §6)

**Sec. 10-4-130. Tampering and unauthorized connection.**

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

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

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

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 2007-04 §1)

## **ARTICLE 5**

### **Public Peace, Order and Decency**

#### **Sec. 10-5-10. Disorderly conduct.**

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

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

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

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

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

(5) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm. (Ord. 2007-04 §1)

#### **Sec. 10-5-20. Disrupting lawful assembly.**

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 2004-11 §5; Ord. 2007-04 §1)

#### **Sec. 10-5-30. Harassment.**

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

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

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

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

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

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

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

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

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

(c) Any act prohibited by Paragraph (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received. (Ord. 2004-11 §3; Ord. 2007-04 §1)

#### **Sec. 10-5-40. Loitering.**

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

(b) A person commits a Class 1 petty offense if he or she:

(1) Loiters for the purpose of begging;

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

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

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

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-8-10 of this Chapter.

(c) It is an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (Ord. 2004-11 §9; Ord. 2007-04 §1)

**Sec. 10-5-50. False alarms.**

(a) No person shall willfully give, make or cause to be given or made a false alarm of any fire, security or other security device.

(b) Each business licensee within the City shall be allowed three (3) false alarms per year. If more than three (3) false alarms are responded to by the Fire Department and/or Police Department in any one (1) calendar year, such business licensees shall be liable for a fine of one hundred dollars (\$100.00) per false alarm.

(c) In the event that such business licensee shall fail or refuse to pay the fine as set forth above within fifteen (15) days from the date a notice thereof is sent to the business licensee, such business license may be terminated and/or revoked by the City Council.

(d) Upon responding to any false alarm, the Police Department and/or Fire Department shall be entitled to view the premises and the location of any alarm buttons. Recommendations by Police or Fire Department personnel may be made to the owner concerning the location of any alarm button. (Ord. 1992-16 §§1—4; Ord. 2007-04 §1)

**Sec. 10-5-60. Storage of flammable liquids.**

It is unlawful to store or cause to be stored or parked, except for delivery, any tank vehicle carrying flammable liquids or gases upon any streets, ways or avenues of the City or in any other part of the City, except those areas zoned for such uses. (Ord. 2007-04 §1)

**Sec. 10-5-70. Explosives.**

It is unlawful for any person to store within the City limits or within one (1) mile thereof any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high explosive. (Ord. 2007-04 §1)

**Sec. 10-5-80. Abandoned containers and appliances.**

It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, washer, dryer, freezer or other container or appliance which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device. (Ord. 2007-04 §1)

**Sec. 10-5-90. Throwing stones or missiles.**

No person shall throw or shoot any stone or other missile at or upon any person, animal, public or private property, building, structure, tree or shrub. (Ord. 2007-04 §1)

**Sec. 10-5-100. Fraud by check.**

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

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

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

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

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

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

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

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

(b) Any person, knowing he or she has insufficient funds with the drawee who, with intent to defraud, issues a check for a sum less than five hundred dollars (\$500.00) for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check, which is unlawful.

(c) Any person, having acquired rights with respect to a check which is not paid because the drawer has insufficient funds, shall have standing to file a complaint under this Section, whether or not he or she is the payee, holder or bearer of the check.

(d) Any person who opens a checking account, negotiable order of withdrawal account or share draft account using false identification or an assumed name for the purpose of issuing fraudulent checks commits fraud by check, which is unlawful.

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

(f) A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to a sheriff, deputy sheriff, undersheriff, police officer, district attorney, assistant district attorney, deputy district attorney or authorized investigator for a district attorney investigating or prosecuting a charge under this Section.

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

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

(2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue. (Ord. 2007-04 §1)

## ARTICLE 6

### Public Decency and Morals

#### Sec. 10-6-10. Definitions.

In this Article, the following terms shall have the definitions ascribed as follows:

*Anal intercourse*, as used in this Section, means contact between human beings of the genital organs of one and the anus of another.

*Cunnilingus* means any act of oral stimulation of the vulva or clitoris.

*Fellatio* means any act of oral stimulation of the penis.

*Masturbation* means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse. (Ord. 2004-14 §1; Ord. 2007-04 §1)

#### Sec. 10-6-20. Public indecency.

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

(1) An act of sexual intercourse, fellatio, cunnilingus or anal intercourse; or

(2) Masturbation. (Ord. 2004-14 §2)

**Sec. 10-6-30. Indecent exposure.**

It is unlawful for a person to commit indecent exposure. A person commits indecent exposure of such person knowingly exposes his or her genitals or the female breast below the top of the areola to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 2004-14 §4)

**Sec. 10-6-40. Urination and defecation in public.**

(a) It is unlawful for any person to urinate or defecate in a public place, or at any other location where such conduct is observed by another person who has a legal right to be present at the location from which the conduct was observed.

(b) Nothing in this Section shall be construed to prohibit the normal use of public facilities specifically designed and intended for the use of voiding human bodily wastes. (Ord. 2004-14 §3)

**Sec. 10-6-50. Visual observation.**

It is unlawful for any person to look into any house, room, building or structure, through any window, door, skylight or other opening, in order to observe the actions of any person within, for the purpose of sexual gratification or arousal. (Ord. 2004-14 §5)

**ARTICLE 7**

**Minors**

**Sec. 10-7-10. Curfew for minors.**

(a) No person under sixteen (16) years of age shall loiter upon any street, sidewalk, curb, alley, parking lot, vacant lot, park, playground or yard, whether public or private, or any establishment open to the public generally, without the consent or permission of the owner or occupant thereof, after the hour of 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 11:00 p.m. on any Friday or Saturday, or before the hour of 5:00 a.m. on any day, except as follows:

- (1) When accompanied by a parent, legal guardian or other person having legal care or custody of such minor.
- (2) For one-half (½) hour before or after employment hours when commuting directly to and from such employment and when carrying an employer's certification of time and place of employment.
- (3) When conducting an errand directed by the parent or legal guardian.
- (4) When returning home from events such as movies, theaters or sporting events.
- (5) When exercising First Amendment rights under the United States Constitution, such as the free exercise of religion, speech and assembly.

(b) For purposes of this Section, *loitering* or *loiter* shall mean remaining idle in essentially one (1) location, to be dilatory, to tarry or to dawdle, and shall include but not be limited to, standing around, hanging out, sitting, kneeling, sauntering or prowling. (Ord. 2002-22 §2)

**Sec. 10-7-20. Curfew for minors; parental responsibility.**

No parent or guardian shall permit or by inefficient control allow a violation of Section 10-7-10 above by a child in such person's custody or control. (Ord. 2002-22 §3)

**Sec. 10-7-30. Parent or guardian aiding, abetting.**

It is unlawful for any person to knowingly permit any minor child, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the City. (Ord. 2007-04 §1)

**Sec. 10-7-40. Encouraging delinquency.**

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended. (Ord. 2007-04 §1)

**Sec. 10-7-50. False statement; false credentials.**

It is unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Ord. 2007-04 §1)

**Sec. 10-7-60. Services of others.**

It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the any person under the age of twenty-one (21) years is forbidden by law to purchase. (Ord. 2007-04 §1)

**Sec. 10-7-70. Cigarettes and tobacco products.**

(a) Definitions. For purposes of this Code, the following words shall have the meanings ascribed hereafter:

*Cigarettes* means premanufactured cigarettes and/or hand-rolled cigarettes.

*Tobacco products* means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts, refuse scraps, clippings, cutting and sweepings of

tobacco, and any other kinds or forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise for chewing and smoking in any manner.

(b) Any person who knowingly furnishes to any person who is under eighteen (18) years of age, by gift, sale or any other means, any cigarettes or tobacco products, as herein defined, commits a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine of two hundred dollars (\$200.00). It shall be an affirmative defense to prosecution under this Subsection that the person furnishing the cigarettes or tobacco products was presented with and reasonably relied upon a valid state driver's license or other government-issued form of identification which identified the person receiving the cigarettes or tobacco products as being eighteen (18) years of age or older.

(c) Any person who is under eighteen (18) years of age and who purchases any cigarettes or tobacco products, and/or is found to be in possession of any cigarettes or tobacco products, as defined herein, commits a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars (\$50.00), or the Court may allow such person to perform community service and be granted credit against the fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed.

(d) In addition, any person eighteen (18) years of age or under who uses an altered, reproduced and/or false form of identification for the purposes of obtaining cigarettes or tobacco products shall, in addition to the penalty set forth above, be deemed to have committed a Class 1 petty offense and liable for a fine of not more than five hundred dollars (\$500.00).

(e) Any person who sells or offers to sell any cigarettes or tobacco products as herein defined by use of a vending machine or other coin-operated machines commits a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine of two hundred dollars (\$200.00); except that cigarettes may be sold at retail through vending machines only in:

- (1) Factories, businesses, offices or other places not open to the general public;
- (2) Places to which persons under the age of eighteen (18) years are not permitted access at any time during the day or night; or
- (3) Places where the vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner, including but not limited to establishments holding a valid liquor license issued pursuant to Article 47 of Title 12, C.R.S.

As used in this Subsection, *under direct supervision* means the vending machine shall be in plain vision of the employee or the owner during any and all hours that the business is open to the public. It shall be an affirmative defense to prosecution under this Section that the person selling or offering to sell the cigarettes or tobacco products was presented with and reasonably relied upon a valid state driver's license or other form of government-issued form of identification which identified the person purchasing the cigarettes or tobacco products as being eighteen (18) years of age or older.

(f) Any person who sells or offers to sell any cigarettes or tobacco products shall display a warning sign as specified in this Subsection. Any person who fails to display said warning sign commits a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine of two hundred dollars (\$200.00). Said warning sign shall be displayed in a prominent place in the building

and on such machine at all times, shall have a minimum height of three (3) inches and a width of six (6) inches, and shall read as follows:

WARNING  
IT IS ILLEGAL FOR ANY PERSON UNDER 18 YEARS OF AGE TO PURCHASE CIGARETTES  
AND TOBACCO PRODUCTS AND, UPON CONVICTION, A \$50.00 FINE MAY BE IMPOSED.

(g) Any violation of Subsection (f) above shall not constitute a violation of any other provision of this Section. (Ord. 1997-06 §§I, II; Ord. 2007-04 §1)

**Sec. 10-7-80. Culpability.**

(a) No child under the age of ten (10) years shall be charged, prosecuted or penalized for the violation of any ordinance of the City.

(b) The provisions of Subsection (a) above shall not be deemed or construed to exempt from responsibility, culpability or prosecution any person who induces, aids, encourages or causes a child under the age of ten (10) years to engage in conduct or commit an act which violated an ordinance of the City. (Ord. 2004-09 §2)

**Sec. 10-7-90. Inducing or causing child to engage in unlawful conduct.**

(a) It is unlawful for any person knowingly to induce, aid or encourage a child to engage in conduct or commit an act that violates an ordinance of the City.

(b) It is unlawful for any person knowingly to cause a child to engage in conduct or commit an act which violates an ordinance of the City.

(c) It is unlawful for any person having the care, custody or control of any child as a parent or guardian to permit such child to engage in conduct which violates an ordinance of the City, if such person:

- (1) Is present at the time of the offense; and
- (2) Has knowledge of the act or conduct in which such child is engaging. (Ord. 2004-09 §3)

**ARTICLE 8**

**Alcoholic Beverages and Drugs**

**Sec. 10-8-10. Definitions.**

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

*Alcoholic beverage* or *alcoholic liquor* means fermented malt beverage or malt, vinous or spirituous liquors.

*Child* or *juvenile* means a person under the age of eighteen (18) years.

*Controlled substance* means a controlled substance as that term is defined in Section 18-18-101, C.R.S.

*Drug paraphernalia* means any machine, instrument, tool, equipment or device which is primarily designed and intended for one (1) or more of the following:

- a. To introduce into the human body any controlled substance under circumstances in violation of state law;
- b. To enhance the effect on the human body of any controlled substance under circumstances in violation of state law;
- c. To conceal any quantity of any controlled substance under circumstances in violation of state law; or
- d. To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of state law.

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

*Ethyl alcohol* means any substance which is or contains ethyl alcohol, including fermented malt beverages, malt liquor, vinous liquor or spirituous liquor.

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

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

*Marihuana* or *marijuana* means all parts of the plant *Cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include the mature stalks of the plant, the fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of such plant which is incapable of germination if these items exist apart from any other item defined as *marijuana* herein.

*Minor* means any person under the age of twenty-one (21) years.

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

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

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

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

*Spirituous liquor* means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, gin, rum, vodka, whiskey and every liquid or solid, patented or not, containing alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except as provided in this Article shall not be malt or vinous liquors but shall be construed to be spirituous liquor.

*Vinous liquor* means wine and fortified wines not exceeding twenty-one percent (21%) of alcohol by volume and shall be construed to mean an alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 2004-09 §1; Ord. 2007-04 §1)

**Sec. 10-8-20. Alcohol-related violations.**

(a) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be over the age of twenty-one (21) years for the purpose of purchasing within the City any fermented malt beverage or malt, vinous or spirituous liquors.

(b) It is unlawful for any minor to attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation of age or by any other means.

(c) It is unlawful for any person under the age of twenty-one (21) years to possess or consume, whether actual or constructive, fermented malt beverage or malt, vinous or spirituous liquors.

(d) It is unlawful to sell fermented malt beverage or malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years, or to permit any fermented malt beverage, malt or

vinous liquors to be sold or dispensed by a person under eighteen (18) years of age, or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.

(e) It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any fermented malt beverage or malt, vinous or spirituous liquors.

(f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting. (Ord. 2004-09 §4; Ord. 2007-04 §1)

**Sec. 10-8-30. Illegal possession or consumption of alcoholic beverages by an underage person.**

(a) Any minor who possesses or consumes ethyl alcohol anywhere in the City commits illegal possession or consumption of alcohol by an underage person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.

(b) It is an affirmative defense to the offense described in Subsection (a) above that the alcoholic beverages were possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

(1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of alcoholic beverages in a person's body was due solely to the ingestion of a confectionery which contained alcoholic beverages within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of alcoholic beverages by weight.

(c) The possession or consumption of alcoholic beverages shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(d) Prima facie evidence of a violation of Subsection (a) above shall consist of:

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

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

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

(f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Paragraph (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age.

(g) Illegal possession of ethyl alcohol by an underage person shall be punishable in accordance with the provisions of Section 1-4-30 of this Code. The court, upon sentencing a defendant pursuant to this Section, may, in addition to any fine, order that the defendant perform useful public service and may further order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program or an alcohol treatment program, at such defendant's own expense. (Ord. 2004-09 §4; Ord. 2007-04 §1)

**Sec. 10-8-40. Sales near schools.**

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of five hundred (500) feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal, upon the expiration thereof, of any license in effect at such time authorizing such business within the restricted area hereby established. (Ord. 2007-04 §1)

**Sec. 10-8-50. Open container.**

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

(b) No person shall drink any liquor or fermented malt beverages on or in any of the above enumerated places without prior permission as noted in Subsection (c) below.

(c) The City Council may, in its discretion, by motion, approve the sale or consumption of intoxicating liquor and fermented malt beverages on any street, sidewalk, public park or alley or other

public place in the City at scheduled special events. Sale of such beverages shall be contingent upon the applicant's possession of any necessary liquor license.

(d) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages.

(e) It is unlawful for any person to drink any intoxicating liquor or fermented malt beverage while in a vehicle which is moving, parked, stopped or standing on any street, roadway or other public way in the City or for the driver, owner or other person in control of any vehicle to permit any person to drink intoxicating liquor or fermented malt beverages therein while the same is being driven or is stopped, standing or parked on any street, roadway or other public way in the City.

(f) For the purpose of this Section, an unsealed or open container shall not include a container of vinous liquor that has been resealed pursuant to the provisions of Section 12-47-411(3.5), C.R.S., and is clearly recognizable to a police officer as a container that has been resealed by the hotel or restaurant license holder. (Ord. 1980-3 §1; Ord. 2002-03 §1; Ord. 2007-04 §1)

**Sec. 10-8-60. Possession of drug paraphernalia.**

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of state law.

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

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

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

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

(4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons whom he or she knows or reasonably should know, could use the object to facilitate a violation of this Section.

(5) Instructions, oral or written, provided with the object concerning its use.

(6) Descriptive materials accompanying the object which explain or depict its use.

(7) National or local advertising concerning 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 supplier of like or related items to the community for legal purposes.

(10) The existence and scope of legal uses for the object in the community.

(11) Expert testimony concerning its use.

(c) In the event a case brought pursuant to this Section is tried before a jury, the Municipal Court shall hold an in camera evidentiary hearing on issues raised pursuant to this Section.

(d) It is unlawful for any person to possess drug paraphernalia if he or she knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the State or the City. (Ord. 2004-09 §7; Ord. 2007-04 §1)

**Sec. 10-8-70. Possession of marijuana.**

(a) Any person who knowingly possesses not more than one (1) ounce of marijuana commits a criminal offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00).

(b) Whenever a person is arrested or detained for a violation of Subsection (a) above, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained person, the date, time and place where such person shall appear and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One (1) copy of said notice or summons shall be given to the person arrested or detained, one (1) copy shall be sent to the Municipal Court and such other copies as may be required by the Police Department shall be sent to the places designated by the Police Department. The date specified in the notice or summons to appear shall be at least five (5) days after such arrest or detention.

(c) Any person who openly and publicly displays, consumes or uses not more than one (1) ounce of marijuana commits an offense and, upon conviction thereof, shall be punished, at a minimum, by a fine of not less than one hundred dollars (\$100.00) or, at a maximum, by a fine of not more than three hundred dollars (\$300.00).

(d) The provisions of this Section shall not apply to any person who possesses or uses marijuana pursuant to the Dangerous Drugs Therapeutic Research Act. (Ord. 2004-09 §5; Ord. 2007-04 §1)

**Sec. 10-8-80. Abusing toxic vapors.**

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

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

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

(d) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (a) above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 2004-09 §6; Ord. 2007-04 §1)

## ARTICLE 9

### Weapons

#### Sec. 10-9-10. Definitions.

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

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

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

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

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

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

*Illegal weapon* means a blackjack, gas gun, metallic knuckles, gravity knife or switchblade knife.

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

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

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

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

*Throwing star* means a disk having sharp radiating points or any disk-shaped bladed object which is handheld and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense.

(b) It is an affirmative defense to any provision of this Article, that the act was committed by a peace officer in the lawful discharge of his or her duties. (Ord. 2007-04 §1)

**Sec. 10-9-20. Carrying concealed weapon; forfeiture.**

(a) It is unlawful for any person to wear under his or her clothes or concealed about his or her person, or to display in a threatening manner any dangerous or deadly weapon, including but not limited to any pistol, revolver, metallic knuckles, Bowie knife, dirk, dagger or knife resembling a Bowie knife, or any other dangerous or deadly weapon.

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

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

(d) Nothing in this Section shall be construed to forbid United States Marshals, sheriffs, constables and their deputies and any regular, special or ex officio police officer or other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties. (Ord. 2007-04 §1)

**Sec. 10-9-30. Disposition of confiscated concealed weapons.**

It is the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the weapon to the Municipal Judge, to be held by him or her until the final determination of the prosecution for said offense, and upon the finding of guilt, it shall then be the duty of the Municipal Judge to deliver said weapon forthwith to the Chief of Police, who shall make disposition of the weapon. (Ord. 2007-04 §1)

**Sec. 10-9-40. Prohibited use of weapons.**

(a) A person commits a misdemeanor if he or she:

- (1) Knowingly and unlawfully aims a firearm at another person;
- (2) Recklessly or with criminal negligence discharges a firearm or shoots a bow and arrow;
- (3) Knowingly sets a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present;
- (4) Has in his or her possession a firearm while he or she is under the influence of intoxicating liquor or of a controlled substance. Possession of a permit issued under Section 18-12-105(2)(c), C.R.S., is no defense to a violation of this Section; or
- (5) Knowingly aims, swings or throws a throwing star or nunchaku at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.

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

(c) Nothing contained in this Section shall prevent the use of any such instruments by any peace officer as shall be necessary in the proper discharge of his or her duties. (Ord. 2007-04 §1)

**Sec. 10-9-50. Selling weapons to intoxicated persons.**

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

(b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the City to such person.

**Sec. 10-9-60. Open carrying of firearms in public prohibited.**

(a) Pursuant to Section 29-11.7-104, C.R.S., it is unlawful for any person to openly carry any firearm in any public place where there is posted at every public entrance a sign indicating that the open carrying of firearms is prohibited.

(b) The sign referenced in Subsection (a) above must be at least twelve (12) inches wide and eighteen (18) inches high and located by each entrance to the public place. Furthermore, the sign must contain the following notice in type that is at least one-half (½) inch in height:

WARNING

IT IS ILLEGAL TO OPENLY CARRY A FIREARM IN THIS PUBLIC AREA.  
IF CONVICTED, THE COURTS MAY IMPOSE A FINE OF UP TO \$999.00  
AND UP TO ONE YEAR IN JAIL FOR A VIOLATION OF THIS PROVISION.

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

(d) This Section shall not apply to any peace officer or member of the armed forces acting in the lawful discharge of his or her duties.

(e) The City Administrator shall be responsible for determining the public places where the open carrying of firearms shall be prohibited, which may include but is not limited to the following: buildings, sites and areas, including municipally owned, operated or leased buildings or properties; recreation facilities; and public parks, trails or open space.

(f) Any person who is convicted of violating this provision may be subject to a fine of up to nine hundred ninety-nine dollars (\$999.00) and/or up to one (1) year in jail.

(g) It shall be an affirmative defense to a prosecution for violation of this Section that a person was acting in defense of his or her home, person or property or in defense of another when unlawfully threatened, which threat was not provoked by his or her own unlawful conduct. (Ord. 2007-04 §1; Ord. 2008-07)

**ARTICLE 10**

**Noise**

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

No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable. (Ord. 2007-04 §1)

**Sec. 10-10-20. Animals.**

It is unlawful for any person to use, keep, have in his or her possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals licensed for the treatment of small animals or to premises occupied or used by the City animal shelter. (Ord. 2007-04 §1)

**Sec. 10-10-30. Sirens, whistles, gongs and red lights.**

It is unlawful for any person to carry or use upon a vehicle, other than Police or Fire Department vehicles or emergency vehicles for public use, any gong, siren, whistle or red light similar to that used on ambulances or vehicles of the Police and Fire Departments. (Ord. 2007-04 §1)

**ARTICLE 11**

**Miscellaneous Offenses**

**Sec. 10-11-10. Camping.**

(a) Public places. It is unlawful for any person, within the City limits, to camp or sleep in any park, upon any public street, thoroughfare or public property, or to sleep in a vehicle, set up a tent, shack or other temporary shelter upon such property which could be used for camping or sleeping.

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

(c) Camping in parking lots. It is unlawful for any person to camp or sleep in any motor vehicle, tent, shack, special purpose vehicle and/or temporary structure in a privately owned parking not that is not approved as a recreational vehicle park as defined in Chapter 16 of this Code.

(d) Exception. It is *not* unlawful for guests of residents driving recreational vehicles or camping trailers to sleep in said recreational vehicle or camping trailer, provided that such occupancy shall last for no more than fourteen (14) days. This exception shall apply only to guests of City residents who are occupying such recreational vehicle or camping trailer with the permission of said resident and within twenty-five (25) feet of said resident's house.

(e) Penalty. Any person found guilty of violating this Section shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00 and/or imprisoned for not more than ten (10) days, or both. (Ord. 1992-15 Arts. I—V; Ord. 2007-04 §1)

**Sec. 10-11-20. Vending on public rights-of-way.**

(a) No person shall use or occupy any street, alley, mall, park, parkway or sidewalk (whether in or on a vehicle, structure, building or otherwise) for the storage, display or sale of goods, wares, merchandise or food within the City. The prohibitions of this Section shall not apply to any person who has entered into a contract with the City to provide any such vending service, all of which contracts shall be approved only by the City Council after considering:

- (1) The public need for such service.
- (2) The availability of existing services.

- (3) The costs of policing and administering the proposed vending service.
- (4) What revenues shall accrue to the City for grant of permission to vend.
- (5) Whether the vendor applying for such contract will best serve the public need.

(b) The prohibition contained in this Section shall not apply to the storage, display or sale of goods, wares, merchandise or food by the owner or operator of a licensed retail establishment on the sidewalk directly adjacent to the property occupied by such licensed retail establishment, so long as such activity does not interfere, in the opinion of the City Administrator, with the use of the public sidewalk for pedestrian purposes. (Ord. 2002-19 §§1, 2)