

CHAPTER 10

General Offenses

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ARTICLE 1

Public, Private and Personal Property

Sec. 10-1-10. Definition.

For the purpose of this Article, *public property* means publicly owned, leased or designated property within the Town, except the traveled portion of public streets, and shall include any park, sidewalk, curb or any part of any public right-of-way devoted to any planting or park-like use. (Prior code 7-1-1)

Sec. 10-1-20. Disfiguration and removal.

On any public property, it shall be unlawful for any person to willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, railing, bench, paving, paving material, water line or any facilities or property and equipment of any public utilities or parts or appurtenances thereof; signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers; wall or rack border or other structures; or equipment, facilities or public property or appurtenances whatever, either real or personal property. (Prior code 7-1-2)

Sec. 10-1-30. Restrooms and washrooms.

On any public property, it shall be unlawful for any person to fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of six (6) years shall use the restrooms and washrooms designated for the opposite sex, or use any real or personal property as a restroom or washroom. (Prior code 7-1-3)

Sec. 10-1-40. Removal of natural resources.

On any public property, it shall be unlawful for any person to dig and remove any sand, soil, rock, stones, trees, shrubs, plants, down timber or other wood or materials, or make any excavation by tool. (Prior code 7-1-4)

Sec. 10-1-50. Erection of structures.

On any public property, it shall be unlawful for any person to construct or erect any building or structure of whatever kind, whether permanent or temporary in character, any tent, fly or windbreak, or run or string any rope, cord or wire into, upon or across any public property, except on special permit issued by the Board of Trustees. (Prior code 7-1-5)

Sec. 10-1-60. Trees, shrubbery and plants.

On any public property, it shall be unlawful for any person without a permit issued by the Board of Trustees to damage, cut, carve, burn, transplant or remove any tree or plant, or injure the bark or pick the flowers or seeds of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. (Prior code 7-1-6)

Sec. 10-1-70. Damage to parks.

No person shall dig in or drive any motor vehicle or motorcycle upon any public property, or otherwise disturb or in any other way injure or impair the natural beauty or usefulness of any park area. (Prior code 7-1-7)

Sec. 10-1-80. Climbing or sitting on public property.

On any public property, it shall be unlawful for any person to climb any tree, or walk, stand or sit upon monuments, fountains, railings, fences, planted areas or any other property not designed or customarily used for such purposes. (Prior code 7-1-8)

Sec. 10-1-90. Blocking streets and sidewalks.

It shall be unlawful for any person to intentionally stand, sit or lie on, or to stack, store, deposit, leave or accumulate, any articles, wood, lumber, boxes, vehicles, trailers, portable structures or any other property in or upon any street, sidewalk, stairway or crosswalk so as to prevent or hinder free passage of persons or vehicles passing over, along or across any street, sidewalk, stairway or crosswalk. (Prior code 7-1-9)

Sec. 10-1-100. Refuse and trash.

On any public property, it shall be unlawful for any person to drop, throw, place, discard, dump, leave or otherwise deposit any bottles, broken glass, garbage, ashes, paper, boxes, cans, dirt, rubbish, waste, refuse or other trash except in waste containers provided therefor. No such refuse or trash shall be placed in any waters or planted area in or contiguous to any park, or left anywhere on the grounds thereof. (Prior code 7-1-10; Ord. 330 §1, 2007)

Sec. 10-1-110. Advertising.

On public property, it shall be unlawful for any person to announce, advertise or call the public attention in any way to any article or service for sale or hire. (Prior code 7-1-11)

Sec. 10-1-120. Signs.

On any public property, it shall be unlawful for any person to paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands, highways or roads, without first obtaining permission of the Board of Trustees. (Prior code 7-1-12)

Sec. 10-1-130. Occupying or sleeping in unlawful places.

It shall be unlawful for any person to occupy, lodge or sleep in any vacant or unoccupied barn, garage, shed, shop or other building or structure without permission of the owner or person entitled to the possession of the same, or to sleep in a vacant lot or any public place whatsoever. (Prior code 7-1-13)

Sec. 10-1-140. Entrance upon land used for water works system.

No person shall enter upon any land used by the Town for a municipal water works system without permission of the Town. (Prior code 7-1-14)

Sec. 10-1-150. Throwing substances into reservoir.

No person shall throw or cause to be placed into any reservoir, stream, ditch or pipe used in the operation of the municipal water works any substance which tends to pollute the water therein. (Prior code 7-1-15)

Sec. 10-1-160. Pollution of streams.

No person shall throw or cause to be placed into any stream or source from which such water is taken for five (5) miles above the point from which it is taken, any substance which tends to pollute the water therein. (Prior code 7-1-16)

Sec. 10-1-170. Bathing or swimming.

No person shall bathe or swim in, bathe any animal in or cause any animal to enter into or swim in any water which is a source of water for the municipal water works. (Prior code 7-1-17)

Sec. 10-1-180. Injuring water works.

No person shall injure, deface or impair any part of the municipal water works of the Town. (Prior code 7-1-18)

Sec. 10-1-190. Fishing regulations.

All fishing within the Town shall comply with Fishing Regulations adopted by the Colorado Wildlife Commission. Additionally, all cutthroat trout caught on Fraser Pond #1 or Fraser Pond #2 must be returned to the water immediately. (Ord. 385 Part 1, 2011)

ARTICLE 2

Public Peace, Order and Decency

Sec. 10-2-10. 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;
- (2) An act of deviate sexual intercourse;
- (3) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person;

(4) To knowingly expose his or her genitals to the view of any person under circumstances in which said conduct is likely to cause affront or alarm to the other person; or

(5) A lewd fondling or caress of the body of another person. (Ord. 321 Part 1, 2006)

Sec. 10-2-20. Disorderly conduct.

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

(1) Threatens physical harm to any person in a public place;

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

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

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

(5) Urinates or defecates upon any public or private place other than in a toilet facility provided for such purpose.

(b) Evidence:

(1) A prima facie showing that a violation of Paragraph (a)(2) above shall consist of evidence that the defendant caused or controlled such noise between the hours of 10:00 p.m. and 7:00 a.m., that was audible at a distance of fifty (50) feet from its source, distinguishable from any other source of sound in the vicinity, and was of a greater volume than any other single source of sound in the vicinity.

(2) It is an affirmative defense under Paragraph (a)(1) above that the actor has significant provocation for his or her threatening conduct.

(c) Exemption: Paragraph (a)(2) above shall not apply to noise emanating from an exterior loudspeaker at a business, a premises licensed for the on-premises sale of alcoholic beverages or any special event which has received a special use permit from the Town.

(d) No person shall keep, aid or assist in keeping or be an inmate of any disorderly house.

(1) A *disorderly house* shall include, but is not limited to, a residential structure in which acts of disorderly conduct, as defined in Subsection (a) above, or the following occur two (2) or more times within one (1) calendar year:

a. In a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonable, loud or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance; or

b. Keeping any such property in a condition or manner which generates complaints disproportionate to other properties in the neighborhood or which negatively affects neighboring properties and/or residents by continuous or excessive noise.

(2) For purposes of enforcement of this Subsection, the person responsible for the keeping of a disorderly house may be the owner of the property, lessee, sub-lessee, tenant, occupant or renter, jointly or severally.

(e) Notice required: No person shall be prosecuted for a violation of Subsection (d) above until the Chief of Police shall serve such person with a notice as provided herein and the person has either failed or refused to comply with the requirements of this Subsection. Such notice may be served on any person by personal service or, in the case of an owner, by certified mail to his or her last known address or, if none, to the address to which any tax statement is provided to such owner for the dwelling. Such notice shall contain, at a minimum, the following:

(1) That a violation of Subsection (d) has occurred at the location specified in the notice.

(2) The date of the commission of the acts which constitute the basis for the violation, the names of the persons committing such acts, if known, and all other facts and circumstances that the Town relies upon to allege that such acts form the basis for the violation.

(3) A date, time and place where the person is to appear and meet with the Chief of Police to participate in an abatement conference.

(4) That failure to appear, or failure to make satisfactory arrangements for an alternative date and time, at the time and place designated in the notice may result in prosecution of a violation of Subsection (d).

(5) That further violations of Subsection (d) will result in a summons being issued charging the person with keeping a disorderly house. (Ord. 321 Part 1, 2006; Ord. 365 Part 1, 2010)

Sec. 10-2-30. Disobeying an order of a police officer or firefighter.

It is unlawful for any person to willfully disobey the lawful or reasonable order or direction of any police officer, firefighter, emergency personnel or military personnel given incident to the discharge of the official duties of such police officer or firefighter, or incident to the duties of emergency personnel or military personnel when coping with an emergency, explosion or other disaster within their official concern. (Ord. 321 Part 1, 2006)

Sec. 10-2-40. Littering of public or private property.

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

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

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

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

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

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

(d) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle in violation is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom. (Ord. 321 Part 1, 2006)

Sec. 10-2-50. Theft.

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

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

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

(3) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefits; 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; and

(5) Where the value of the thing involved is less than five hundred dollars (\$500.00). (Ord. 321 Part 1, 2006)

Sec. 10-2-60. Damaging property.

Except as otherwise provided in Article 1 of this Chapter, it shall be unlawful for any person intentionally, knowingly, or recklessly to injure, deface, destroy or sever in any manner any real or personal property, or improvements thereto, of any other person in this Town, including property owned by the Town, where the aggregate damage is less than five hundred dollars (\$500.00). (Ord. 321 Part 1, 2006)

Sec. 10-2-70. Trespassing.

It is unlawful for any person, without legal privilege, to enter or to remain upon the premises of another, or fail or refuse to remove himself or herself from said premises when requested to leave by the owner, occupant or person having lawful control thereof. (Ord. 321 Part 1, 2006)

Sec. 10-2-80. Parking motor vehicle on private ground.

It shall be unlawful for any person to park or stand a motor vehicle or other personal property on premises of another or in the lawful possession of another without the permission of the owner or person in possession thereof. (Ord. 321 Part 1, 2006)

Sec. 10-2-90. Open containers prohibited.

(a) It is unlawful for any person to possess any alcoholic beverage (as defined by Title 12, Article 47, C.R.S.) or fermented malt beverage (as defined by Title 12, Article 46, C.R.S.) in any open container in any public place within the Town or in the interior of any automobile while the automobile is either parked on a public street or alley within the Town or is being operated on a public street or alley within the Town, except within an establishment licensed by the Town to sell such beverages for consumption upon the premises.

(b) Any peace officer is authorized to seize any alcoholic beverage which is used in the commission of a violation of Subsection (a) above. If no summons or complaint is issued for a violation of this Section and if the circumstances reasonably permit, the peace officer may require the person who has committed a violation of this Section to abandon the alcoholic beverage to the officer for destruction.

(c) The provisions of this Section shall not apply to a person in possession of one (1) opened but resealed container of partially consumed vinous liquor which was lawfully removed from the licensed premises of an establishment holding a hotel and restaurant license pursuant to Section 12-47-411(3.5), C.R.S.

(d) The provisions of this Section shall not apply to public parks or designated open spaces within the Town or to any preapproved event occurring in buildings owned by the Town. (Ord. 321 Part 1, 2006; Ord. 352 Part 1, 2009)

Sec. 10-2-100. Illegal possession or consumption of alcohol by underage person.

(a) It shall be unlawful to possess or consume ethyl alcohol by an underage person as set forth in Section 18-13-122, C.R.S., which statute is incorporated herein by this reference; provided, however, that penalties shall be in accordance with Subsection (b) below.

(b) Any violation of Subsection (a) above shall be punished as provided in Section 1-4-10 of this Code, except that no minor shall be subject to imprisonment for such violation. Any such alleged violation shall be subject to the same procedures as noncriminal traffic infractions. The Municipal Judge may impose alcohol education classes and/or useful public service in addition to any fine. (Ord. 321 Part 1, 2006)

Sec. 10-2-110. Violations and penalties.

Except as otherwise provided herein, any person convicted of violating the provisions of this Article shall be punished by a fine or imprisonment, or both, as provided in Section 1-4-10 of this Code. (Ord. 321 Part 1, 2006)

ARTICLE 3

Controlled Substances

Sec. 10-3-10. Definitions.

(a) As used in this Article, the term *marijuana* or *marihuana* 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. The term *marijuana* shall not include fiber produced from the stalks, oil or cake incapable of germination, if these items exist apart from any other item defined as *marijuana* in this Section. The term *marijuana* does not include hashish, tetrahydrocannabinol or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinol.

(b) As used in this Article, unless the context otherwise requires, *drug paraphernalia* means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the laws of the State. *Drug paraphernalia* includes, but is not limited to:

(1) Testing equipment used or intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of the laws of the State.

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

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

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

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

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

(7) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Roach clips, meaning objects used to hold burning material, such as a marihuana cigarette that has become too small or too short to be held in the hand;
- e. Miniature cocaine spoons and cocaine vials;
- f. Chamber pipes;
- g. Carburetor pipes;
- h. Electric pipes;
- i. Air-driven pipes;
- j. Chillums;
- k. Bonges; or
- l. Ice pipes or chillers. (Ord. 307 Part 1, 2005)

Sec. 10-3-20. Determination; considerations.

(a) In determining whether an object is drug paraphernalia, a 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 the object could be used to facilitate the use of a controlled substance in violation of state statutes;
- (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) The existence and scope of legal uses for the object in the community; and

- (8) Expert testimony concerning its use.
- (b) In addition to any other competent evidence identifying a substance as marijuana:
 - (1) Results of the field test known as the "duquenois-levine reagent system" shall be admissible in evidence and shall be prima facie evidence of whether or not the substance tested was marijuana.
 - (2) The qualitative result of a marijuana test performed by a Drug Recognition Expert (DRE), certified as such, or by persons otherwise certified under a "drugs that impair" certification, shall be admissible at the trial of any person charged with a violation of Subsection 10-3-30(b) below, and shall be prima facie evidence of whether the person charged has consumed, ingested or used marijuana.
 - (3) Laboratory tests of marijuana shall be admitted in evidence pursuant to Section 16-3-309, C.R.S. (Ord. 307 Part 1, 2005)

Sec. 10-3-30. Unlawful possession or use of marijuana; penalties.

- (a) It shall be unlawful for any person to possess or openly display one (1) ounce or less of marijuana anywhere within the Town.
- (b) It shall be unlawful for any person to consume, ingest or use any amount of marijuana anywhere in the Town.
- (c) Consumption of marijuana shall be deemed possession thereof, and violations shall be punished as provided for in Subsection (d) below.
- (d) Any person found guilty of a violation of this Section shall be punished as follows:
 - (1) For a violation concerning possession of not more than one (1) ounce of marijuana, and upon conviction thereof, shall be fined an amount as determined by the Municipal Judge, not to exceed one hundred dollars (\$100.00).
 - (2) For a violation concerning consumption, ingestion or use of any amount of marijuana, and upon conviction thereof, shall be fined an amount as determined by the Municipal Judge, not to exceed one hundred dollars (\$100.00). (Ord. 307 Part 1, 2005)

Sec. 10-3-40. Unlawful possession of drug paraphernalia; penalties.

- (a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used to facilitate the use of a controlled substance in violation of state statutes.
- (b) For a violation concerning possession of paraphernalia, and upon conviction thereof, the violator shall be fined an amount as determined by the Municipal Judge, not to exceed one hundred dollars (\$100.00). (Ord. 307 Part 1, 2005)

Sec. 10-3-50. Affirmative defense.

It shall be an affirmative defense to a prosecution under this Article that a person is in possession of a valid registry identification card authorizing the medicinal use of marijuana issued by the State Health Agency, so long as the possession or use does not occur in a public place. (Ord. 307 Part 1, 2005)