

CHAPTER 10

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ARTICLE 1

General Provisions

Sec. 10-1-10. Definitions.

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

Litter means all rubbish, waste material, refuse, garbage, trash, debris, paper or any other material of any size, form or description.

Peace officer, as used in this Chapter, 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 2-6, 3-4; Ord. 2007-07 §1)

Sec. 10-1-20. Criminal attempt.

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

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

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

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

(e) Criminal attempt to commit a petty offense is a crime of the same class as the offense itself. (Ord. 2007-07 §1)

Sec. 10-1-30. Conspiracy.

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

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

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

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

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

(f) Conspiracy to commit a petty offense is a crime of the same class as the offense itself. (Ord. 2007-07 §1)

Sec. 10-1-40. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. 2007-07 §1)

Sec. 10-1-50. Accessory to crime.

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

(b) *Render assistance* means to:

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

(c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class. (Ord. 2007-07 §1)

Sec. 10-1-60. 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. 2007-07 §1)

ARTICLE 2

Government and Public Officers

Sec. 10-2-10. Definitions.

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

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

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

Public servant means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses. (Ord. 2007-07 §1)

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

(a) It is unlawful to obstruct government operations.

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

(c) It is 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 was by lawful activities in connection with a labor dispute with the government. (Ord. 2007-07 §1)

Sec. 10-2-30. 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. (Ord. 2007-07 §1)

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

(a) A person commits the violation of obstructing a peace officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, he or she intentionally 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 intentionally obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter acting under color of his or her official authority.

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

(c) 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 Subsection 10-2-50(b) below.

(d) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Prior code 2-7; Ord. 2007-07 §1)

Sec. 10-2-50. Resisting arrest.

(a) A person commits the violation of resisting arrest if he or she intentionally 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:

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

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

(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 or her. (Prior code 2-6; Ord. 2007-07 §1)

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

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

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

(2) Makes a report or intentionally 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; or

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

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

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

(b) For purposes of this Section, false identifying information means a person's name, address, birth date, social security number, driver's license or state identification number. (Prior code 2-9; Ord. 2007-07 §1)

Sec. 10-2-70. Duty of citizens to aid peace officers.

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 or her to be a peace officer, he or she unreasonably refuses or fails to aid the peace officer in effecting or securing an arrest or in preventing another from committing an offense. (Ord. 2007-07 §1)

Sec. 10-2-80. Escape.

(a) A person commits escape if, while being in custody or confinement following conviction of a violation of this Code, he or she knowingly escapes from said custody or confinement.

(b) A person commits escape if, while being in custody or confinement and held for or charged with but not convicted of a violation of this Code, he or she knowingly escapes from said custody or confinement. (Prior code 9.04.070; Ord. 2007-07 §1)

Sec. 10-2-90. 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 9.04.080; Ord. 2007-07 §1)

ARTICLE 3

Streets and Public Places

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

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

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

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

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

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

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

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

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

(c) Any person who violates this Section is guilty of unlawful conduct on public property. (Ord. 2007-07 §1)

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

(a) No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the 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. 2007-07 §1)

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

It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the Town shall obstruct, interfere with or prevent the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other person on that public highway, street, alley or sidewalk or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the Town or other authorized peace officer. (Ord. 2007-07 §1)

Sec. 10-3-40. 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. 2007-07 §1)

ARTICLE 4

Public, Private and Personal Property

Sec. 10-4-10. Criminal mischief.

Any person who intentionally damages 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 five hundred dollars (\$500.00) commits the crime of criminal mischief. (Prior code 2-11; Ord. 2007-07 §1)

Sec. 10-4-20. Damaging or destroying public or private property.

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner destroy, deface, remove or damage any historical monument, or deface or cause, aid in or permit the defacing of any public or private property without the consent of the owner of such property. (Prior code 2-18; Ord. 2007-07 §1)

Sec. 10-4-30. Trespassing.

A person commits the crime of second-degree criminal trespass if he or she unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders, or which are fenced. (Prior code 2-12)

Sec. 10-4-40. Littering.

(a) Any person who deposits, throws or leaves any litter on any street, alley, sidewalk or public or private property or in any waters in the Town commits a violation of this Section unless:

(1) The litter is placed in a receptacle or container installed on such property for such purpose.

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

(b) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of Subsection (a) above, the operator of the motor vehicle is presumed to have caused or permitted such litter to have been so thrown, deposited, dropped or dumped therefrom. (Prior code 3-2, 3-3; Ord. 2007-07 §1)

Sec. 10-4-50. Theft.

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 when the value of the thing involved is less than five hundred dollars (\$500.00), and the person:

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

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

(3) Uses, conceals or abandons the thing of value, intending that such use, concealment or abandonment will deprive the other person permanently of its use 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. (Prior code 2-10; Ord. 2007-07 §1)

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:

(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 five hundred dollars (\$500.00). (Ord. 2007-07 §1)

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, knowing or believing that the 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, where the value of such thing is less than five hundred dollars (\$500.00). (Ord. 2007-07 §1)

Sec. 10-4-80. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than five hundred dollars (\$500.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 2007-07 §1)

Sec. 10-4-90. Tampering and unauthorized connection.

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

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

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

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 2007-07 §1)

ARTICLE 5

Public Peace, Order and Decency

Sec. 10-5-10. Disorderly conduct.

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

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

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

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

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

(5) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm. (Prior code 2-4; Ord. 2007-07 §1)

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

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 2007-07 §1)

Sec. 10-5-30. Harassment.

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

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

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

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

(4) Initiates communication with a person, anonymously or otherwise, by telephone, computer, computer network or computer system in a manner intended to harass or threaten bodily harm 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 or in offensively coarse language 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 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 such ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by Subsection (a)(4) of this Section 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 2-5; Ord. 2007-07 §1)

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 a Class 1 petty offense if he or she:

(1) Loiters for the purpose of begging;

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

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

(4) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in a school building or on school grounds or within one

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

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-7-10 of this Chapter.

(c) It is an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (Ord. 2007-07 §1)

Sec. 10-5-50. False alarms.

Any person who intentionally makes or gives a false alarm of fire shall be deemed guilty of a misdemeanor. (Ord. 2007-07 §1)

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

It is unlawful to store or cause to be stored or parked, except for delivery, any tank vehicle carrying flammable liquids or gases upon any streets, ways or avenues of the Town or in any other part of the Town, except those areas zoned for such uses. (Ord. 2007-07 §1)

Sec. 10-5-70. Abandoned containers, motor vehicles and appliances.

It is unlawful for any person to abandon or discard in any public or private place accessible to children any chest, closet, piece of furniture, refrigerator, icebox, other appliance, motor vehicle or other article, having a compartment of a capacity of one and one-half (1½) cubic feet or more and having a door or lid which, when closed, cannot be opened easily from the inside; or who, being the owner, lessee or manager of such place, to knowingly permit such abandoned or discarded article to remain in such condition. (Prior code 3-6; Ord. 2007-07 §1)

Sec. 10-5-80. Throwing stones or missiles.

It is unlawful for any person to throw or shoot any stone or any other missile upon or at any person, animal, building, tree or other public or private property; or at or against any vehicle or equipment designed for the transportation of persons or property. (Prior 2-13; Ord. 2007-07 §1)

Sec. 10-5-90. Fraud by check.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue. (Ord. 2007-07 §1)

Sec. 10-5-100. Public indecency.

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

(1) An act of sexual intercourse or deviate sexual intercourse;

(2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or

(3) A lewd fondling or caress of the body of another person. (Ord. 2007-07 §1)

Sec. 10-5-110. Indecent exposure.

It is unlawful for a person to knowingly expose 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. 2007-07 §1)

ARTICLE 6

Minors

Sec. 10-6-10. 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. 2007-07 §1)

Sec. 10-6-20. Encouraging delinquency.

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended. (Ord. 2007-07 §1)

Sec. 10-6-30. 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. 2007-07 §1)

Sec. 10-6-40. Services of others.

It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the any person under the age of twenty-one (21) years is forbidden by law to purchase. (Ord. 2007-07 §1)

Sec. 10-6-50. Sale of cigarettes and tobacco products.

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

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

Minor means a person under the age of eighteen (18) years.

Tobacco products means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts, refuse scraps, clippings, cutting and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

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

- (c) Any minor who purchases or attempts to purchase any cigarettes or tobacco products, and/or is found to be in possession of any cigarettes or tobacco products commits an offense and, upon conviction thereof, shall be punished by a fine of one hundred dollars (\$100.00); except that, following a conviction or adjudication for a first offense under this Subsection, the Court in lieu of the fine may sentence the person to participate in a tobacco education program. The Court may allow such person to perform community service and be granted credit against the fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed, for up to fifty percent (50%) of the fine and court costs.

(d) No retailer shall sell or permit the sale of cigarettes or tobacco products by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in:

- (1) Factories, businesses, offices or other places not open to the general public;
- (2) Places to which minors are not permitted access at any time during the day or night; or

(3) Places where the vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner, including but not limited to establishments holding a valid liquor license issued pursuant to Article 47 of Title 12, C.R.S.

(e) Any person who sells or offers to sell any cigarettes or tobacco products shall display a warning sign as specified in this Subsection. Said warning sign shall be displayed in a prominent place in the building and on such machine at all times, shall have a minimum height of three (3) inches and a width of six (6) inches, and shall read as follows:

WARNING
IT IS ILLEGAL FOR ANY PERSON UNDER
18 YEARS OF AGE TO PURCHASE CIGARETTES AND TOBACCO PRODUCTS AND, UPON
CONVICTION, A \$100.00 FINE MAY BE IMPOSED.

(f) Any violation of Subsection (e) above shall not constitute a violation of any other provision of this Section. (Ord. 2007-07 §1)

Sec. 10-6-60. Curfew.

(a) It is unlawful for any minor who has not reached his or her sixteenth birthday to be or remain upon any streets or alleys or other public places within the Town or to remain in any establishment open to the public generally within the Town between the hours of 11:00 p.m. and 5:00 a.m., except:

- (1) When accompanied by a parent, guardian or other person having legal care or custody of such minor;
- (2) For lawful employment; or
- (3) When such minor is in the custody of and accompanied by a person who has reached his or her eighteenth birthday and who has in his or her possession the written consent of such parent, guardian or other person having legal care or custody of such minor.

(b) It is unlawful for any parent, guardian or other person having legal care or custody of a minor falling under the terms of Subsection (a) of this Section to allow or permit such minor to violate any of the terms or provisions of this Section. (Prior code 7-1)

ARTICLE 7

Alcoholic Beverages and Drugs

Sec. 10-7-10. 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.

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.

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.

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.

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.

Spirituos 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. 2007-07 §1)

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

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

(b) It is unlawful for any person under the age of twenty-one (21) years to attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation or any other means.

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

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

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

(f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting. (Ord. 2007-07 §1)

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

(a) Any person under twenty-one (21) years of age who possesses or consumes alcoholic beverages anywhere in the Town commits illegal possession or consumption of alcoholic beverages by an underage person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.

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

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

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

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

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

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

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

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

(f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in 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. (Ord. 2007-07 §1)

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 public or parochial school or the principal campus of any college, university or seminary, 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 or reissuance, upon the expiration thereof, of any license in effect, or affect any such business as set forth in Section 12-47-302, C.R.S. (Ord. 2007-07 §1)

Sec. 10-7-50. Alcoholic beverages in certain places.

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

(b) No person shall drink any alcoholic beverages in or on any of the above enumerated places.

(c) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages. (Ord. 2007-07 §1)

Sec. 10-7-60. Open container.

It is unlawful for any person to consume or to possess any opened container containing an alcoholic beverage or fermented malt beverage, whether such possession is actual or constructive, on any public street, sidewalk, parking lot, park or alley or in or upon any motor vehicle either parked or moving on any street, parking lot or alley within the Town; 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 2-21; Ord. 2007-07 §1)

Sec. 10-7-70. Possession of drug paraphernalia.

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

(b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense. (Ord. 2007-07 §1)

Sec. 10-7-80. Possession of marijuana.

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

(b) Whenever a person is arrested or detained for a violation of Subsection (a) above, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained person, the date, time and place where such person shall appear and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One (1) copy of said notice or summons shall be given to the person arrested or detained, one (1) copy shall be sent to the Municipal Court and such other copies as may be required by the Police Department shall be sent to the places designated by the Police Department. The date specified in the notice or summons to appear shall be at least five (5) days after such arrest or detention 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. (Ord. 2007-07 §1)

Sec. 10-7-90. 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. 2007-07 §1)

ARTICLE 8

Weapons

Sec. 10-8-10. Definitions.

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

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

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

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

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

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

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

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

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

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

Throwing star means a disk having sharp radiating points or any disk-shaped bladed object which is handheld and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense. (Ord. 2007-07 §1)

Sec. 10-8-20. Carrying concealed weapon; forfeiture.

(a) It is unlawful for any person to wear under his or her clothes or concealed about his or her person, have in his or her possession or 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, switchblade knife, gravity knife, knife with a blade three and one-half (3½) inches or longer, or any other dangerous or deadly weapon.

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

(c) Every person convicted of any violation of this Section and Section 10-8-40 below shall forfeit to the Town such dangerous or deadly weapon so used.

(d) Nothing in this Section shall be construed to forbid United States Marshals, sheriffs, constables and their deputies and any regular, special or ex officio police officer or other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties. (Prior code 2-16, 2-17; Ord. 2007-07 §1)

Sec. 10-8-30. Disposition of confiscated concealed weapons.

It is the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the weapon to the Municipal Judge, to be held by him or her until the final determination of the prosecution for said offense, and upon the finding of guilt, it shall then be the duty of the Municipal Judge to deliver said weapon forthwith to the Chief of Police, who shall make disposition of the weapon. (Ord. 2007-07 §1)

Sec. 10-8-40. Prohibited use of weapons.

(a) A person commits a violation of this Article if he or she:

- (1) Intentionally or unlawfully aims a firearm at another person;
- (2) Recklessly or with criminal negligence discharges a firearm or shoots a bow and arrow;
- (3) 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
- (4) Has in his or her possession a firearm while he or she is under the influence of an intoxicating liquor or of a narcotic drug or dangerous drug. Possession of a permit issued under Section 18-12-105(2)(c), C.R.S., is no defense to a violation of this Section; or
- (5) Knowingly aims, swings or throws a throwing star or nunchaku at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When throwing stars or nunchakus are being transported for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.

(b) It is unlawful to discharge a firearm anywhere within the Town unless the person so discharging the firearm is a police officer or is participating in a sports event involving firearms in appropriate circumstances. 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 2-14, 2-15; Ord. 2007-07 §1)

Sec. 10-8-50. Selling weapons to intoxicated persons.

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

(b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the Town to such person. (Ord. 2007-07 §1)

ARTICLE 9

Noise

Sec. 10-9-10. Unreasonable noise.

(a) It is unlawful for any person to use any sound-amplifying device, radio, stereo or other instrument in such a manner and with such volume so that the noise can be heard beyond the property line of the parcel of property from which such noise is emitted.

(b) No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable. (Prior code 3-1; Ord. 2007-07 §1)

Sec. 10-9-20. Animals.

It is unlawful for any person to use, keep, have in his or her possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals licensed for the treatment of small animals or to premises occupied or used by the Town animal shelter. (Ord. 2007-07 §1)

Sec. 10-9-30. Sirens, whistles, gongs and red lights.

It is unlawful for any person to carry or use upon a vehicle, other than Police or Fire Department vehicles or emergency vehicles for public use, any gong, siren, whistle or red light similar to that used on ambulances or vehicles of the Police and Fire Departments. (Ord. 2007-07 §1)

ARTICLE 10

Miscellaneous Provisions

Sec. 10-10-10. Fireworks prohibited.

It is unlawful for any person to manufacture, sell, use or discharge any device prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation, including sky rockets, Roman candles, Day-Glo bombs, sparklers, firecrackers or any other explosive or flammable compound anywhere within the Town without having previously obtained a permit therefor. *Fireworks* in this Section shall not include auto flares, paper caps containing less than twenty-five hundredths (.25) of a grain of explosive content per cap and toy pistols or guns for use of such caps. (Prior code 2-19)

Sec. 10-10-20. Fireworks permit.

Any person desiring a permit shall post a bond in the amount of at least five hundred dollars (\$500.00) and in such other amounts as the Town Administrator or other administrative authority may determine is appropriate for the payment of damages which may be caused by a permittee. Applications for permits shall be made in writing at least ten (10) days in advance of the fireworks display date. The permit is valid only for the date set forth in the permit and such permit is not transferable. (Prior code 2-20)