

CHAPTER 10

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ARTICLE I

General Provisions

Sec. 10-1-10. Applicability of general provisions.

Insofar as not limited or altered by the laws of the State relating to Municipal Courts or the Colorado Municipal Court Rules, the general principles of law relating to criminal culpability, accountability, responsibility and justification and exemptions from criminal responsibility as set forth in the Colorado Criminal Code, as the same exist or may be amended, are declared to be adopted and incorporated herein by this reference for any and all prosecutions in this Town for alleged violations of this Code or any other ordinance or regulation of the Town. (Prior code 13-1-101)

Sec. 10-1-20. Definitions.

As used in this Chapter, the following words shall have the definitions ascribed to them, unless otherwise provided:

Assist includes any activity characterized as "rendering assistance" in Section 18-8-105, C.R.S.

Escape is deemed to be a continuing activity commencing with the conception of the design to escape and continuing until the escapee is returned to custody or the attempt to escape is thwarted or abandoned.

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

Government includes any branch, subdivision, institution or agency of the government of the State or any political subdivision within it.

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

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 statute or lawful regulatory provision.

Obstruct means to render impassable or to render passage unreasonably inconvenient or hazardous.

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.

Public building includes any premises being temporarily used by a public officer or employee in the discharge of his or her official duties.

Public record includes all official books, papers or records created, received or used by or in any governmental office or agency.

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

Substantial step is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's intent to complete the commission of the violation. (Prior code 13-2-101; 13-8-101; 13-8-106; 13-8-108; 13-8-109; 13-9-112; 13-9-113; 13-13-106; Ord. 532, 2001)

Sec. 10-1-30. Criminal attempt.

(a) It is unlawful to attempt to commit an offense under this Code. A person commits attempt to commit an offense under this Code if, acting with the kind of culpability otherwise required for commission of a violation, he or she intentionally engages in conduct constituting a substantial step toward commission of the violation.

(b) Factual or legal impossibility of committing the violation is not a defense if the violation could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the violation attempted was actually perpetrated by the accused.

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the violation or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of his or her intent. (Prior code 13-2-101)

Sec. 10-1-40. Conspiracy.

(a) It is unlawful to conspire to commit an offense under this Code. A person commits conspiracy to commit an offense under this Code if, with the intent to promote or facilitate its commission, he or she agrees with another person that they, or one (1) or more of them, will engage in conduct which constitutes such an offense or an attempt to commit the same, or he or she agrees to aid the other person in the planning or commission of a crime or of an attempt to commit such 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 her or by a person with whom he or she conspired.

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

(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.

(e) If a person conspires to commit a misdemeanor as defined by state law, or conspires to commit an offense for which no penalty is specifically provided by state law, that person shall be guilty of violating this Section. (Prior code 13-2-102; Ord. 532, 2001)

Sec. 10-1-50. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. 532, 2001)

Sec. 10-1-60. Solicitation.

(a) Except as to bona fide acts of persons authorized by law to investigate and detect the commission of offenses by others, a person is guilty of solicitation, which is unlawful, if he or she commands, induces, entreats or otherwise attempts to persuade another person to commit a misdemeanor offense, other than a Class 1 misdemeanor, as defined by state law, whether as principal or accomplice, with intent to promote or facilitate the commission of that crime, and under circumstances strongly corroborative of that intent.

(b) It is a defense to prosecution under this Section that, if the criminal object were achieved, the defendant would be the sole victim of the offense or the offense is so defined that his or her conduct would be inevitably incident to its commission.

(c) It is no defense to a prosecution under this Section that the person solicited could not be guilty of the offense because of lack of responsibility, culpability or other incapacity.

(d) It is an affirmative defense to a prosecution under this Section that the defendant, after soliciting another person to commit a misdemeanor, other than a Class 1 misdemeanor as defined by state law, persuaded him or her not to do so or otherwise prevented the commission of the misdemeanor under circumstances manifesting a complete and voluntary renunciation of the defendant's criminal intent. (Prior code 13-2-103)

ARTICLE II

Government and Public Officers

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

A person commits false reporting to authorities, which is unlawful, if he or she:

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

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

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

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

(5) Gives a false name or address to a law enforcement officer with the intent of concealing or hiding one's own real name, address and/or age. (Prior code 13-8-102; Ord. 532, 2001)

Sec. 10-2-20. Obstructing government operations.

(a) It is unlawful for any person intentionally to obstruct, impair or hinder the performance of a government function by a public servant, by using or threatening to use violence, force or physical interference or obstacle.

(b) It shall be an affirmative defense that:

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

(2) The obstruction, impairment or hindrance was of the making of an arrest; or

(3) The obstruction, impairment or hindrance of a governmental function was by lawful activities in connection with a labor dispute with the governments. (Prior code 13-8-103)

Sec. 10-2-30. Resisting arrest.

(a) It is unlawful for any person knowingly to prevent or attempt to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another, by:

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

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

(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 the peace officer was acting under color of his or her official authority, and in attempting to make the arrest the peace officer was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts *under color of his or her official authority* when, in the regular course of assigned duties, the peace officer is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that the arrest should be made by him or her.

(c) *Peace officer* as used in this Section means a peace officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such peace officer to the person whose arrest is attempted. (Prior code 13-8-104; Ord. 532, 2001)

Sec. 10-2-40. Obstructing a peace officer, firefighter or animal control officer.

(a) It is unlawful for any person, by using or threatening to use violence, force or physical interference, or obstacle, knowingly to obstruct, impair or hinder the enforcement of this Code or the preservation of the peace by a peace officer or animal control officer, acting under color of his or her official authority, or knowingly to obstruct, impair or hinder the prevention, control or abatement of fire by a firefighter acting under color of his or her official authority.

(b) It is no defense to a prosecution under this Section that the peace officer or animal control 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 10-2-30 of this Article.

(c) No person shall willfully fail or refuse to comply with any lawful order, signal or direction of a peace officer made or given in the discharge of the peace officer's duties.

(d) No person shall, in any way, interfere with or hinder any peace officer who is discharging or apparently discharging the duties of the position. (Prior code 13-8-105; Ord. 532, 2001)

Sec. 10-2-50. Refusal to permit inspections.

It is unlawful for any person, knowing that a public servant is legally authorized to inspect property:

(1) To refuse to produce or make available the property for inspection at a reasonable hour; or

(2) If the property is available for inspection, to refuse to permit the inspection at a reasonable hour. (Prior code 13-8-106)

Sec. 10-2-60. Impersonation.

(a) It is unlawful for any person to pretend to be a peace officer and perform an act in that pretended capacity.

(b) It is unlawful for any person to pretend to be a public servant other than a peace officer and perform an act in that pretended capacity. It is no defense to a prosecution under this Subsection that the office the actor pretended to hold did not in fact exist.

(c) No person shall impersonate a peace officer or any other officer of the Town by wearing any star, badge or other emblem of office or in any other manner. (Prior code 13-8-107; Ord. 532, 2001)

Sec. 10-2-70. Abuse of public records.

It is unlawful for any person:

(1) Knowingly to make a false entry in or falsely alter any public record;

(2) Knowing he or she lacks the authority to do so, knowingly to destroy, mutilate, conceal, remove or impair the availability of any public record; or

(3) Knowing that he or she lacks the authority to retain the record, to refuse to deliver up a public record in his or her possession upon proper request of any person lawfully entitled to receive such record. (Prior code 13-8-108)

Sec. 10-2-80. Aiding escape.

It is unlawful for any person knowingly to aid, abet or assist another person held for, charged with or convicted of any offense under this or any other code or any ordinance of the Town, or any misdemeanor or petty offense, to escape or attempt to escape from custody or confinement. (Prior code 13-8-109)

Sec. 10-2-90. Escape.

It is unlawful for any person who is in custody or confinement and held for, charged with or convicted of any offense under this or any other code or any ordinance of the Town, or any misdemeanor or petty offense, knowingly to escape from said custody or confinement. (Prior code 13-8-110)

Sec. 10-2-100. No license when required.

It is unlawful for any person to engage in any occupation, exhibition, endeavor or activity required to be licensed by the provisions of Chapter 6 of this Code without having first obtained a license therefor. (Prior code 13-8-111)

ARTICLE III

Streets and Public Places

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

(a) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on the same in violation of any lawful order, rule or regulation limiting or prohibiting the use, activities or conduct in such public building or on such public property.

(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 to the person by the officer, agency, or any law enforcement officer having jurisdiction or authority to enforce this Section. (Prior code 13-9-102; Ord. 532, 2001)

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

It is unlawful for any person:

(1) To conduct himself or herself at or in any building owned, operated or controlled by the State, the County or the Town so as willfully to 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.

(2) To conduct himself or herself at or in any building, so as willfully to 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.

(3) Willfully to refuse or fail to leave any such public building upon being requested to do so by the official charged with maintaining order in such public building, or his or her designee, 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.

(4) At any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building, willfully to 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.

(5) By any act or intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, willfully to impede, disrupt or hinder the normal proceedings of such body or official.

(6) Alone, or in concert with another, to picket inside any building in which the chambers or offices of the Board of Trustees are located.

(7) At or in any such public building, willfully to impede any public official. (Prior code 13-9-113)

Sec. 10-3-30. Excavating without permit.

(a) It is unlawful for any person, without first securing a permit therefor in accordance with the provisions of Section 11-3-20 of this Code, to make any excavation of any kind or character in any street, alley, sidewalk, curb, gutter or any other public place, or to remove from or deposit upon any street, alley, sidewalk, curb, gutter or other public place any dirt, earth, rock or stone, or to pile in any such place any hay, straw, manure, boxes, barrels, building materials or other matter.

(b) It is unlawful for any person to cause any obstruction or encroachment upon any street, alley, sidewalk or other public way or to erect any building or other structure in whole or in part upon a street, alley, sidewalk or public ground within the Town without first having obtained written permission from the Board of Trustees. (Prior code 13-9-109)

Sec. 10-3-40. Barricades.

It is unlawful for any person making or causing any excavation to fail to keep the excavation barricaded at all times or to fail between sunset and sunrise to keep such excavation properly lighted so as to warn all persons thereof. (Prior code 13-9-110)

Sec. 10-3-50. Play upon Town streets and sidewalks; basketball hoops.

(a) It is unlawful for any person to engage in playing football, baseball, basketball, stickball or any other game or foot race, in or upon any street or alley prior to sunrise or after sunset or in such a manner that prevents, interrupts or obstructs the free passage of traffic.

(b) Portable basketball hoops, as hereinafter defined, may be temporarily located upon private property within residential zone districts near Town streets and sidewalks that are not designated "truck routes" for the playing of basketball upon the street. The designated "truck routes" in Town are: Main Street (Business Highway 85); WCR 34 (Highway 85 to Division Street); Division Street (WCR 34 to Grand Avenue); Grand Avenue; WCR 23.5; and Goodrich Avenue (Main to Liberty).

(c) Portable basketball hoops cannot be permanently secured and must be placed on private property. It shall be unlawful to place or locate any portable basketball hoop upon any street or other public way, sidewalk or curb.

(d) It shall be unlawful to place or locate any portable basketball hoop in such a manner that prevents, interrupts, or obstructs the free passage of pedestrian or vehicular traffic upon any Town street, alley or sidewalk, or obstructs a driver's view of traffic control signs and signals.

(e) For purposes of this Section, a *portable basketball hoop* is defined as a basketball goal or hoop specifically designed to be light or compact enough to carry or move easily from place to place.

(f) Permanent basketball hoops must be secured in dirt or concrete and must be placed a minimum of six (6) feet from any sidewalk access on the side of a residence. (Prior code 13-9-111; Ord. 593 §2, 2006)

Sec. 10-3-60. Interfering with use of streets or sidewalks.

It is unlawful for any person without legal privilege intentionally, knowingly or recklessly:

(1) To obstruct 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; provided, however, that upon the issuance of a valid permit, a "block party" or similar social event may take place subject to the restrictions provided in this Subsection. The Chief of Police shall process and approve, conditionally approve or disapprove all such permit applications by applying the following criteria:

- a. Such events shall be limited to a reasonable number of persons;
- b. Such event shall be limited to reasonable hours: no earlier than 7:00 a.m. and no later than 10:00 p.m.;
- c. Such event shall be limited to a reasonable area: no longer than one (1) Town block;
- d. Portable and reasonably sized barriers shall be used to isolate the event area;

- e. Such event shall allow for emergency vehicle access;
- f. Such event shall not take place on any designated truck route;
- g. No residence outside the scope of the street blockage shall be completely isolated from a public access road due to such event; and
- h. An adult resident of each home or owner of each business within the area to be blocked off must provide written approval and acceptance of the event and any resulting street closure.

(2) To fail or refuse to obey a reasonable request or order to move issued by a person he or she knows to be a peace officer, a firefighter or a person with authority to control the use of the premises, issued by such person 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. (Prior code 13-9-112; Ord. 532, 2001; Ord. 590 §2, 2006)

Sec. 10-3-70. Damage or removal of street signs.

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street. (Ord. 532, 2001)

ARTICLE IV

Public, Private and Personal Property

Sec. 10-4-10. Arson.

It is unlawful to commit arson. A person who knowingly or recklessly starts or maintains a fire or causes an explosion, on his own property or that of another, and by so doing endangers property of another valued at one hundred dollars (\$100.00) or less, commits arson. (Prior code 13-4-102; Ord. 532, 2001)

Sec. 10-4-20. Criminal mischief.

It is unlawful for any person knowingly to damage the real or personal property of one (1) or more other persons in the course of a single criminal episode where the aggregate damage to the real or personal property is less than one thousand dollars (\$1,000.00). (Prior code 13-4-103; Ord. 532, 2001; Ord. 609 §2, 2007)

Sec. 10-4-30. Trespass.

(a) It is unlawful for any person knowingly to enter upon the property or premises of another without the consent of the owner, manager or person in possession of such property or premises, or to remain in or upon any property or premises of another after any such consent has been revoked.

(b) It is unlawful for any person to permit any animal or fowl owned or controlled by him or her to enter upon any property of another without permission of the owner thereof, the person in charge thereof or the person in possession thereof.

(c) It is unlawful for any person to enter or remain on business or commercial premises or on the parking areas, sidewalks, malls or walkways of such business or commercial location, or to fail to leave such area when ordered to do so by an owner, manager or person in charge of such premises, or by a law enforcement officer. (Prior code 13-4-101; Ord. 532, 2001)

Sec. 10-4-40. Littering.

(a) It is unlawful for any person to throw, deposit or leave on any public or private property or in any waters anywhere within this Town any litter except in public receptacles and authorized private receptacles.

(b) It is unlawful for any person, while a driver or passenger in any vehicle, to throw litter from such vehicle except into a public receptacle or authorized private receptacle.

(c) Any violation of this Section may, in addition to being prosecuted as a criminal offense, be corrected or abated pursuant to Section 7-1-120 of this Code.

(d) As used herein, the term *litter* shall include but not be limited to rubbish, refuse, garbage, paper, trash, rags, cigarettes and cigars or remains thereof, and ashes. (Prior code 13-4-113; Ord. 532, 2001)

Sec. 10-4-50. Theft.

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

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

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

(3) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use 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) For the purposes of this Section, a thing of value is that of "another" if anyone other than the defendant has a possessory or proprietary interest therein and the thing of value is less than one thousand dollars (\$1,000.00). (Prior code 13-4-104; Ord. 532, 2001; Ord. 609 §2, 2007)

Sec. 10-4-60. Theft of rental property.

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property, if the property is valued at less than one thousand dollars (\$1,000.00) and he or she:

(1) 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) 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 said property to the owner thereof or his or her representatives 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. (Prior code 13-4-105; Ord. 532, 2001; Ord. 609 §2, 2007)

Sec. 10-4-70. Theft by receiving.

It is unlawful to commit theft by receiving. 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 when said value is less than one thousand dollars (\$1,000.00), 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. (Prior code 13-4-106; Ord. 532, 2001; Ord. 609 §2, 2007)

Sec. 10-4-80. Obtaining control over any stolen thing of value.

Every person who obtains control over any stolen thing of value, knowing the thing of value to have been stolen by another, may be tried, convicted and punished whether or not the principal is charged, tried or convicted. (Prior code 13-4-107)

Sec. 10-4-90. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Prior code 13-4-108; Ord. 532, 2001)

Sec. 10-4-100. Fraud by check.

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

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

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

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

Insufficient funds means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account with the drawee, or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of the 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 means negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

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

(b) Any person, knowing he or she has insufficient funds with the drawee, who with intent to defraud issues a check for a sum less than one thousand dollars (\$1,000.00) for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check, which is unlawful.

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

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

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

(f) A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to any peace officer investigating or prosecuting a charge under this Section.

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

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

(2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue. (Prior code 13-4-112; Ord. 532, 2001; Ord. 609 §2, 2007)

Sec. 10-4-110. Unauthorized interference with cable television system.

It is unlawful for any person, without the consent of a cable television franchisee, willfully to destroy, damage or in any way injure such franchise's system or its poles, cables, wire fixtures, or willfully to obstruct, impede or impair the services of any system or any of its lines, or the transmission of television and radio signals; or, without such consent, to attach any device or equipment to such system or any line, antenna, pole, cable, wire fixture, amplifier or other apparatus, instrument, equipment or appliance thereof; or to tap or connect directly or indirectly, by wire or any other means whatsoever, to or with any system line so as to hear, see or be able to hear or see, for any use or purpose whatsoever, any signal going over said system line; or to make said tapping or connection for the purpose of receiving or enabling any other person to receive any service over said line; or to use or attempt to use, in any manner or for any purpose, any information so obtained, to communicate the same in any way or for any purpose, or to attempt so to communicate the same; or to aid, agree with, employ or conspire with any person to do or cause to be done any of the acts hereinbefore set forth. In all prosecutions of this Section, proof that any of the acts herein forbidden were done on or about the premises owned or occupied by the defendant, or that the defendant unlawfully received the benefit of the transmission of television or radio signals from the cable television system on account of the commission of such acts, shall be prima facie evidence of the guilt of the defendant. (Prior code 13-4-109)

Sec. 10-4-120. Tampering.

(a) It is unlawful for any person to tamper with property of another with intent to cause injury, inconvenience or annoyance to that person or to another.

(b) It is unlawful for any person knowingly to make an unauthorized connection with the property of a utility or, with intent to cause interruption or impairment of a service rendered by a utility or by an institution providing health or safety protection, to tamper with the property of such utility or institution. (Prior code 13-4-110; Ord. 532, 2001)

Sec. 10-4-130. Tampering with or bypassing utility meter.

(a) It is unlawful for any person to connect 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 utility supplying such gas, water or electricity.

(b) It is unlawful for any person in any manner to alter, obstruct or interfere with the action of any meter provided for measuring or registering the quantity of gas, water or electricity passing through said meter without the knowledge and consent of the utility owning or controlling such meter.

(c) 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 13-4-111)

Sec. 10-4-140. Graffiti.

It is unlawful for any person to place graffiti upon any structure without the consent of the owner of such structure. For the purposes of this Section, graffiti means an inscription, drawing or design scratched, painted, sprayed or otherwise placed on a structure in such a way that it is visible to the public. (Prior code 13-4-115)

ARTICLE V

Public Peace, Order and Decency

Sec. 10-5-10. Disorderly conduct.

(a) It is unlawful for any person to commit the offense of disorderly conduct as provided in this Section. A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

- (1) Abuses or threatens a person in a public place in an obviously offensive manner;
- (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;
- (4) Not being a peace officer, discharges a firearm in a public place other than a shooting gallery or rifle range; or
- (5) Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under paragraph (a)(1) above that the actor had significant provocation for his or her abusive or threatening conduct. (Prior code 13-9-101; Ord. 532, 2001)

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

It is unlawful for any person, intending to prevent or disrupt any lawful meeting, procession or gathering, significantly to obstruct or interfere with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Prior code 13-9-105)

Sec. 10-5-30. Harassment.

(a) A person commits harassment, which is unlawful, 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 or challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

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

(c) Any act prohibited by subparagraph (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 13-9-106; Ord. 532, 2001)

Sec. 10-5-40. Loitering.

(a) The word *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, which is unlawful, if he or she:

(1) Loiters for the purpose of begging;

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

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

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

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance as defined in Section 12-22-303(7) C.R.S.

(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 13-9-103; Ord. 532, 2001)

Sec. 10-5-50. Menacing.

A person commits menacing, which is unlawful, if, without the use of a weapon, and by threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury. (Prior code 13-3-101)

Sec. 10-5-60. Reckless endangerment.

A person commits reckless endangerment, which is unlawful, if he or she recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person. (Prior code 13-3-102; Ord. 532, 2001)

Sec. 10-5-70. Assault.

It is unlawful for any person knowingly or recklessly to cause bodily injury to another person, or with criminal negligence to cause bodily injury to another person by means of a deadly weapon. (Prior code 13-3-103)

Sec. 10-5-80. Failure to leave premises.

It is unlawful for any person to barricade or refuse a police entry to any premises or property through use of or threatened use of force, or knowingly to refuse or fail 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, or has occurred, or that such person constitutes a danger to himself or herself or others. (Prior code 13-9-104)

Sec. 10-5-90. Abandoned containers and appliances.

It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, washer, dryer, freezer or other container or appliance which has a door, lid, snap lock or

other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device. (Ord. 532, 2001)

Sec. 10-5-100. Throwing missiles at vehicles.

It is unlawful for any person knowingly to project any missile at or against any vehicle or equipment designed for the transportation of persons or property. (Prior code 13-9-108)

Sec. 10-5-110. Noise.

(a) The following definitions shall apply in the interpretation and enforcement of this Section;

Device means any mechanism which is intended to produce or which actually produces sound when operated or handled.

Motor vehicle means any vehicle such as, but not limited to, a passenger vehicle, truck, truck trailer, trailer or semitrailer propelled or drawn by mechanical power, and includes motorcycles, snowmobiles, mini bikes, go-carts and/or any other vehicle which is self-propelled.

Plainly audible means that the information content of sound is unambiguously transferred to the auditor, such as, but not limited to, understanding of spoken speech, comprehension of raised or normal voices, or comprehension of musical rhythms.

(b) It is unlawful for any person to do any of the following acts or to create any of the following described noises:

(1) Sounding of any horn or audible signaling device on any truck, automobile, motorcycle or other vehicle on any street or public or private place within the Town except as a danger warning signal as provided in the Traffic Code of the Town.

(2) The sounding of any horn or audible signaling device for any unnecessary or unreasonable period of time.

(3) Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television set, phonograph, sound amplifying equipment or any other device for the production or reproduction of sound in such a manner that the sound from any of such activities shall be plainly audible at the property boundary of the source, plainly audible through party walls within a building or plainly audible at fifty (50) feet or more from such device when operated within or on a motor vehicle, provided that this paragraph shall not apply to the operator of any piece of emergency equipment while making proper and authorized use of the same.

(4) Operating or permitting to be operated in an enclosed place of public entertainment any loud speaker or other source of amplified sound in such a manner as to violate the permissible noise exposure of the U.S. Occupational Safety and Health Act (OSHA) for any individual in the enclosed place of public entertainment.

(5) Using, keeping or having in his or her possession or harboring any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions

of this Section shall not apply to hospitals licensed for the treatment of small animals or to premises occupied or used by the Town animal shelter.

(6) Between the hours of 10:00 p.m. and 7:00 a.m., in any residential area of the Town, using, operating or permitting to be used or operated, any tool or equipment for home or building repair, grounds maintenance or construction activities. Such tools and equipment shall include, but not be limited to, lawn mowers, garden tools, electric or chain saws, pavement breakers, log chippers, riding tractors or powered hand tools. (Prior code 13-9-107; Ord. 532, 2001; Ord. 597 §2, 2006)

Sec. 10-5-120. Public indecency.

It is unlawful for any person to perform any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public:

- (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; or
- (4) A lewd fondling or caress of the body of another person. (Prior code 13-7-101)

Sec. 10-5-130. Indecent exposure.

It is unlawful for any person knowingly to expose his or her genitals to the view of any person over the age of fourteen (14) years under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Prior code 13-7-102)

Sec. 10-5-140. Disturbing the peace.

It shall be unlawful for any person to disturb the peace of another by violence, offensive or unruly conduct, loud or unusual noises or use of any language calculated to provoke a disturbance of the peace; or for any person to permit any such disturbance of the peace upon any premises owned or possessed by that person or under his or her management or control, when within his or her power to prevent, so that others in the vicinity are or may be disturbed thereby. (Ord. 612 §2, 2007)

ARTICLE VI

Minors

Sec. 10-6-10. Curfew for minors.

(a) As used in this Article:

Curfew hours means 11:00 p.m. on any day until 5:00 a.m. the following day.

Minor means any person who has not reached his or her eighteenth birthday.

Public establishment means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(b) It is unlawful for any minor to be or remain in or upon any street, alley, public place or public establishment during curfew hours except:

(1) When accompanied by a parent or guardian, or a person over the age of twenty-one (21) years having the permission of the minor's parent or guardian to maintain custody or control over the minor;

(2) When engaged in lawful employment;

(3) When traveling to or from the minor's place of employment; a religious service, meeting or activity; or a school-sponsored meeting or activity; or

(4) When upon an emergency errand directed by his or her parent or guardian, or a person over the age of twenty-one (21) years having the permission of the minor's parent or guardian to maintain custody or control over the minor.

(c) It is unlawful for any parent, guardian, or other person having care or custody of a minor to knowingly permit or by insufficient control allow such minor to be or remain in or upon any street, alley, public place or public establishment during curfew hours except:

(1) When accompanied by a parent or guardian, or a person over the age of twenty-one (21) years having the permission of the minor's parent or guardian to maintain custody or control over the minor;

(2) When engaged in lawful employment;

(3) When traveling to or from the minor's place of employment; a religious service, meeting or activity; or a school-sponsored meeting or activity; or

(4) When upon an emergency errand directed by his or her parent or guardian, or a person over the age of twenty-one years having the permission of the minor's parent or guardian to maintain custody or control over the minor. (Prior code 13-13-101; Ord. 532, 2001)

Sec. 10-6-20. Parent or guardian aiding, abetting.

It is unlawful for any person to knowingly permit any minor child, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the Town. (Ord. 532, 2001)

Sec. 10-6-30. 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. 532, 2001)

Sec. 10-6-40. False statement; false credentials.

It is unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including cigarettes, tobacco products, beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Ord. 532, 2001)

Sec. 10-6-50. 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 minor is forbidden by law to purchase. (Ord. 532, 2001)

Sec. 10-6-60. Loitering and other acts around schools.

It is unlawful for any person to loiter, idle, wander, stroll or play in, about or on any public, private or parochial school, college or seminary grounds or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout or in connection with such school or the employees thereof, or for any person to:

- (1) Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school;
- (2) Annoy, disturb, assault or molest any student or employee of any such school, college or seminary while in any such school building or on any school grounds;
- (3) Conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in or about any school building or school grounds; or
- (4) Park or move a vehicle in the immediate vicinity of or on the grounds of any such school, college or seminary for the purpose of annoying or molesting the students or employees thereof or in an effort to induce, entice or invite students into such vehicles for immoral purposes. (Ord. 532, 2001)

Sec. 10-6-70. Furnishing tobacco products to minors.

(a) It is unlawful for any person knowingly to furnish to any minor, by gift, sale or any other means including but not limited to vending machines, any cigarettes or tobacco products, as defined in Section 39-28.5-101(5), C.R.S.

(b) It is unlawful for any minor to purchase any cigarettes or tobacco products, as defined in Section 39-28.5-101(5), C.R.S. (Prior code 13-13-105; Ord. 532, 2001)

Sec. 10-6-80. Truancy.

(a) It is unlawful for any minor who has attained the age of seven (7) years and is under the age of sixteen (16) years, who is subject to compulsory school attendance, to be absent from school and found upon any street, highway, park, alley or other public property during regular school hours except while attending school as required by Section 22-33-104(1), C.R.S., unless such minor is:

- (1) Absent from the school with the school's permission;
- (2) Engaged in a lawful pursuit or activity that requires the minor's presence somewhere other than school during regular school hours which is authorized by the parent, guardian or other person having legal care and custody of such minor;
- (3) An emancipated juvenile pursuant to Section 19-1-103(145), C.R.S.; or
- (4) Otherwise exempt from compulsory school attendance pursuant to Section 22-33-104(2), C.R.S.

(b) It shall be unlawful for any parent, guardian or person having the care, custody or control of any minor who has attained the age of seven (7) years and is under the age of sixteen (16) years, who is subject to compulsory school attendance, to direct or permit such minor to be absent from school and found upon any street, highway, park, alley or other public property during regular school hours except while attending school as required by Section 22-33-104(1), C.R.S., unless such minor is:

- (1) Home due to illness;
- (2) Engaged in a lawful pursuit or activity that requires the minor's presence somewhere other than school during regular school hours which is authorized by the parent, guardian, or other person having legal care and custody of such minor;
- (3) Directed not to go to school by school officials; or
- (4) Receiving an education under a home based education program pursuant to Section 22-33-104.5, C.R.S., or otherwise exempt from compulsory school attendance pursuant to Section 22-33-104(2), C.R.S.

(c) For purposes of this Section, *regular school hours* are the hours of the full-time school which the minor would attend in the school district in which the minor resides, on any day for which school is in session or, if such school in the school district of residence is unknown, *regular school hours* are the school hours of the Weld County School District No. RE-1 on any day for which school is in session. (Ord. 581 §2, 2006)

ARTICLE VII

Alcoholic Beverages and Drugs

Sec. 10-7-10. Definitions.

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

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

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.

Ethyl alcohol means any substance which is or contains ethyl alcohol.

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.

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

Private property means any dwelling and its curtilage which is being used by a natural person or natural persons 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 ethyl alcohol or upon which ethyl alcohol is sold; or
- c. Any establishment which leases, rents, or provides accommodation to members of the public generally.

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

Spirituous liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, 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. (Prior code 13-13-106; Ord. 532, 2001)

Sec. 10-7-20. Alcohol-related violations.

(a) It is unlawful for any person under twenty-one (21) years of age to make a false statement, 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.

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

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

(d) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises

to purchase any alcoholic beverage for the one begging or soliciting. (Prior code 13-13-108; Ord. 532, 2001)

Sec. 10-7-30. Illegal possession or consumption of alcoholic beverages by an underage person.

(a) It is unlawful for any person under twenty-one (21) years of age to possess or consume ethyl alcohol. This offense is a strict liability offense.

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

(1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the ethyl alcohol was possessed or consumed with the consent of such person's 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 the limits prescribed by Section 25-5-410, C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed, or intended solely for medicinal or hygienic purposes, or solely from the ingestion of a beverage which contained less than one-half of one percent (.5%) 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) Prima facie evidence of a violation of Subsection (b) above shall consist of:

(1) Evidence that the defendant was under the age of twenty-one (21) and possessed or consumed ethyl alcohol anywhere in the Town; 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 while present anywhere in the Town.

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

(f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age. (Prior code 13-13-106; Ord. 532, 2001)

Sec. 10-7-40. Sales near schools.

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of five hundred (500) feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal, upon the expiration thereof, of any license in effect at such time authorizing such business within the restricted area hereby established. (Ord. 532, 2001)

Sec. 10-7-50. Open containers and usage of liquor.

It is unlawful for any person to serve, consume or have any open container of fermented malt beverage or alcoholic beverage, as those terms are defined in this Article, when on or in any public street, alley or sidewalk, or when in or upon any motor vehicle, parking lot or school grounds, public or private, within the Town. The foregoing prohibition shall apply also to any person in any municipal park who has not first obtained a license pursuant to Section 6-2-50 of this Code or who is not covered by any such license; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license. (Prior code 13-13-107; Ord. 532, 2001)

Sec. 10-7-60. Possession of drug paraphernalia.

A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of state law. (Ord. 532, 2001)

Sec. 10-7-70. Possession of cannabis.

(a) For the purposes of this Section, the term *cannabis* shall include all parts of the plant *Cannabis sativa L.*, whether growing or not; the seed thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake, or the sterilized seed of such plant, which is incapable of germination. The term *cannabis concentrate* means hashish, tetrahydrocannabinols or any alkaloid, salt derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols.

(b) It is unlawful to possess one (1) ounce or less of cannabis or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).

(c) It is unlawful openly and publicly to display or consume one (1) ounce or less of cannabis concentrate, and upon conviction thereof, or a plea of guilty or no contest thereto, punishment shall be as set out in Section 1-4-20 of this Code.

(d) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act or pursuant to medical purposes as determined by state law. (Ord. 532, 2001)

Sec. 10-7-80. Abusing toxic vapors.

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

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

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

(d) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (a) above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 532, 2001)

ARTICLE VIII

Weapons

Sec. 10-8-10. 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 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. (Ord. 532, 2001)

Sec. 10-8-20. Prohibited operation of nonfirearm devices.

(a) Nonfirearm devices are hereby defined as including the following:

(1) BB guns and pellet guns, whether the projectile is propelled by compression of air, carbon dioxide, other gas or mechanical propulsion;

(2) Bow and arrow;

(3) Cross bow;

(4) Sling;

(5) Nonbreechloading weapon; or

(6) Any other similar device.

(b) It is unlawful for any person to use a nonfirearm device so as to cause any projectile to land upon public property or upon private property of another where said person does not have lawful right to be. (Prior code 13-12-102)

Sec. 10-8-30. Concealed weapons.

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

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

(c) It is unlawful for any person knowingly and unlawfully, without legal authority, to carry, bring or have in his or her possession a deadly weapon as defined in Section 18-1-901(3)(e), C.R.S., in or on the real estate or any improvements erected thereon of any public or private elementary or secondary school, except for the purpose of presenting an authorized public demonstration or exhibition pursuant to instruction in conjunction with an organized school or class, for the purpose of carrying out the necessary duties and functions of any employee of such school which require the use of a deadly weapon, or for the purpose of participating in an authorized extracurricular activity or athletic team. This Subsection shall not apply to any unloaded weapon which remains inside a motor vehicle while upon the real estate of any public or private elementary or secondary school.

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

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

(1) A person in his or her own dwelling or place of business or on property owned by him or her 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 others' persons or property while traveling;

(3) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to Section 18-12-105.1, C.R.S., to carry the weapon by the chief of police of a city or city and county, or the sheriff of a county or

(4) A peace officer.

(f) Nothing in this Section shall be construed to forbid United States Marshals, sheriffs, constables and their deputies and any regular, special or ex officio police officer or any other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties. (Prior code 13-12-103; Ord. 532, 2001)

Sec. 10-8-40. Disposition of confiscated concealed weapons.

It is the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the weapon to the Municipal Judge, to be held by him or her until the final determination of the prosecution for said offense, and upon the finding of guilt, it shall then be the duty of the Municipal Judge to deliver said weapon forthwith to the Chief of Police, who shall make disposition of the weapon. (Ord. 532, 2001; Ord. 574 §3, 2005)

Sec. 10-8-50. Prohibited use of weapons.

(a) It is unlawful for any person to:

(1) Knowingly and unlawfully aim a firearm at another person;

(2) Recklessly or with criminal negligence discharge a firearm or shoot a bow and arrow;

(3) Knowingly set a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and leave the same unattended by a competent person immediately present; or

(4) Have a firearm in his or her possession while he or she is under the influence of intoxicating liquor or of a controlled substance as defined in Section 12-22-303(7), C.R.S. Possession of a permit issued under Section 18-12-105.1, C.R.S., is no defense to a violation of this Section.

(b) It is unlawful for a person to knowingly aim, swing or throw a throwing star or nunchaku at another person, or knowingly possess 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.

(c) It is unlawful for any person to discharge any cannon, anvil, gun, revolver, pistol, shotgun, rifle or other firearms unless in the course of his or her employment as a peace officer or in a bona fide contest or exhibition approved in advance by the Town and pursuant to such requirements as the Town may place thereon at the time of granting said approval.

(d) 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; and further provided that nothing herein contained 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.

(e) 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. (Prior code 13-12-101; 13-12-104; Ord. 532, 2001)

Sec. 10-8-60. Furnishing weapon to intoxicated person.

(a) It is unlawful for any person to sell, loan or furnish a deadly weapon to any person under the influence of alcohol or any controlled substance as defined by Section 12-22-303(7), C.R.S., to any person in a condition of agitation and excitability or to any minor.

(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 13-12-105, Ord. 532, 2001)

ARTICLE IX

Miscellaneous Offenses

Sec. 10-9-10. Fireworks.

(a) Definitions.

Fireworks means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used; blank cartridges; the type of balloon which requires fire underneath to propel the same; firecrackers, torpedoes, sky rockets, rockets, Roman candles, Day-Glo bombs or torches; or other fireworks of light construction and any fireworks containing any explosive or flammable compound or any tablet or other device containing any explosive substance.

Fireworks does not mean: toy paper caps which do not contain more than twenty-five hundredths (.025) of a gram of explosive compound per cap; sparklers, trick matches, cigarette

loads, trick noisemakers, toy smoke devices or novelty auto alarms; or highway flares, railway fuses, ship distress signals, smoke candles and other emergency signal devices.

(b) It is unlawful for any person to discharge any fireworks unless he or she has first obtained a permit therefor from the Town as provided by state law. (Prior code 13-12-101; Ord. 532, 2001)

Sec. 10-9-20. Violation of park hours.

The public parks of the Town shall be open daily to the public from 5:00 a.m. until 11:00 p.m. It is unlawful for any person not an employee of the Town having official duties in said parks at the time to be or to remain in them or to remain in or upon any public street or sidewalk immediately adjacent to any public park at any time other than during the hours that said parks may be open to the public; provided, however, that the Town may, by permit first having been obtained, extend or limit the time herein specified. (Prior code 13-13-102)

Sec. 10-9-30. Glass bottles prohibited in parks.

It is unlawful for any person to have in his or her possession in any public park or in or upon any street, alley or sidewalk immediately adjacent thereto in the Town any bottle, glass or beverage container of any kind made of glass; provided, however, that the foregoing prohibitions shall not apply to any vacuum bottle container not having a glass exterior. (Prior code 13-13-103)