

CHAPTER 10

General Offenses

Article 1 Definitions

- Sec. 10-1-10 Generally
- Sec. 10-1-20 Definitions

Article 2 Parties to Offenses

- Sec. 10-2-10 Liability based upon behavior; generally
- Sec. 10-2-20 Behavior of another
- Sec. 10-2-30 Complicity
- Sec. 10-2-40 Liability based upon behavior of another; exceptions
- Sec. 10-2-50 Liability based upon behavior of another; no defense
- Sec. 10-2-60 Criminal liability of corporations
- Sec. 10-2-70 Criminal liability of an individual for corporate conduct
- Sec. 10-2-80 Criminal attempt
- Sec. 10-2-90 Conspiracy
- Sec. 10-2-100 Compounding
- Sec. 10-2-110 Accessory to offense
- Sec. 10-2-120 Aiding and abetting

Article 3 Exceptions and Responsibilities

- Sec. 10-3-10 Execution of public duty
- Sec. 10-3-20 Use of physical force in defense of a person
- Sec. 10-3-30 Use of physical force in defense of premises
- Sec. 10-3-40 Use of physical force in making an arrest or in preventing an escape
- Sec. 10-3-50 Affirmative defense
- Sec. 10-3-60 Insufficient age
- Sec. 10-3-70 Responsibility; affirmative defense

Article 4 Public Officers and Government

- Sec. 10-4-10 Obstructing government operations
- Sec. 10-4-20 Impersonating a public servant
- Sec. 10-4-30 Impersonating a peace officer
- Sec. 10-4-40 Obstructing a peace officer, firefighter or emergency medical services provider
- Sec. 10-4-50 Resisting arrest
- Sec. 10-4-60 Escape
- Sec. 10-4-70 Aiding escape
- Sec. 10-4-80 False reporting to authorities
- Sec. 10-4-90 Refusing to aid a peace officer
- Sec. 10-4-100 Refusal to permit inspections
- Sec. 10-4-110 Failure or refusal to leave premises or property upon request of a peace officer

Article 5 Offenses Relating to Morals

- Sec. 10-5-10 Patronizing a prostitute
- Sec. 10-5-20 Prostitute making display
- Sec. 10-5-30 Promoting sexual immorality
- Sec. 10-5-40 Public indecency
- Sec. 10-5-50 Window peeping
- Sec. 10-5-60 Indecent exposure

Article 6 Public, Private and Personal Property

- Sec. 10-6-10 Criminal mischief

- Sec. 10-6-20 Trespassing
- Sec. 10-6-30 Tampering and unauthorized connection
- Sec. 10-6-40 Defacing property
- Sec. 10-6-50 Joyriding
- Sec. 10-6-60 Procuring food or accommodations with intent to defraud
- Sec. 10-6-70 Theft
- Sec. 10-6-80 Concealment of goods
- Sec. 10-6-90 Theft of rental property
- Sec. 10-6-100 Theft by receiving
- Sec. 10-6-110 Altering or possession of altered identification number
- Sec. 10-6-120 Computer crime

Article 7 Streets and Public Places

- Sec. 10-7-10 Obstructing highway or other passageway
- Sec. 10-7-20 Unlawful conduct on public property
- Sec. 10-7-30 Trespass or interference in public buildings
- Sec. 10-7-40 Littering on public and private property

Article 8 Public Peace, Order and Safety

- Sec. 10-8-10 Assault
- Sec. 10-8-20 Harassment
- Sec. 10-8-30 Menacing
- Sec. 10-8-40 Criminal intimidation
- Sec. 10-8-50 Reckless endangerment
- Sec. 10-8-60 Inciting to riot
- Sec. 10-8-70 Engaging in a riot
- Sec. 10-8-80 Disobedience of public safety orders under riot conditions
- Sec. 10-8-90 Disorderly conduct
- Sec. 10-8-100 Loitering
- Sec. 10-8-110 Disturbing lawful assemblies
- Sec. 10-8-120 Desecration of venerated objects
- Sec. 10-8-130 Possession of unlawful substances
- Sec. 10-8-140 Animals; cruelty; neglect
- Sec. 10-8-150 Overnight camping
- Sec. 10-8-160 Fraud by check
- Sec. 10-8-170 Criminal possession of second degree forged instrument
- Sec. 10-8-180 Purchase on credit to defraud
- Sec. 10-8-190 Criminal possession of a financial transaction device
- Sec. 10-8-200 Defacing or destruction of written instruments
- Sec. 10-8-210 Ethnic intimidation
- Sec. 10-8-220 Failure to report child abuse
- Sec. 10-8-230 False imprisonment
- Sec. 10-8-240 Fighting by agreement
- Sec. 10-8-250 Firing woods or prairie
- Sec. 10-8-260 Arson
- Sec. 10-8-270 Criminal use of a noxious substance
- Sec. 10-8-280 Barbed wire fences prohibited
- Sec. 10-8-290 Throwing missiles at vehicles

Article 9 Domestic Violence

- Sec. 10-9-10 Definitions
- Sec. 10-9-20 Registry
- Sec. 10-9-30 Sentencing
- Sec. 10-9-40 Evidence of similar transactions

- Sec. 10-9-50 Summons and complaint
- Sec. 10-9-60 Crime of violation of a restraining order; penalty; peace officers' duties
- Sec. 10-9-70 Duties of peace officers and prosecuting agencies; preservation of evidence

Article 10 Alcoholic Beverages

- Sec. 10-10-10 Definitions
- Sec. 10-10-20 Open container
- Sec. 10-10-30 Alcoholic beverages; unlawful acts

Article 11 Drugs and Toxic Vapors

- Sec. 10-11-10 Definitions
- Sec. 10-11-20 Possession of marihuana
- Sec. 10-11-30 Abusing toxic vapors
- Sec. 10-11-40 Advertisement of drug paraphernalia
- Sec. 10-11-50 Possession of drug paraphernalia

Article 12 Weapons

- Sec. 10-12-10 Definitions
- Sec. 10-12-20 Unlawful carrying of concealed weapons; unlawful possession of weapons
- Sec. 10-12-30 Confiscation
- Sec. 10-12-40 Possessing an illegal weapon
- Sec. 10-12-50 Defacing a firearm
- Sec. 10-12-60 Possession of a defaced firearm
- Sec. 10-12-70 Prohibited use of weapons
- Sec. 10-12-80 Prohibited transfer of firearms
- Sec. 10-12-90 Loaded firearm in a motor vehicle

Article 13 Minors

- Sec. 10-13-10 Curfew; parent's responsibility
- Sec. 10-13-20 Curfew; child's responsibility
- Sec. 10-13-30 Instruction by parent or guardian required
- Sec. 10-13-40 Parent or guardian aiding, abetting
- Sec. 10-13-50 Encouraging delinquency
- Sec. 10-13-60 False statement; false credentials
- Sec. 10-13-70 Services of others
- Sec. 10-13-80 Furnishing tobacco products to minors
- Sec. 10-13-90 Violation; prima facie evidence

ARTICLE 1

Definitions

Sec. 10-1-10. Generally.

Definitions set forth in any Section of this Chapter apply wherever the same term is used in the same sense in another section of this Chapter unless the definition is specifically limited or the context indicates that it is inapplicable. (Prior code 10-1)

Sec. 10-1-20. Definitions.

The following terms shall have the meanings indicated unless the context clearly indicates otherwise:

Act means a bodily movement and includes words and possession of property.

To aid or to assist includes knowingly to give or lend money, or extend credit to be used for, or to make possible or available, or to further the activity thus aided or assisted.

Benefit means any gain or advantage to the beneficiary including any gain or advantage to another person pursuant to the desire or consent of the beneficiary.

Bodily injury means physical pain, illness or any impairment of physical or mental condition.

Conduct means an act or omission and its accompanying state of mind or, where relevant, a series of acts or omissions.

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

Culpable mental state means intentionally, with intent, knowingly, willfully, recklessly or with criminal negligence, as these terms are defined in this Section.

Deface means to alter the appearance of something by removing, distorting, adding to or covering all or a part of the thing.

Destructive device means any material, substance or mechanism capable of being used either by itself or in combination with any other substance, material or mechanism to cause sudden and violent injury, damage, destruction or death.

Dwelling means a building which is used, intended to be used or usually used by a person for habitation.

Government includes the United States, any state, county, municipality or other political unit; any branch, department, agency or subdivision of any of the foregoing and any corporation or other entity established by law to carry out any governmental function.

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

Intentionally or with intent. All offenses defined in this Code in which the mental culpability requirement is expressed as *intentionally* or *with intent* are declared to be specific intent offenses. A person acts *intentionally* or *with intent* when his or her conscious objective is to cause the specific result proscribed by the statute defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

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

Litter means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description, and includes snow deposited on roads or highways.

Minor or minor child means any person under the age of eighteen (18) years.

Motor vehicle includes any self-propelled device by which persons or property may be moved, carried or transported from one (1) place to another by land, water or air; except devices operated on rails, tracks or cables fixed to the ground or supported by pylons, towers or other structures.

Omission means a failure to perform an act as to which a duty of performance is imposed by law.

Peace officer means a sheriff, undersheriff, deputy sheriff, police officer, state patrol officer, coroner, marshal; any officer, guard or supervisory employee of any institution within the department or institutions; a district attorney, assistant district attorney or deputy district attorney; an authorized investigator of a district attorney or the Attorney General; a probation or parole officer; an officer or member of the Colorado National Guard while acting under call of the governor in cases of emergency or civil disorder; an agent of the Colorado Bureau of Investigation; a wildlife conservation officer; or a security guard employed by the State.

Pecuniary benefit means benefit in the form of money, property, commercial interests or anything else, the primary significance of which is economic gain.

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.

Public servant means any officer or employee of government, whether elected or appointed, and any person participating as an advisor, consultant, process server or otherwise in performing a governmental function; but the term does not include witnesses.

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

Riot means a public disturbance involving an assemblage of four (4) or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs the performance of any governmental function.

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

Tamper means to interfere with something improperly, to meddle with it or to make unwarranted alterations in its condition.

Thing of value includes real property, tangible and intangible personal property, contract rights, choses in action, services and any rights of use or enjoyment connected therewith.

Utility means an enterprise which provides gas, sewer, electric, steam, water, transportation or communication services, and includes any carrier, pipeline, transmitter or source, whether publicly or privately owned or operated.

Voluntary act means an act performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his or her physical possession or control thereof for a sufficient period to have been able to terminate it. (Prior code 10-2, 10-71; Ord. 15-2008 §1)

ARTICLE 2

Parties to Offenses

Sec. 10-2-10. Liability based upon behavior; generally.

A person is guilty of an offense if it is committed by the behavior of another person for which he or she is legally accountable as provided in Sections 10-2-20 through 10-2-50. (Prior code 10-21)

Sec. 10-2-20. Behavior of another.

(a) A person is legally accountable for the behavior of another person if the following conditions exist:

(1) He or she is made accountable for the conduct of that person by specific provision of this title; or

(2) He or she acts with the culpable mental state sufficient for the commission of the offense in question and he or she causes an innocent person to engage in such behavior.

(b) As used in Subsection (a) above, *innocent person* includes any person who is not guilty of the offense in question, despite his or her behavior, because of duress, legal incapacity or exemption, or unawareness of the criminal nature of the conduct in question or of the defendant's criminal purpose or any other factor precluding the mental state sufficient for the commission of the offense in question. (Prior code 10-22)

Sec. 10-2-30. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Prior code 10-23)

Sec. 10-2-40. Liability based upon behavior of another; exceptions.

(a) Unless otherwise provided by the statute defining the offense, a person shall not be legally accountable for behavior of another constituting an offense if he or she is a victim of that offense or the offense is so defined that his or her conduct is inevitably incidental to its commission.

(b) It shall be an affirmative defense to a charge under Section 10-2-30 above if, prior to the commission of the offense, the defendant terminated his or her effort to promote or facilitate its commission and either gave timely warning to law enforcement authorities or gave timely warning to the intended victim. (Prior code 10-24)

Sec. 10-2-50. Liability based upon behavior of another; no defense.

In any prosecution for an offense in which criminal liability is based upon the behavior of another pursuant to Sections 10-2-10 through 10-2-40 of this Article, it is no defense that the other person has not been prosecuted for or convicted of any offense based upon the behavior in question or has been convicted of a different offense or degree of offense, or the defendant belongs to a class of persons

who by definition of the offense are legally incapable of committing the offense in an individual capacity. (Prior code 10-25)

Sec. 10-2-60. Criminal liability of corporations.

(a) A corporation is guilty of an offense if:

(1) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or

(2) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors or a high managerial agent acting within the scope of his or her employment or in behalf of the corporation.

(b) As used in this Section, *agent* means any director, officer or employee of a corporation, or any other person who is authorized to act in behalf of the corporation, and *high managerial agent* means an officer of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees. (Prior code 10-26)

Sec. 10-2-70. Criminal liability of an individual for corporate conduct.

A person is criminally liable for conduct constituting an offense which he or she performs or causes to occur in the name of or in behalf of a corporation to the same extent as if that conduct were performed or caused by him in his or her own name or behalf. (Prior code 10-27)

Sec. 10-2-80. 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 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 10-2-30 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 his or her criminal intent. (Prior code 10-30)

Sec. 10-2-90. Conspiracy.

(a) A person commits conspiracy to commit an offense 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 an offense or an attempt to commit an offense, or he or she agrees to aid the other person or persons in the planning or commission of an offense or of an attempt to commit such an offense.

(b) No person may be convicted of conspiracy to commit an offense unless an overt act in pursuance of that conspiracy is proved to have been done by him 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 an offense has conspired with another person or persons to commit the same offense, he or she is guilty of conspiring to commit an offense with the other person or persons, whether or not he or she knows their identity.

(d) If a person conspires to commit a number of offenses, he or she is guilty of only one (1) conspiracy so long as such multiple offenses are part of a single criminal episode. (Prior code 10-31)

Sec. 10-2-100. Compounding.

A person commits compounding if he or she accepts or agrees to accept any pecuniary benefit as consideration for the following:

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

(2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime. (Prior code 10-29)

Sec. 10-2-110. Accessory to offense.

(a) A person is an accessory to an offense if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of an offense, 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, conviction 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. (Prior code 10-28; Ord. 15-2008 §1)

Sec. 10-2-120. Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the Town, whether individually or in connection with one (1) or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any ordinance of the Town is likewise guilty of such offense. (Ord. 15-2008 §1)

ARTICLE 3

Exceptions and Responsibilities

Sec. 10-3-10. Execution of public duty.

(a) Unless inconsistent with other provisions of Sections 10-3-20 through 10-3-50, defining justifiable use of physical force or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by a provision of law or a judicial decree binding in the State.

(b) *A provision of law* and a *judicial decree* in Subsection (a) of this Section mean the following:

- (1) Laws defining duties and functions of public servants;
- (2) Laws defining duties of private citizens to assist public servants in the performance of certain of their functions;
- (3) Laws governing the execution of legal process;
- (4) Laws governing the military service and conduct of war;
- (5) Judgments and orders of court. (Prior code 10-51)

Sec. 10-3-20. Use of physical force in defense of a person.

A person is justified in using physical force upon another person in order to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by that other person and he or she may use a degree of force which he or she reasonably believes to be necessary for that purpose. (Prior code 10-52)

Sec. 10-3-30. Use of physical force in defense of premises.

(a) A person in possession or control of any building, realty or other premises, or a person who is licensed or privileged to be thereon, is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission of an unlawful trespass by the other person in or upon the building realty, or premises.

(b) A person is justified in using reasonable and appropriate physical force upon another person when and to the extent that he or she reasonably believes it necessary to prevent what he or she reasonably believes to be an attempt by the other person to commit theft, criminal mischief or criminal tampering involving property. (Prior code 10-53)

Sec. 10-3-40. Use of physical force in making an arrest or in preventing an escape.

A peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he or she reasonably believes it necessary to do the following:

(1) Effect an arrest or prevent the escape from custody of an arrested person unless he or she knows that the arrest is unauthorized; or

(2) Defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape. (Prior code 10-54)

Sec. 10-3-50. Affirmative defense.

The issues of justification or exemption from criminal liability under Sections 10-3-10 through 10-3-40 of this Article are affirmative defenses. (Prior code 10-55)

Sec. 10-3-60. Insufficient age.

The responsibility of a person for his or her conduct is the same for persons between the ages of ten (10) and eighteen (18) as it is for persons over eighteen (18) except that no child under eighteen (18) years of age shall be sentenced to jail for violation of the provisions of this Article. No child under ten (10) years of age shall be found guilty of any offense. (Prior code 10-56)

Sec. 10-3-70. Responsibility; affirmative defense.

The issue of responsibility under Section 10-3-60 above is an affirmative defense. (Prior code 10-57)

ARTICLE 4

Public Officers and Government

Sec. 10-4-10. Obstructing government operations.

(a) A person commits obstructing government operations if he or she intentionally obstructs, impairs or hinders the performance of a governmental function by a public servant, by using or threatening to use violence, force or physical interference or obstacle.

(b) The following shall be affirmative defenses;

(1) The obstruction, impairment or hindrance was of unlawful action by a public servant; or

(2) The obstruction, impairment or hindrance was of the making of an arrest. (Prior code 10-80)

Sec. 10-4-20. Impersonating a public servant.

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

(b) It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist. (Prior code 10-73)

Sec. 10-4-30. Impersonating a peace officer.

A person who falsely pretends to be a peace officer and performs an act in that pretended capacity commits impersonating a peace officer. (Prior code 10-72)

Sec. 10-4-40. Obstructing a peace officer, firefighter or emergency medical services provider.

(a) A person commits obstructing a peace officer, firefighter or emergency medical services provider when, by using or threatening to use violence, force or physical interference or obstacle, he or she knowingly obstructs, impairs or hinders the enforcement of the penal law or the preservation of the peace by a peace officer acting under color of his or her official authority; or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter acting under color of his or her official authority; or knowingly obstructs the administration of emergency medical care by an emergency medical services provider, or knowingly disobeys any order of a peace officer, firefighter or emergency medical services provider made in the course of the prevention, control or abatement of a fire, including the direction of traffic and persons in connection therewith.

(b) It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if he or she was acting under color of his or her official authority as defined in Section 10-4-50. (Prior code 10-74)

Sec. 10-4-50. Resisting arrest.

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

- (1) Using or threatening to use physical force or violence against the peace officer or another;
- (2) Using any other means which creates a substantial risk of causing bodily injury to the peace officer or another;
- (3) Running from or eluding or attempting to run from or elude a peace officer.

(b) 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 he or she was acting under color of his or her official authority, and in attempting to make the arrest he or she was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts *under color of his or her*

official authority when, in the regular course of assigned duties, he or she is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him.

(c) The term *peace officer*, as used in this Section and Section 10-4-30 above, means a peace officer in uniform or, if out of uniform, one who has identified himself by exhibiting his or her credentials as such peace officer to the person whose arrest is attempted. (Prior code 10-75)

Sec. 10-4-60. Escape.

A person commits an offense if, while being in custody or confinement following conviction of an offense for violation of a municipal ordinance or while being in custody or confinement and held for or charged with but not convicted of an offense for violation of a municipal ordinance, he or she knowingly escapes from said place of custody or confinement. (Prior code 10-81)

Sec. 10-4-70. Aiding escape.

A person who knowingly aids, abets or assists another person to escape or attempt to escape from custody or confinement commits the offense of aiding escape, if the person aided was in custody or confinement and charged with, held for or convicted of a violation of this Code. (Prior code 10-76; Ord. 15-2008 §1)

Sec. 10-4-80. False reporting to authorities.

A person commits false reporting to authorities if he or she does the following:

(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. (Prior code 10-77)

Sec. 10-4-90. Refusing to aid a peace officer.

A person eighteen (18) years of age or older commits refusing to aid a peace officer when, upon command by a person known to him to be a peace officer, he or she unreasonably refuses or fails to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense. (Prior code 10-79)

Sec. 10-4-100. Refusal to permit inspections.

(a) A person commits refusal to permit inspections if, knowing that a public servant is legally authorized to inspect property:

(1) He or she refuses to produce or make available the property for inspection at a reasonable hour; or

(2) If the property is available for inspection, he or she refuses to permit the inspection at a reasonable hour.

(b) For purposes of this Section, *property* means any real or personal property, including books, records and documents which are owned, possessed or otherwise subject to the control of the defendant. A *legally authorized inspection* means any lawful search, sampling, testing or other examination of property, in connection with the regulation of a business or occupation, that is authorized by state statute, ordinance or lawful regulatory provision. (Prior code 10-78)

Sec. 10-4-110. Failure or refusal to leave premises or property upon request of a peace officer.

A person commits an offense if he or she barricades or refuses police entry to any premises or property through use of or threatened use of force, and he or she knowingly refuses or fails to leave any premises or property upon being requested to do so by a peace officer who has probable cause to believe a crime is occurring and that such person constitutes a danger to himself or others, or knowingly holds, confines, detains, seizes, imprisons, entices or persuades another person to remain on the premises, without their consent, without proper legal authority and without use of a deadly weapon, or recklessly or knowingly causes a peace officer to believe that he or she possesses a deadly weapon. (Prior code 10-82)

ARTICLE 5

Offenses Relating to Morals

Sec. 10-5-10. Patronizing a prostitute.

Any person who performs any of the following with a person not his or her spouse commits patronizing a prostitute:

(1) Engages in an act of sexual intercourse or of deviate sexual conduct in exchange for money or other valuable consideration;

(2) Enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse or deviate sexual conduct. (Prior code 10-101)

Sec. 10-5-20. Prostitute making display.

Any person who by word, gesture or action endeavors to further the practice of prostitution in any public place or within public view commits prostitute making display. (Prior code 10-102)

Sec. 10-5-30. Promoting sexual immorality.

(a) Any person who, for pecuniary gain, furnishes or makes available to another person any facility, knowing that the same is to be used for or in aid of sexual intercourse between persons who are not husband and wife, or for or in aid of deviate sexual intercourse or who advertises in any manner that he or she furnishes or is willing to furnish or make available any such facility for such purposes, commits promoting sexual immorality.

(b) *Facility*, as used in this Section, means any place or thing which provides seclusion, privacy, opportunity, protection, comfort or assistance to or for a person or persons engaging or intending to engage in sexual intercourse or deviate sexual intercourse. (Prior code 10-103)

Sec. 10-5-40. 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) Urination or defecation; or
- (5) Exposes his or her genitals to the view of any person over the age of eighteen (18), under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Prior code 10-104; Ord. 18-2007 §1)

Sec. 10-5-50. Window peeping.

It is unlawful for any person to look into the windows of anyone's home without the permission of that person, or to knowingly observe another person's intimate parts without that person's consent, in a situation where the person observed has a reasonable expectation of privacy, for the purpose of the observer's own sexual gratification. (Prior code 10-105)

Sec. 10-5-60. Indecent exposure.

A person commits indecent exposure if he or she knowingly exposes his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 18-2007 §2)

ARTICLE 6

Public, Private and Personal Property

Sec. 10-6-10. Criminal mischief.

Any person who knowingly damages the real or personal property of one (1) or more other persons in the course of a single criminal episode commits the offense of criminal mischief. (Prior code 10-121)

Sec. 10-6-20. Trespassing.

It is unlawful for any person to knowingly occupy, use or remain on or in any privately owned property, real or personal, without the permission of the owner or persons entitled to the possession thereof. (Prior code 10-122; Ord. 15-2008 §1)

Sec. 10-6-30. 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. (Prior code 10-123; Ord. 15-2008 §1)

Sec. 10-6-40. Defacing property.

Any person who defaces or causes, aids in or permits the defacing of any public or private property without the consent of the owner of such property is guilty of the offense of defacing property. (Prior code 10-124)

Sec. 10-6-50. Joyriding.

Any person who drives or takes any motor vehicle without the consent of the owner or lawful possessor thereof, with the intent of temporarily depriving the owner or possessor of the use of the same, or temporarily making use thereof, commits joyriding. (Prior code 10-125)

Sec. 10-6-60. Procuring food or accommodations with intent to defraud.

Any person who, with intent to defraud, procures food or accommodations in any public establishment without making payment therefor in accordance with his or her agreement with such public establishment is guilty of the offense of procuring food or accommodations with intent to defraud. Removal of baggage from the premises of a public establishment constitutes prima facie evidence of intent to defraud. (Prior code 10-126)

Sec. 10-6-70. Theft.

(a) 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, or knowing or believing said thing of value to have been stolen does the following:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;
- (2) Knowingly uses, conceals, disposes of or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
- (3) Uses, conceals, disposes of or abandons the thing of value intending that such use, concealment, disposal or abandonment will deprive the other person permanently of its use and 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) This Section shall apply only to theft of things of a value of less than one thousand dollars (\$1,000.00). (Prior code 10-127; Ord. 15-2008 §1)

Sec. 10-6-80. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than one thousand dollars (\$1,000.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Prior code 10-128; Ord. 15-2008 §1)

Sec. 10-6-90. Theft of rental property.

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if:

- (1) He or she obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the personal property; or
- (2) He or she, having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to

return the property to the owner thereof or his or her representative or to the person from whom he or she has received it within seventy-two (72) hours after the time at which he or she agreed to return it; and

(3) The value of the property involved is less than one thousand dollars (\$1,000.00). (Ord. 15-2008 §1)

Sec. 10-6-100. Theft by receiving.

(a) A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on, or disposes of anything of value of another, knowing or believing that said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value.

(b) This Section shall apply only to theft by receiving of things of a value of less than one thousand dollars (\$1,000.00). (Prior code 10-129; Ord. 15-2008 §1)

Sec. 10-6-110. Altering or possession of altered identification number.

(a) A person commits an offense if he or she knowingly alters, destroys, removes, conceals or defaces an identification number placed on the article by the manufacturer as a permanent individual identifying mark, or in the course of business he or she sells, offers for sale, leases or otherwise disposes of an article knowing that an identification number thereon is obscured which would prevent or hinder the identification of an article.

(b) Possession of an article on which an identification number is altered, destroyed, removed, concealed or defaced is prima facie evidence that the person possessing the article knowingly obscured the identification number unless, prior to his or her arrest or a warrant being issued for a search of the premises where the article is kept, whichever is earlier, he or she reports possession of the article to the police. (Prior code 10-130)

Sec. 10-6-120. Computer crime.

(a) A person commits computer crime if the person knowingly:

(1) Accesses any computer, computer network or computer system, or any part thereof to obtain, by means of false or fraudulent pretenses, representations or promises, money; property; services; passwords or similar information through which a computer, computer network or computer system or any part thereof may be accessed; or other thing of value; or

(2) Accesses any computer, computer network or computer system, or any part thereof to commit theft;

(3) Without authorization or in excess of authorized access, alters, damages, interrupts or causes the interruption or impairment of the proper functioning of, or causes any damage to, any computer, computer network, computer system, computer software, program, application, documentation or data contained in such computer, computer network or computer system or any part thereof; or

(4) Causes the transmission of a computer program, software, information, code, data or command by means of a computer, computer network or computer system or any part thereof with the intent to cause damage to or to cause the interruption or impairment of the proper functioning of or that actually causes damage to or the interruption or impairment of the proper functioning of any computer, computer network, computer system or part thereof.

(b) This Section shall apply only to computer crime with a value of less than five hundred dollars (\$500.00). (Prior code 10-131; Ord. 15-2008 §1)

ARTICLE 7

Streets and Public Places

Sec. 10-7-10. Obstructing highway or other passageway.

(a) An individual commits an offense if, without legal privilege, he or she intentionally, knowingly or recklessly does the following:

(1) Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access or any other place used for the passage of persons, vehicles or conveyances whether the obstruction arises from his or her acts alone or from his or her acts and the acts of others;

(2) Disobeys a reasonable request or order to move issued by a person he or she knows to be a peace officer, a fireman or a person with authority to control the use of the premises to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

(b) For the purposes of this Section, *obstruct* means to render impassable or to render passage unreasonably inconvenient or hazardous. (Prior code 10-141)

Sec. 10-7-20. 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. 15-2008 §1)

Sec. 10-7-30. Trespass or interference in public buildings.

(a) No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the Town as 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 Town officer charged with maintaining order in such public building, if the person has committed, is committing, threatens to commit or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

(d) No person shall, at 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. 15-2008 §1)

Sec. 10-7-40. Littering on public and private property.

(a) It is unlawful for any person to throw, sweep, deposit or allow to accumulate on any street, alley, sidewalk or public grounds in the Town 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) Any person who throws, sweeps, deposits, or allows to accumulate any litter on any public or private property or in any waters commits littering.

(c) The following shall be affirmative defenses:

(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.

(d) It is unlawful for any person, while the driver or a passenger in a vehicle, to throw or deposit litter upon any street or other public place within the Town or upon private property.

(e) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom. (Prior code 10-142)

ARTICLE 8

Public Peace, Order and Safety

Sec. 10-8-10. Assault.

A person commits the offense of assault if he or she knowingly or recklessly causes bodily injury to another person. (Prior code 10-161)

Sec. 10-8-20. 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 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 communication 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. (Prior code 10-162; Ord. 15-2008 §1)

Sec. 10-8-30. Menacing.

A person commits the offense of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury if there is no deadly weapon involved in the act. (Prior code 10-163; Ord. 15-2008 §1)

Sec. 10-8-40. Criminal intimidation.

Whoever without legal authority threatens to confine, restrain or to cause bodily harm to the threatened person or another or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his or her will to do an act or refrain from doing a lawful act commits criminal intimidation. (Prior code 10-164)

Sec. 10-8-50. Reckless endangerment.

A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment. (Prior code 10-165)

Sec. 10-8-60. Inciting to riot.

A person commits inciting a riot if, with no injury to a person or no damage to property, he or she does the following:

- (1) Incites or urges a group of five (5) or more persons to engage in a current or impending riot; or
- (2) Gives commands, instructions or signals to a group of five (5) or more persons in furtherance of a riot. (Prior code 10-166; Ord. 15-2008 §1)

Sec. 10-8-70. Engaging in a riot.

A person commits an offense if he or she engages in a riot when no deadly weapon is involved. (Prior code 10-167; Ord. 15-2008 §1)

Sec. 10-8-80. Disobedience of public safety orders under riot conditions.

A person commits an offense if, during a riot or when one is impending, he or she intentionally disobeys a reasonable public safety order to move, disperse or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designed to prevent or control disorder or promote the safety of persons or property issued by an authorized member of the police, fire, military or other forces concerned with the riot. No such order shall apply to a news reporter or other person observing or recording the events on behalf of the public press or other news media, unless he or she is physically obstructing efforts by such forces to cope with the riot or impending riot. Inapplicability of the order is an affirmative defense. (Prior code 10-168)

Sec. 10-8-90. Disorderly conduct.

A person commits disorderly conduct if he or she intentionally, knowingly or recklessly does any of the following:

- (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 firearm in a public place within the Town limits. The Town Council may, by resolution containing such conditions as may be appropriate, designate certain areas of the Town wherein firearms may be discharged for the purpose of hunting. Any such resolution adopted shall be subject to all statutes and regulations of the State pertaining to the discharge of firearms.
- (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. (Prior code 10-169; Ord. 15-2008 §1)

Sec. 10-8-100. Loitering.

(a) *Loiter* means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.

(b) A person commits loitering if he or she does any of the following:

(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 an unlawful substance as defined in Section 10-8-130 below.

(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. (Prior code 10-170; Ord. 15-2008 §1)

Sec. 10-8-110. Disturbing lawful assemblies.

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. (Prior code 10-171)

Sec. 10-8-120. Desecration of venerated objects.

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

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

(c) The Court shall order that any person convicted pursuant to this Section make restitution to cover the costs of repairing any damages to any monument, headstone, memorial marker, structure or place which are the results of such person's conduct. Such restitution shall be paid to any person or entity which repairs such damages. (Prior code 10-172)

Sec. 10-8-130. Possession of unlawful substances.

A person commits possession of unlawful substances if he or she knowingly possesses on his or her person, within a motor vehicle used by him or on premises occupied by him, any substance the possession of which is prohibited by state statute. (Prior code 10-173)

Sec. 10-8-140. Animals; cruelty; neglect.

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

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals. (Prior code 10-174)

Sec. 10-8-150. Overnight camping.

(a) Public places. It is unlawful for any person to reside overnight in any tent, shelter, mobile home, recreational vehicle, trailer, camper or any other temporary or movable shelter on any public street, way, sidewalk or public place within the Town open for the use of the public, whether publicly or privately owned, including public parking lots.

(b) It is unlawful for any person to reside temporarily on any parcel in the Town not specifically designated therefor, for a period of time longer than forty-eight (48) hours, in any tent, shelter, mobile home, recreational vehicle, trailer, camper or any other temporary or movable shelter that has not been permanently attached to the land and/or received appropriate approvals from the Town. Trying to avoid the intent of this Section by moving the unit a short distance or driving it around the block does not start a new forty-eight-hour period.

(c) A temporary use permit shall be obtained from the Town for any overnight camping for a period of time longer than forty-eight (48) hours. Such application shall be made on forms prescribed by the Town Administrator. In any case, overnight camping shall not be permitted for more than fourteen (14) days in any thirty-consecutive-day period. A temporary use permit issued in accordance with this Section shall conform with all applicable Town ordinances and contain such restrictions deemed appropriate by the Town Administrator, including the following mandatory restrictions:

(1) The mobile home, recreational vehicle, trailer, camper or any other temporary or movable shelter must have current registration, permits and licenses as required by this Code and the State.

(2) Required off-street parking for the residence must not be occupied or blocked for use during the camping period.

(3) Sanitary facilities must be available for use twenty-four (24) hours a day, and the site shall be kept clean and clear from refuse and debris.

(4) Propane tanks and other heating and cooling devices must be properly secured.

(5) No generators are permitted, nor is any equipment permitted that makes unreasonable or excessive noise.

(d) In addition to any penalties provided for herein, any tent, shelter, mobile home, recreational vehicle, trailer, camper or any other temporary or movable shelter placed or parked in violation of this Section shall be subject to removal or towing, after a one-time-only warning by the Town. Such removal or towing shall be done without notice, at the expense of the owner; vehicles towed shall have a lien upon them by the Town or by the tow company for towing and storage charges and shall be held until paid, or sold if the charges are not paid within thirty (30) days. (Prior code 10-175; Ord. 15-2008 §1)

Sec. 10-8-160. Fraud by check.

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

Check means a written, unconditional order to pay a sum certain in money, drawn on a bank, payable on demand, and signed by the drawer. *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 of a person authorized to draw the check on himself.

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 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.

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

(e) It is unlawful for any person to open a checking account, negotiable order of withdrawal account or share draft account, using false identification or an assumed name for the purpose of issuing a fraudulent check.

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

(g) Nothing contained herein shall 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 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. (Prior code 10-176; Ord. 15-2008 §1)

Sec. 10-8-170. Criminal possession of second degree forged instrument.

A person commits an offense when with knowledge that it is forged, and with intent to defraud, such person possess any forged instrument of a kind covered by Section 10-8-160 above. (Prior code 10-177)

Sec. 10-8-180. Purchase on credit to defraud.

It is an offense for any person to purchase any personal property on credit and thereafter, before paying for it, sells, hypothecates, pledges or disposes of it with intent to defraud the seller or vendor. (Prior code 10-178)

Sec. 10-8-190. Criminal possession of a financial transaction device.

A person commits an offense if he or she has in his or her possession or under his or her control any financial transaction device, with the intent to defraud, or any financial transaction device which he or she knows or reasonably should know to be lost, stolen or delivered under a mistake as to the identity or address of the account holder. (Prior code 10-179)

Sec. 10-8-200. Defacing or destruction of written instruments.

A person commits an offense if he or she defaces or destroys any written instrument evidencing a property right, whether vested or contingent, with the intent to defraud. (Prior code 10-180)

Sec. 10-8-210. Ethnic intimidation.

A person commits an offense if because of another person's race, color, religion, ancestry or national origin, he or she knowingly, by words or conduct, harasses or places another person in fear of imminent lawless action directed at that person or that person's property, and such words or conduct are likely to produce bodily injury to that person or damage to that person's property. (Prior code 10-181)

Sec. 10-8-220. Failure to report child abuse.

A person commits an offense if he or she has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or if he or she has observed the child being subjected to circumstances or conditions which would reasonably result in abuse or neglect and does not immediately report or cause a report to be made of such fact to a local law enforcement agency or county department. (Prior code 10-182)

Sec. 10-8-230. False imprisonment.

(a) A person commits an offense if he or she knowingly confines or detains another without the other's consent and without proper legal authority. This Section shall not apply to a peace officer acting in good faith within the scope of this or her duties.

(b) False imprisonment is a class 2 misdemeanor; except that false imprisonment is a class 5 felony if:

(1) The person uses force or threat of force to confine or detain the other person;

(2) The person confines or detains the other person for twelve (12) hours or longer. (Prior code 10-183; Ord. 15-2008 §1)

Sec. 10-8-240. Fighting by agreement.

If two (2) or more persons shall fight by agreement, without the use of deadly weapons, in a public or private place, except in a sporting event authorized by law, the persons so fighting commit an offense. (Prior code 10-184)

Sec. 10-8-250. Firing woods or prairie.

Any person who, knowingly and without lawful authority or with criminal negligence, sets on fire or causes to be set on fire, any woods, prairie or grounds of any description other than his or her own upon acquisition of a lawful permit, or who knowingly or with criminal negligence permits a fire, set or caused to be set by him, to pass from his or her own grounds to the injury of any other person, commits an offense. (Prior code 10-185)

Sec. 10-8-260. Arson.

(a) It is an offense for any person to knowingly set fire to, burn, cause to be burned or, by the use of any explosive, damage, destroy or cause to be damaged or destroyed any property of another without his or her consent, other than a building or occupied structure, of the value of less than one hundred dollars (\$100.00).

(b) It is an offense for any person to knowingly or recklessly start or maintain a fire or cause an explosion, on his or her own property or that of another, and place any property, building or occupied structure of another in danger of damage. (Prior code 10-186)

Sec. 10-8-270. Criminal use of a noxious substance.

A person commits an offense if he or she knowingly deposits on the land or in the building or vehicle of another, without his or her consent, any stink bomb or device, irritant or offensive smelling substance to interfere with another's use or enjoyment of the land, building or vehicle. (Prior code 10-187)

Sec. 10-8-280. Barbed wire fences prohibited.

It shall be unlawful for any person to construct or maintain within the Town any fence, cellar or window guard containing barbs, barbed wire, sharpened nails or any other pointed or sharpened thing or metallic substance. (Prior code 10-188; Ord. 4-2007 §1)

Sec. 10-8-290. Throwing missiles at vehicles.

Any person who knowingly projects any missile at or against any vehicle or equipment designed for the transportation of persons or property commits an offense. (Prior code 10-143)

ARTICLE 9

Domestic Violence

Sec. 10-9-10. Definitions.

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

Bureau means the Colorado Bureau of Investigation.

Domestic violence means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. *Domestic violence* also includes any other crime against a person or felony crime against property or any municipal ordinance violation against a person, but not against property, when used as a method of coercion, control, punishment, intimidation or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

Intimate relationship means a relationship between spouses, former spouses, past or present unmarried couples or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

Protected person means the person or persons identified in the restraining order as the person or persons for whose benefit the restraining order was issued.

Registry means the computerized information system created in Section 18-6-803.7, C.R.S.

Restrained person means the person identified in the order as the person prohibited from doing the specified act or acts.

Restraining order means any order which prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, which is issued by a court of this State or the Municipal Court, and which is issued pursuant to Section 13-6-107, C.R.S., Sections 14-4-101 to 14-4-105, C.R.S., Section 14-10-107, C.R.S., Section 14-10-108, C.R.S., Section 18-1-1001, Section 19-2-403, C.R.S., Section 19-3-316, C.R.S., Section 19-4-111, C.R.S. or Rule 365 of the Colorado Rules of County Court Civil Procedure, and orders issued as part of the proceedings concerning a criminal municipal ordinance violation or any other order of a court which prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening or touching any person, or from entering or remaining on premises or from coming within a specified distance of a protected person or premises.

Subsequent order means an order which amends, modifies, supplements or supersedes a restraining order. (Prior code 10-201)

Sec. 10-9-20. Registry.

(a) There is in the Bureau a computerized central registry of restraining orders accessible to any state law enforcement agency or to any local law enforcement agency having a terminal which communicates with the Bureau. The central registry computers communicate with computers operated by the State Judicial Department.

(1) Restraining orders and subsequent orders shall be entered into the registry by the Court Clerk issuing the restraining order.

(2) The restrained person's attorney, if present at the time the restraining order or subsequent order is issued, shall notify the restrained person of the contents of such order if the restrained person was absent when such order was issued.

(3) Restraining orders and subsequent orders shall be placed in the registry not later than twenty-four (24) hours after they have been issued: except that, if the court issuing the restraining order or subsequent order specifies that it be placed in the registry immediately, such order shall be placed in the registry immediately.

(4) Upon reaching the expiration date of a restraining order or subsequent order, if any, the Bureau notes the termination in the registry.

(5) In the event the restraining order or subsequent order does not have a termination date, the Court Clerk of the issuing court shall be responsible for noting the termination of the restraining order or subsequent order in the registry.

(b) Additional information.

(1) In addition to any information notice, or warning required by law, a restraining order or subsequent order entered into the registry shall contain the following information, if such information is available:

a. The name, date of birth, sex and physical description of the restrained person to the extent known;

b. The date the order was issued and the effective date of the order if such date is different from the date the order was issued;

c. The names of the protected persons and their dates of birth;

d. If the restraining order is one prohibiting the restrained person from entering in, remaining upon or coming within a specified distance of certain premises, the address of the premises and the distance limitation;

e. The expiration date of the restraining order;

f. Whether the restrained person has been served with the restraining order and, if so, the date and time of service; and

g. The amount of bail and conditions of bond which the Court has set in the event the restrained person has violated a restraining order.

(2) If available, the restraining order or subsequent order shall contain the fingerprint based state identification number issued by the Bureau to the restrained person. (Prior code 10-202)

Sec. 10-9-30. Sentencing.

(a) Procedure.

(1) In addition to any sentence which is imposed upon a person for violation of any municipal ordinance under this Article, any person who is convicted of any offense, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 10-9-10 above, or any offense against property, when such offense is used as a

method of coercion, control, punishment, intimidation or revenge directed against a person with whom the actor is or has been involved in an intimate relationship, shall be ordered to complete a treatment program which is certified in accordance with Section 18-6-802, C.R.S. If an intake evaluation conducted by a certified treatment program provider discloses that sentencing to a treatment program would be inappropriate, the person shall be referred back to the court for alternative disposition.

(2) The court may order an evaluation to be conducted prior to sentencing if an evaluation would assist the court in determining an appropriate sentence. The person ordered to undergo such evaluation shall be required to pay the cost of the evaluation. If such evaluation recommends treatment, and if the court so finds, the person shall be ordered to complete a treatment program which is certified in accordance with Section 18-6-802, C.R.S.

(3) Any defendant who is sentenced to a treatment program pursuant to this Section or who is ordered to complete an evaluation pursuant to this Section shall pay for the treatment program or evaluation on a sliding fee basis, as provided in the Manual of Colorado Standards for Treatment of Domestic Violence Perpetrators.

(4) Any defendant determined by the court to be indigent shall pay a nominal fee or may be required to perform in-kind service useful to the treating agency. A defendant shall be determined to be indigent only if he or she can show evidence that he or she is actively looking for employment or pursuing vocational counseling or training and that he or she has made a commitment to the treatment program.

(5) Nothing in this Subsection (a) shall preclude the court from ordering domestic violence treatment in any appropriate case.

(b) A person charged with the commission of an offense, the underlying factual basis of which includes an act of domestic violence, as defined in Section 10-9-10 above, shall not be entitled to plead guilty or plead nolo contendere to an offense which does not include the domestic violence designation required in Section 16-21-103, C.R.S., unless the prosecuting attorney makes a good faith representation on the record that such attorney would not be able to establish that the person and the alleged victim were currently or formerly involved in an intimate relationship if the defendant were brought to trial on the original domestic violence offense and upon such a finding by the court. The prosecuting attorney's record and the court's findings shall specify the relationship in the alleged domestic violence case which the prosecuting attorney is not able to prove beyond a reasonable doubt and the reasons therefor. Under no circumstances shall the court waive or approve of a waiver of a finding of domestic violence when the facts of the case indicate such a basis.

(c) No person accused or convicted of a crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 10-9-10 above, shall be eligible for home detention in the home of the victim pursuant to Section 17-26-128 or 17-27.8-102, C.R.S., or for deferred prosecution pursuant to Section 16-7-401, C.R.S. Nothing in this Subsection is intended to prohibit a court from ordering a deferred sentence for a person accused or convicted of a crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 10-9-10.

(d) Before granting probation, the court shall consider the safety of the victim and the victim's children if probation is granted. (Prior code 10-203)

Sec. 10-9-40. Evidence of similar transactions.

(a) The Town Council hereby finds that domestic violence is frequently cyclical in nature, involves patterns of abuse and can consist of harm with escalating levels of seriousness. The Town Council therefore declares that evidence of similar transactions can be helpful and is necessary in some situations in prosecuting crimes involving domestic violence.

(b) In criminal prosecutions involving domestic violence in which the defendant and the victim named in the information have engaged in an intimate relationship as of the time alleged in the information, evidence of any other acts of domestic violence between the defendant and the victim constitute other acts or transactions for the purposes of this Section, and the court may authorize the admission of evidence as provided in Subsection (c) below.

(c) The proponent of evidence of other acts or transactions under this Section shall advise the trial court by offer of proof of such evidence and shall specify whether the evidence is offered to show a common plan, scheme, design, identity, modus operandi, motive or guilty knowledge or for some other purpose.

(d) Upon the offer of proof under Subsection (c) above, the trial court shall determine whether the probative value of the evidence of similar acts or transactions is substantially outweighed by the danger of unfair prejudice to the defendant, confusion of the issues or misleading of the jury if the evidence is allowed or by considerations of undue delay, waste of time or needless presentation of cumulative evidence.

(e) Upon admitting evidence of other acts or transactions into evidence pursuant to this Section and again in the general charge to the jury, the trial court shall direct the jury as to the limited purpose for which the evidence is admitted and for which the jury may consider it. (Prior code 10-204)

Sec. 10-9-50. Summons and complaint.

Any person completing or preparing a summons, complaint, summons and complaint, indictment, information or application for an arrest warrant shall indicate on the face of such document whether the facts forming the basis of the alleged criminal act, if proven, could constitute domestic violence. (Prior code 10-205; Ord. 15-2008 §1)

Sec. 10-9-60. Crime of violation of a restraining order; penalty; peace officers' duties.

(a) A person commits the crime of violation of a restraining order if such person commits an act which is prohibited by any court pursuant to a valid order issued pursuant to Section 13-6-107, C.R.S., Sections 14-4-101 to 14-4-104, C.R.S., Section 18-1-1001, Rule 365 of the Colorado Rules of County Court Civil Procedure or an order issued by any district court, as provided for in Section 14-10-108, C.R.S., which restrains and enjoins any person from threatening, beating, striking or assaulting any other person or requires a person to leave certain premises and refrain from entering or remaining on such premises, or a municipal ordinance which provides for an order to issue which restrains any person from threatening, molesting or injuring any person or entering or remaining on

the premises, or any protective order issued pursuant to Title 19, C.R.S., or if such person fails to perform any act mandated by any such order, after such person has been personally served with any such order or otherwise has acquired from the court actual knowledge of the contents of any such order.

(b) Violation.

(1) Violation of a restraining order is a misdemeanor.

(2) A prior conviction need not be pled or proven at trial. The existence of a prior conviction shall be a matter for the court to determine at sentencing. The existence of a prior conviction is established by a certified copy of a judgment of conviction from the court in which the conviction occurred.

(3) Any sentence imposed for a violation of this Section shall run consecutively and not concurrently with any sentence imposed for any crime which gave rise to the issuing of the restraining order.

(c) Enforcement.

(1) Whenever a restraining order is issued, the protected person shall be provided with a copy of such order. A peace officer shall use every reasonable means to enforce a restraining order.

(2) A peace officer shall arrest, or, if an arrest would be impractical under the circumstances, seek a warrant for the arrest of a restrained person when the peace officer has information amounting to probable cause that;

a. The restrained person has violated or attempted to violate any provision of a restraining order; and

b. The restrained person has been properly served with a copy of the restraining order or the restrained person had received actual notice of the existence and substance of such order.

(3) In making the probable cause determination described in Paragraph (2) of this Subsection, a peace officer shall assume that the information received from the registry identified in Subsection 10-9-20(a) is accurate. A peace officer shall enforce a valid restraining order whether or not there is a record of the restraining order in the registry.

(4) The arrest and detention of a restrained person is governed by applicable constitutional and applicable state rules of criminal procedure. The restrained person shall be taken to the nearest jail or detention facility utilized by the peace officer. This Paragraph shall not be construed to limit the discretion of the jail or detention facility staff concerning the management of overcrowding. The Police Department or Municipal Court Clerk shall make all reasonable efforts to contact the protected party upon the arrest of the restrained person and shall present the investigative reports and criminal history of the restrained person to the court at the time of the first appearance of the restrained person before the court.

(5) The arresting agency arresting the restrained person shall forward to the issuing court a copy of such agency's report, a list of witnesses to the violation, and, if applicable, a list of any charges filed or requested against the restrained person.

(d) If a restrained person is on bond in connection with a violation or attempted violation of a restraining order and is subsequently arrested for violating or attempting to violate a restraining order, the arresting agency may notify the prosecuting attorney who may file a motion with the court which issued the prior bond for the revocation of the bond and for the issuance of a warrant for the arrest of the restrained person if such court is satisfied that probable cause exists to believe that a violation of the restraining order has occurred.

(e) A peace officer arresting a person for violating a restraining order or otherwise enforcing a restraining order shall not be held criminally or civilly liable for such arrest or enforcement unless the peace officer acts in bad faith and with malice or does not act in compliance with rules adopted by the Colorado Supreme Court.

(f) Assistance.

(1) A peace officer is authorized to use every reasonable means to protect the alleged victim or the alleged victim's children to prevent further violence. Such peace officer may transport, or obtain transportation for, the alleged victim to shelter. Upon the request of the protected person, the peace officer may also transport the minor child of the protected person, who is not an emancipated minor, to the same shelter if such shelter is willing to accept the child, whether or not there is a custody order or an order for the care and control of the child and whether or not the other parent objects. A peace officer who transports a minor child over the objection of the other parent shall not be held liable for any damages which may result from interference with the custody, care and control of or access to a minor child in complying with this Subsection.

(2) For purposes of this Subsection, *shelter* means a battered women's shelter, a friend's or family member's home or such other safe haven as may be designated by the protected person and which is within a reasonable distance from the location at which the peace officer found the victim.

(g) The restraining order shall contain in capital letters and bold print a notice informing the protected person that such protected person may either initiate contempt proceedings against the restrained person if the order is issued in a civil action or request the prosecuting attorney to initiate contempt proceedings if the order is issued in a criminal action. (Prior code 10-206; Ord. 15-2008 §1)

Sec. 10-9-70. Duties of peace officers and prosecuting agencies; preservation of evidence.

(a) When a peace officer determines that there is probable cause to believe that an offense involving domestic violence, has been committed, the officer shall, without undue delay, arrest the person suspected of its commission and charge the person with the appropriate crime or offense.

(b) If a peace officer receives complaints of domestic violence from two (2) or more opposing persons, the officer shall evaluate each complaint separately to determine if an offense has been

committed by one (1) or more persons. In determining whether an offense has been committed by one (1) or more persons, the officer shall consider the following:

- (1) Any prior complaints of domestic violence;
- (2) The relative severity of the injuries inflicted on each person;
- (3) The likelihood of future injury to each person; and
- (4) The possibility that one (1) of the persons acted in self-defense.

(c) The arresting agency shall make reasonable efforts to collect and preserve any pertinent evidence until the time of final disposition of the matter.

(d) A peace officer shall not be held civilly or criminally liable for acting pursuant to this Section if the peace officer acts in good faith and without malice. (Prior code 10-207)

ARTICLE 10

Alcoholic Beverages

Sec. 10-10-10. Definitions.

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

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

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.

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

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.

Spirituous liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (0.5%) alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in

combination with any other liquor except malt liquors and vinous liquors shall be construed to be spirituous liquor.

Vinous liquor means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 15-2008 §1)

Sec. 10-10-20. Open container.

It is unlawful for any person to possess beer, vinous or spirituous liquor in any open container in any public place within the Town, provided that:

(1) It shall not be unlawful for any person to have in his or her possession or under his or her control one (1) opened container of vinous liquor removed from a licensed premises pursuant to Section 12-47-411(3.5), C.R.S.

(2) It shall not be unlawful for any person to consume any malt, vinous or spirituous liquor in any such location when a special events permit has been issued pursuant to Article 48, Title 12, C.R.S. (Prior code 10-221; Ord. 25, 2008 §1)

Sec. 10-10-30. Alcoholic beverages; unlawful acts.

(a) It is an offense for any person:

(1) To sell, serve, give away, dispose of, exchange or deliver or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person under the age of twenty-one (21) years, to a visibly intoxicated person or to a known habitual drunkard;

(2) To obtain or attempt to obtain any alcoholic beverage by misrepresentation of age or by any other method in any place where alcoholic beverages are sold when such person is under twenty-one (21) years of age;

(3) To have in his or her possession any alcoholic beverage in any store, in any public place, including public streets, alleys, roads or highways, or upon property owned by the State, the Town or any subdivisions thereof, or inside vehicles while upon public streets, alleys, roads or highways when such person is under twenty-one (21) years of age;

(4) To knowingly, or under conditions which an average parent or guardian should have knowledge of, suffer or permit any person under twenty-one (21) years of age, of whom he or she may be a parent or guardian, to violate any provisions of this Article;

(5) To buy any alcoholic beverage from any person not licensed to sell at retail;

(6) To manufacture, sell or possess for sale any alcoholic beverage without holding a valid liquor license;

(7) To consume any alcoholic beverage in any public place except on any licensed premises permitted to sell such alcoholic beverages;

(8) To provide premises, or any portion thereof, together with soft drinks or other mix, ice, glasses or containers at a direct or indirect cost or charge to any person who brings alcoholic beverages upon such premises for the purpose of consuming such alcoholic beverages on said premises, without holding a valid liquor license; or

(9) Under twenty-one (21) years of age to possess or consume ethyl alcohol anywhere in the Town. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(b) It shall be an affirmative defense to the offense described in Paragraph (a)(9) above that the ethyl alcohol was possessed or consumed by a person under the age of twenty-one (21) years under the following circumstances:

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

(2) When the existence of ethyl alcohol in a person's body was due solely to the ingestion of a confectionery which contained ethyl alcohol within 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 human oral ingestion or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purpose; or solely from the ingestion of a beverage which contained less than one-half of one percent (.5%) of ethyl alcohol by weight.

(c) The possession or consumption of ethyl alcohol shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the first amendment to the United States Constitution.

(d) The following property owned or managed by the Town is excluded from the coverage of this Section during the hours of 8:00 a.m. to 10:00 p.m.: Little Beach Park and Amphitheater, but if a special event permit for the sale of liquor or fermented malt beverages has been issued for all or a portion of such property pursuant to Title 12, Article 48, C.R.S. (Section 12-48-101, et seq., C.R.S.), then no person shall take or consume any malt, vinous or spirituous liquor or fermented malt beverage onto or in the area designated in such permit except in accordance with such permit if a sign has been posted giving notice of the time and location of the area so restricted.

(e) Prima facie evidence of a violation of Paragraph (a)(9) above shall consist of:

(1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed ethyl alcohol; or

(2) Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment.

(f) During any trial for a violation of Paragraph (a)(9) above, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label or such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A jury or judge, whichever is appropriate,

may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey," "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 ethyl alcohol.

(g) The qualitative result of an alcohol test shall be admissible at the trial of any person charged with a violation of Paragraph (a)(9) above upon a showing that the device used to conduct such test has been approved as accurate in detecting alcohol by the Executive Director of the Department of Public Health and Environment. (Prior code 10-222)

ARTICLE 11

Drugs and Toxic Vapors

Sec. 10-11-10. Definitions.

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

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

Drug paraphernalia means 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.

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 the plant which is incapable of germination if these items exist apart from any other item defined as *marijuana* herein.

Toxic vapors means the following substances or products containing such substances:

- a. Alcohols, including methyl, isopropyl, propyl or butyl;
- b. Aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate;
- c. Acetone;
- d. Benzene;
- e. Carbon tetrachloride;
- f. Cyclohexane;
- g. Freons, including Freon 11 and Freon 12;
- h. Hexane;
- i. Methyl ethyl ketone;
- j. Methyl isobutyl ketone;
- k. Naptha;
- l. Perchlorethylene;
- m. Toluene;
- n. Trichloroethane; or
- o. Xylene. (Prior code 10-242; Ord. 15-2008 §1)

Sec. 10-11-20. Possession of marihuana.

(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 unless the person arrested or detained demands an earlier hearing. The arrested or detained person, in order to secure release from arrest or detention, shall promise in writing to appear in court by signing the notice or summons prepared by the arresting or detaining officer.

(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 one hundred dollars (\$100.00) and, notwithstanding the provisions of Section 18-1.3-503, C.R.S., by fifteen (15) days in jail.

(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. (Prior code 10-241; Ord. 15-2008 §1)

Sec. 10-11-30. Abusing toxic vapors.

(a) 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 Subsection, nor shall any person knowingly aid any other persons to use any such substance for the purposes described in this subsection. This subsection shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(b) Any person who knowingly violates the provisions of Subsection (a) above commits the offense of abusing toxic vapors. Abusing toxic vapors is a violation of this Code, and any person convicted of violating any provision of this Section shall be punished as provided for in Sections 1-4-10, 1-4-20 and 1-4-30 of this Code.

(c) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described as a toxic vapor in Section 10-11-10 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. (Prior code 10-242)

Sec. 10-11-40. Advertisement of drug paraphernalia.

Any person who places an advertisement in any newspaper, magazine, handbill or other publication and who intends thereby to promote the sale in the Town of equipment, products or materials designed and intended for use as drug paraphernalia commits an offense. (Prior code 10-243)

Sec. 10-11-50. Possession of drug paraphernalia.

It is an offense for any person:

(1) To possess drug paraphernalia knowing, or under circumstances where one reasonably should know, that the drug paraphernalia could be used under circumstances in violation of the laws of the State or the ordinances of the Town; or

(2) To sell or deliver, possess with intent to sell or deliver, or manufacture with intent to sell or deliver, equipment, products or materials knowing, or under circumstances where one reasonably should know, that such equipment, products or materials could be used as drug paraphernalia. (Prior code 10-244)

ARTICLE 12

Weapons

Sec. 10-12-10. Definitions.

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

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

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

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

Firearm means any handgun, automatic revolver, pistol, rifle, shotgun or other instrument or device capable or intended to be capable of discharging bullets, cartridges or other explosive charges.

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

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

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

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

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

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

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

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

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

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

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

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

(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. (Prior code 10-261)

Sec. 10-12-20. Unlawful carrying of concealed weapons; unlawful possession of weapons.

(a) A person commits an offense if he or she knowingly and unlawfully does any of the following:

(1) Carries a knife concealed on or about his or her person.

(2) Carries a firearm concealed on or about his or her person.

(3) Without legal authority, carries, brings or has in his or her possession a firearm or any explosive, incendiary or other dangerous device within a public building.

(b) It is an affirmative defense that the defendant was:

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

(2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his, her or another's person or property while traveling, which weapon is in plain sight or is in the trunk or glove compartment of the automobile;

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

(4) A peace officer, when carrying a weapon in conformance with the Town regulations.

(5) A United States probation officer or a United States pretrial services officer while on duty and serving in the State under the authority of rules and regulations promulgated by the judicial conference of the United States. (Prior code 10-262; Ord. 15-2008 §1)

Sec. 10-12-30. Confiscation.

Any firearm or other weapon used in the violation of any part of this Chapter may be confiscated and destroyed upon order of the Municipal Judge. (Prior code 10-263)

Sec. 10-12-40. Possessing an illegal weapon.

(a) As used in this Section, *illegal weapon* means a ballistic knife, blackjack, bomb, firearm silencer, gas gun, gravity knife, handgun, knife, machine gun, metallic knuckles, short rifle, short shotgun, stun gun or switchblade knife.

(b) A person other than a peace officer or member of the armed forces of the United States or Colorado National Guard acting in the lawful discharge of his or her duties, or a person who has a valid permit and license pursuant to the federal code for such weapon, commits possessing an illegal weapon if he or she knowingly possesses an illegal weapon. The exceptions in this Subsection shall be an affirmative defense. (Prior code 10-264)

Sec. 10-12-50. Defacing a firearm.

A person commits defacing a firearm if he or she knowingly removes, defaces, covers, alters or destroys the manufacturer's serial number or any other distinguishing number or identification mark of a firearm. (Prior code 10-265)

Sec. 10-12-60. Possession of a defaced firearm.

A person commits possession of a defaced firearm if he or she knowingly and unlawfully possesses a firearm, the manufacturer's serial number of which, or other distinguishing number or identification mark, has been removed, defaced, altered or destroyed, except by normal wear and tear. (Prior code 10-266)

Sec. 10-12-70. Prohibited use of weapons.

(a) A person commits prohibited use of weapons 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 aims, swings or throws a throwing star or nunchaku, as defined in Section 10-12-10, 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.

(4) 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; or

(5) Has in his or her possession a firearm while he or she is in a place licensed for the sale of alcoholic beverages or while he or she is under the influence of intoxicating liquor, a narcotic, dangerous drug or a controlled substance as defined by Section 12-22-303(7), C.R.S. Possession of a permit issued under Section 18-12-105(2)(c), C.R.S., is no defense to a violation of this Section.

(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.

(d) 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. (Prior code 10-267; Ord. 15-2008 §1)

Sec. 10-12-80. Prohibited transfer of firearms.

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

(b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the Town to such person. (Prior code 10-268; Ord. 15-2008 §1)

Sec. 10-12-90. Loaded firearm in a motor vehicle.

It shall be an offense for any person, except a person authorized by law, to possess or have under his or her control any firearm, other than a pistol or revolver, in or on any motor vehicle unless the chamber of such firearm is unloaded. (Prior code 10-269)

ARTICLE 13

Minors

Sec. 10-13-10. Curfew; parent's responsibility.

It is unlawful for any parent, guardian or other person having care or custody of any child under the age of eighteen (18) years to allow or permit any such child to be or remain on any street, alley or other public place subsequent to the hours of 10:00 p.m., or prior to the hour of 6:00 a.m., except for

lawful employment or unless there exists a reasonable necessity therefor; or unless such child is accompanied by the parent, guardian or other person of the age of twenty-one (21) years or older having permission of the parent or guardian to have the custody and care of such child; provided that on Friday and Saturday nights the curfew hours for children of the age of sixteen (16) or over shall be extended to the hour of 11:00 p.m., with permission of the parents. (Prior code 10-281)

Sec. 10-13-20. Curfew; child's responsibility.

It is unlawful for any child under the age of eighteen (18) years to be or remain on any street, alley or public place subsequent to the hours of 10:00 p.m. or prior to the hour of 6:00 a.m., except for lawful employment or unless there is a reasonable necessity therefor; or unless such child is accompanied by the parent, guardian or other such person of the age of twenty-one (21) years or older having permission of the parent or guardian to have the custody and care of such child; provided that on Friday and Saturday nights the curfew hours for children of the age of sixteen (16) or over shall be extended to the hour of 11:00 p.m., with the permission of the parents. (Prior code 10-282)

Sec. 10-13-30. Instruction by parent or guardian required.

(a) It shall be the duty of every parent, or person or persons standing in the place of or position of a parent, living within the Town to instruct the minor children in his or her care of the ordinances and provisions of the Town and to supervise the minor child or children in his or her care so as to prevent such child or children from violating an ordinance of the Town.

(b) It shall be the duty of any parent, or person or persons standing in the place of or position of a parent, not living within the Town, but who shall permit the minor child or children in his or her care to come into the Town, to instruct the minor child or children on the ordinances and provisions thereof of the Town and to supervise the minor child or children while within the Town so as to prevent such minor child or children from violating an ordinance of the Town. (Prior code 10-283)

Sec. 10-13-40. Parent or guardian aiding, abetting.

It is unlawful for any person to knowingly permit any minor child to violate, 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 Town. (Ord. 15-2008 §1)

Sec. 10-13-50. 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. 15-2008 §1)

Sec. 10-13-60. 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 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. 15-2008 §1)

Sec. 10-13-70. 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. 15-2008 §1)

Sec. 10-13-80. Furnishing tobacco products to minors.

(a) 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, or permits any person under eighteen (18) years of age to purchase cigarettes or tobacco products from a dispensing or vending machine under his or her direct supervision commits an offense.

(b) Any person under eighteen (18) years of age who purchases any cigarettes or tobacco products commits an offense. (Prior code 10-284)

Sec. 10-13-90. Violation; prima facie evidence.

Any act which would constitute a violation of an ordinance of the Town, if committed by an adult, when committed by a minor child subject to the care, supervision and control of any parent or person as set forth in Section 10-13-30 of this Article, shall be prima facie evidence that the parent or parents, person or persons standing in relationship of parent or parents, have failed to properly instruct the minor child on the ordinances of the Town or have failed to properly supervise the child within the Town and that such failure has resulted in the violation of the ordinance. (Prior code 10-285)