

CHAPTER 10

General Offenses

Article 1 General Provisions

- Sec. 10-1-10 Legislative purpose
- Sec. 10-1-20 Local question
- Sec. 10-1-30 Application
- Sec. 10-1-40 Violations
- Sec. 10-1-50 Statute of limitations
- Sec. 10-1-60 Penalties not released by repeal
- Sec. 10-1-70 Authority

Article 2 Attempt, Conspiracy, Complicity and Accessory

- Sec. 10-2-10 Criminal attempt
- Sec. 10-2-20 Conspiracy
- Sec. 10-2-30 Complicity
- Sec. 10-2-40 Accessory to crime
- Sec. 10-2-50 Aiding and abetting

Article 3 Government and Public Officers

- Sec. 10-3-10 Definitions
- Sec. 10-3-20 Impersonating a public servant
- Sec. 10-3-30 Obstructing government operations
- Sec. 10-3-40 Obstructing a peace officer or firefighter
- Sec. 10-3-50 Resisting arrest
- Sec. 10-3-60 Escape
- Sec. 10-3-70 False reporting to authorities
- Sec. 10-3-80 Refusing to aid police officer
- Sec. 10-3-90 Compounding

Article 4 Streets and Public Places

- Sec. 10-4-10 Unlawful conduct on public property
- Sec. 10-4-20 Trespass or interference in public buildings
- Sec. 10-4-30 Interfering with use of streets or sidewalks; hindering transportation
- Sec. 10-4-40 Damage or removal of street signs

Article 5 Public, Private and Personal Property

- Sec. 10-5-10 Criminal mischief
- Sec. 10-5-20 Damaging or destroying public property
- Sec. 10-5-30 Desecration of venerated objects
- Sec. 10-5-40 Damaging or destroying private property
- Sec. 10-5-50 Graffiti
- Sec. 10-5-60 Defacing posted notice
- Sec. 10-5-70 Trespassing
- Sec. 10-5-80 Littering of public and private property
- Sec. 10-5-90 Bottles, littering in parks
- Sec. 10-5-100 Use of a noxious substance
- Sec. 10-5-110 Theft
- Sec. 10-5-120 Theft of rental property
- Sec. 10-5-130 Theft by receiving
- Sec. 10-5-140 Obtaining control over any stolen thing of value

- Sec. 10-5-150 Concealment of goods
- Sec. 10-5-160 Motor vehicle theft
- Sec. 10-5-170 Tampering and unauthorized connection
- Sec. 10-5-180 Second degree criminal tampering
- Sec. 10-5-190 Fourth degree arson

Article 6 Public Peace, Order and Decency

- Sec. 10-6-10 Disorderly conduct
- Sec. 10-6-20 Disrupting lawful assembly
- Sec. 10-6-30 Harassment
- Sec. 10-6-40 Loitering
- Sec. 10-6-50 Throwing stones or missiles
- Sec. 10-6-60 Reckless endangerment
- Sec. 10-6-70 False imprisonment
- Sec. 10-6-80 Menacing
- Sec. 10-6-90 Assault
- Sec. 10-6-100 False alarms
- Sec. 10-6-110 Storage of flammable liquids
- Sec. 10-6-120 Explosives
- Sec. 10-6-130 Abandoned containers and appliances
- Sec. 10-6-140 Fraud by check
- Sec. 10-6-150 Unlawfully using slugs
- Sec. 10-6-160 Public indecency; public urination
- Sec. 10-6-170 Indecent exposure
- Sec. 10-6-180 Fireworks, Explosives and Firearms.

Article 7 Minors

- Sec. 10-7-10 Child abuse
- Sec. 10-7-20 Encouraging delinquency
- Sec. 10-7-30 False statement; false credentials
- Sec. 10-7-40 Services of others
- Sec. 10-7-50 Loitering and other acts around schools
- 10-7-55. **Prohibition of Sale to or Possession of Tobacco Products by Minors.**
- Sec. 10-7-60 Curfew

Article 8 Alcoholic Beverages and Drugs

- Sec. 10-8-10 Definitions
- Sec. 10-8-20 License to manufacture, sell
- Sec. 10-8-30 Conduct of alcohol-selling establishments
- Sec. 10-8-40 Disturbances
- Sec. 10-8-50 Display of cards
- Sec. 10-8-60 Possession and consumption in public
- Sec. 10-8-70 Sale of malt, vinous, spirituous liquors
- Sec. 10-8-80 Alcohol-related violations
- Sec. 10-8-90 Illegal possession or consumption by an underage person
- Sec. 10-8-100 Alcoholic beverages in certain places
- Sec. 10-8-110 Open containers; permits
- Sec. 10-8-120 Possession of drug paraphernalia
- Sec. 10-8-130 Possession of marijuana
- Sec. 10-8-140 Abusing toxic vapors

Article 9 Weapons

- Sec. 10-9-10 Definitions
- Sec. 10-9-20 Carrying concealed weapon
- Sec. 10-9-30 Carrying concealed weapon or possessing weapon on school grounds
- Sec. 10-9-40 Prohibited use of weapons
- Sec. 10-9-50 Dangerous or deadly weapons; forfeiture
- Sec. 10-9-60 Selling weapons to intoxicated persons

Article 10 Noise

- Sec. 10-10-10 Unreasonable noise
- Sec. 10-10-20 Sirens, whistles, gongs and red lights
- Sec. 10-10-30 Disturbance; breach of peace

Article 11 Miscellaneous Provisions

- Sec. 10-11-10 Gambling
- Sec. 10-11-20 Burning
- Sec. 10-11-30 Motorbikes, motorized skateboards, segways

ARTICLE 1

General Provisions

Sec. 10-1-10. Legislative purpose.

It is the purpose of this Code to provide for the public health, safety and welfare of the Town. (Ord. 18-1994 §1-102)

Sec. 10-1-20. Local question.

It is the intention of the Board of Trustees that the ordinances and provisions of this Chapter deal with matters of "local" and "mixed" state and local concern and that no provision of this Chapter is to be construed expressly or by implication to permit conduct that is illegal under the laws of the State or to prohibit conduct that is expressly permitted by the laws of the State. The provisions of this Chapter are to be construed to apply to misdemeanors and other minor and petty offenses only and are not to be interpreted to apply to conduct that is defined as a felony under state law. (Ord. 18-1994 §1-103)

Sec. 10-1-30. Application.

(a) A person is subject to prosecution in the Municipal Court for a violation committed through the conduct of such person or through the conduct of another for whom such person is legally accountable, if:

- (1) The conduct constitutes a violation and is committed either wholly or partly within the Town;
- (2) The conduct outside the Town constitutes an attempt, as defined by this Chapter, to commit a violation within the Town;
- (3) The conduct outside the Town constitutes a conspiracy to commit a violation within the Town, and an act in furtherance of the conspiracy occurs in the Town; or

(4) The conduct within the Town constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction a violation prohibited under the laws of this Town and such other jurisdiction.

(b) Whether a violator is in or outside the Town is immaterial to the commission of a violation based on an omission to perform a duty imposed by the law of the Town.

(c) *Town*, as used in this Section and in any summons, summons and complaint or complaint alleging a violation of this Code or any ordinance, includes both the area within the territorial limits of the Town, and also those areas over which extraterritorial police power has been granted by state statutes. It is the intent of the Board of Trustees to extend the territorial jurisdiction of the Municipal Court as widely as possible. However, where specific sections of this Code require that the violation occur "within the Town" then the offense is limited to the territorial limits of the Town. (Ord. 18-1994 §1-105)

Sec. 10-1-40. Violations.

(a) Any act or omission declared to be a violation, unlawful, required or prohibited by the phrase no person shall or similar mandatory language in or by this Code, any ordinance of the Town or any rule promulgated thereunder constitutes a violation.

(b) Unless otherwise specifically provided in this Code, an ordinance of the Town or a rule promulgated thereunder, every day of a violation of this Code, ordinance or rule constitutes a separate violation.

(c) The following sections of this Code are designated noncriminal violations. Any person charged with violating any provision of this Code so designated shall not be subject to incarceration upon conviction. Further, such person shall not be entitled to a trial by jury.

<i>Code §</i>	<i>Violation</i>
7-4-80	Cruelty to animals
7-4-160	Running at large
7-4-170	Prohibition on keeping wild animals
7-4-310	License Requirement
7-4-420	Vaccination
7-4-530	Wild and dangerous animals
8-2-50	Junk or abandoned vehicles
10-2-10	Criminal attempt (where the violation attempted is noncriminal)
10-2-20	Conspiracy (where the conspiracy involves a noncriminal violation)
10-2-30	Complicity (where the complicity involves a noncriminal violation)
10-2-40	Accessory to crime (where the violation is noncriminal)
10-3-70	False reporting to authorities
10-3-90	Compounding
10-4-10	Unlawful conduct on public property
10-4-20	Trespass or interference in public buildings
10-4-30	Hindering transportation
10-5-30	Desecration of venerated objects
10-5-50	Graffiti
10-5-60	Defacing posted notice
10-5-80	Littering of public and private property
10-5-90	Bottles, littering in parks
10-5-100	Use of noxious substance
10-5-130	Theft by receiving
10-5-140	Obtaining control over any stolen thing of value
10-5-150	Concealment of goods
10-5-170	Tampering and unauthorized connections
10-6-20	Disrupting lawful assembly
10-6-50	Throwing missiles at vehicles
10-6-110	Storage of flammable liquids
10-6-130	Abandoned containers and appliances
10-6-150	Unlawfully using slugs
10-6-160	Public urination
10-7-20	Encouraging delinquency
10-7-30	False statement; false credentials
10-7-40	Services of others
10-7-60	Curfew
10-8-20	License to manufacture, sell

<i>Code §</i>	<i>Violation</i>
10-8-30	Alcohol-selling establishments
10-8-40	Disturbances
10-8-50	Display of cards
10-8-60	Possession and consumption of alcoholic beverages in public
10-8-110	Open containers; permits
10-8-120	Possession of drug paraphernalia
10-8-130	Possession of marijuana
10-8-140	Abusing toxic vapors
10-10-10	Unreasonable noise
10-10-20	Sirens, whistles, gongs and red lights
10-10-30	Disturbance, breach of peace
10-11-10	Gambling
10-11-20	Burning
10-11-30	Motorbikes

(d) The following sections of this Code are designated criminal violations. Any person charged with violating any provision of this Code so designated may be subject to incarceration, in addition to fines and costs, upon conviction. Further, such person may be entitled to a trial by jury upon meeting the requirements of Section 2-4-200 of this Code:

<i>Code §</i>	<i>Violation</i>
7-4-510	Vicious animals
10-2-10	Criminal attempt (where the violation attempted is criminal)
10-2-20	Conspiracy (where the conspiracy involves a criminal violation)
10-2-30	Complicity (where the complicity involves a criminal violation)
10-2-40	Accessory to crime (where the violation is criminal)
10-3-20	Impersonating a public servant
10-3-30	Obstructing government operations
10-3-40	Obstructing a peace officer or firefighter
10-3-50	Resisting arrest
10-3-60	Escape
10-3-80	Refusing to aid a peace officer
10-5-10	Criminal mischief

<i>Code §</i>	<i>Violation</i>
10-5-20	Damaging or destroying public property
10-5-40	Damaging or destroying private property
10-5-70	Criminal trespass
10-5-110	Theft
10-5-120	Theft of rental property
10-5-160	Motor vehicle theft
10-5-180	Second degree criminal tampering
10-5-190	Fourth degree arson
10-6-10	Disorderly conduct
10-6-30	Harassment
10-6-40	Loitering
10-6-60	Reckless endangerment
10-6-70	False imprisonment
10-6-80	Menacing
10-6-90	Assault
10-6-100	False alarms
10-6-120	Explosives
10-6-140	Fraud by check
10-6-170	Indecent exposure
10-7-10	Child abuse
10-8-70	Sale of malt, vinous, spirituous liquors
10-8-80	Alcohol-related violations
10-8-90	Illegal possession or consumption of alcoholic beverages by an underage person
10-9-20	Carrying concealed weapon
10-9-30	Carrying concealed weapon or possessing weapon on school grounds
10-9-40	Prohibited use of weapons
10-9-60	Selling weapons to intoxicated persons

(Ord. 18-1994 §1-108; Ord. 11-2007 §1)

Sec. 10-1-50. Statute of limitations.

No person shall be prosecuted, tried or punished for any violation under this Code or any ordinance unless the action for said violation is instituted within one (1) year of the date of the alleged violation, but the statute of limitations within which a prosecution must be instituted shall be tolled for any period in which a prosecution is pending against the accused for the

same conduct, even if the summons, the complaint or the summons and complaint that commence the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal. (Ord. 18-1994 §1-109)

Sec. 10-1-60. Penalties not released by repeal.

(a) The repeal, revision, amendment or consolidation of any section of this Code does not constitute a bar to the prosecution and punishment of an act already committed in violation of the section so repealed, unless the repealing, revising, amending or consolidating ordinance expressly so provides.

(b) Any such section so repealed, amended, revised or consolidated shall remain in full force and effect for the purpose of sustaining all actions, suits, proceedings and prosecutions brought thereunder that arose before the effective date of the repeal, amendment, revision or consolidation. (Ord. 18-1994 §1-110)

Sec. 10-1-70. Authority.

(a) Authority to detain temporarily.

(1) A police officer may stop any person who the officer reasonably suspects is committing, has committed or is about to commit a violation of this Code or any ordinance of the Town, and may require that person to give his or her name, address and an explanation of his or her actions.

(2) When a police officer has stopped a person for questioning pursuant to this Subsection (a) and reasonably suspects that the officer's personal safety requires it, the officer may conduct a pat-down search of that person for weapons.

(3) A police officer may stop and temporarily detain a person for the purpose of issuing or serving a summons or summons and complaint.

(b) Authority to charge. A peace officer may issue a summons and complaint or sign a complaint against any person for any violation of this Code or any ordinance of the Town if:

(1) The violation has been or is being committed by a person in the officer's presence; or

(2) The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it.

(c) Authority to arrest and incarcerate.

(1) A police officer may arrest a person for a violation of this Code or any ordinance of the Town if:

a. The violation has been or is being committed by a person in the officer's presence; or

b. The officer has probable cause to believe that a violation has been or is being committed by the person and that the person has been or is committing it.

(2) Whenever any police officer is authorized by this Code to arrest any person, the officer has the authority to incarcerate that person if the officer has probable cause to believe that one (1) or more of the following conditions exist:

a. The person is not likely to desist from the conduct alleged to constitute a violation after issuance of a summons;

b. The person is unlikely to appear in Municipal Court in response to a summons (but the fact that the defendant does not reside in the Town is not alone such probable cause);

c. The person refuses or is unable to post the bond required by this Code;

d. The person refuses service of a summons;

e. The person refuses to sign the promise of appearance, if any, on the summons;

f. The person refuses to identify himself or herself by giving a complete name and address verifiable by reasonable supporting data; or

g. The person falsely identifies himself or herself.

(3) A police officer shall incarcerate any person when the officer has a warrant or writ commanding that such person be arrested or has received information, which the officer reasonably believes to be reliable, that such warrant or writ exists.

(d) Use of force. An arrest may be made on any day and at any time of the day or night. All necessary and reasonable force may be used in making an arrest. All necessary and reasonable force may be used to effect an entry upon any building or property or part thereof to make an authorized arrest.

(e) Town Attorney as prosecutor. The Town Attorney shall act as the prosecutor and represent the Town in all Municipal Court proceedings as appropriate, with all the privileges, immunities, powers and duties of such office. (Ord. 18-1994 §1-206)

ARTICLE 2

Attempt, Conspiracy, Complicity and Accessory

Sec. 10-2-10. Criminal attempt.

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

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

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent. (Ord. 18-1994 §2-101)

Sec. 10-2-20. Conspiracy.

(a) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he or she agreed with another

person 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 agreed to aid the other person 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. (Ord. 18-1994 §2-201; Ord. 11-2007 §1)

Sec. 10-2-30. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. 18-1994 §2-301)

Sec. 10-2-40. Accessory to crime.

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

(b) *Render assistance* means to:

- (1) Harbor or conceal the other;
- (2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;
- (3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;
- (4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or
- (5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person. (Ord. 18-1994 §2-401)

Sec. 10-2-50. Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the 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. 11-2007 §1)

ARTICLE 3

Government and Public Officers

Sec. 10-3-10. 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. 11-2007 §1)

Sec. 10-3-20. Impersonating a public servant.

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

(b) It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist. (Ord. 11-2007 §1)

Sec. 10-3-30. 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. 11-2007 §1)

Sec. 10-3-40. Obstructing a peace officer or firefighter.

(a) 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.

(b) No person shall, in any way, interfere with or hinder any police officer who is discharging or apparently discharging the duties of the position.

(c) It is unlawful to obstruct a peace officer or firefighter.

(d) A person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, he or she knowingly obstructs, impairs or hinders the enforcement of the law or the preservation of the peace by a peace officer, acting under color of his or her official authority,

or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his or her official authority.

(e) To assure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or fireman when, by using or threatening to use violence, force, physical interference or obstacle, he or she knowingly obstructs, impairs or hinders any such animal.

(f) It is no defense to a prosecution under this Section that the peace officer or firefighter was acting in an illegal manner, if the peace officer or firefighter was acting under color of his or her official authority as defined in Section 10-3-50(c) of this Code.

(g) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Ord. 18-1994 §8-102; Ord. 11-2007 §1)

Sec. 10-3-50. Resisting arrest.

(a) It is unlawful to resist arrest.

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

(c) 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, 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.

(d) The term *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. (Ord. 18-1994 §8-101; Ord. 11-2007 §1)

Sec. 10-3-60. Escape.

A person commits escape if, while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense, he or she knowingly escapes from said custody or confinement. (Ord. 18-1994 §8-201)

Sec. 10-3-70. False reporting to authorities.

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

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

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

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

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

- (5) 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. (Ord. 18-1994 §8-105; Ord. 11-2007 §1)

Sec. 10-3-80. Refusing to aid police officer.

A person eighteen (18) years of age or older commits refusing to aid a peace officer when, upon command by a person known to him 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 preventing the commission by another of any offense. (Ord. 18-1994 §8-103)

Sec. 10-3-90. Compounding.

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

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

(2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime. (Ord. 18-1994 §8-104)

ARTICLE 4

Streets and Public Places

Sec. 10-4-10. 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 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, 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) Necessary sanitation, health and safety measures adopted by any applicable governmental authority;

(5) 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;

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

(7) 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 limitations or prohibitions is prominently posted at all public entrances to such building or property or such notice is actually first given to the person by the officer 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. 9-2000 §1; Ord. 11-2007 §1)

Sec. 10-4-20. 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. 11-2007 §1)

Sec. 10-4-30. Interfering with use of streets or sidewalks; hindering transportation.

(a) 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.

(b) A person commits hindering transportation if he or she knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person, association or corporation. (Ord. 18-1994 §9-106; Ord. 11-2007 §1)

Sec. 10-4-40. 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. 11-2007 §1)

ARTICLE 5

Public, Private and Personal Property

Sec. 10-5-10. Criminal mischief.

It is unlawful to commit criminal mischief. A person commits criminal mischief if he or she knowingly 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). (Ord. 18-1994 §4-301; Ord. 11-2007 §1)

Sec. 10-5-20. Damaging or destroying public property.

No person shall damage, move, remove, destroy or injure in any manner whatsoever or cause to be damaged, moved, removed, destroyed or injured any grass, tree, shrub, plant, flower, railing, bridge, culvert, sign, building or any other property whatsoever belonging to the Town or under the possession and control of the Town, unless done pursuant to a written permit or contract from the Town. (Ord. 18-1994 §4-306)

Sec. 10-5-30. Desecration of venerated objects.

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

(b) The term *desecrate* means defacing, damaging, polluting or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his or her action or its result. (Ord. 18-1994 §9-105)

Sec. 10-5-40. Damaging or destroying private property.

It is unlawful for any person to either willfully, maliciously or wantonly damage or destroy real property or improvements thereto, or moveable or personal property, belonging to any person. (Ord. 11-2007 §1)

Sec. 10-5-50. Graffiti.

It is unlawful for any person to deface or cause, aid in or permit the defacing of public or private property without the consent of the owner by painting, drawing or writing, by use of

paint, spray paint or ink, or any other method of defacement. Upon conviction of this Section, the Court may order the person so convicted to personally repair any property damaged or properties similarly damaged, if possible. (Ord. 18-1994 §4-307)

Sec. 10-5-60. Defacing posted notice.

It is unlawful for any person to knowingly mar, destroy or remove any posted notice authorized by law. (Ord. 18-1994 §4-308; Ord. 11-2007 §1)

Sec. 10-5-70. Trespassing.

(a) Second degree criminal trespass. 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 are fenced, or if he or she knowingly and unlawfully enters or remains in or upon the premises of a hotel, motel, condominium or apartment building.

(b) Third degree criminal trespass. A person commits the crime of third degree criminal trespass if he or she unlawfully enters or remains in or upon the premises of another. (Ord. 18-1994 §§4-302, 4-303; Ord. 11-2007 §1)

Sec. 10-5-80. Littering of public and private property.

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

(b) The term *litter*, as used in this Section, means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

(c) The phrase *public or private property*, as used in this Section, includes, but is not limited to, the right-of-way of any road or highway; any body of water or watercourse, including frozen areas or the shores or beaches thereof; any park, playground or building; any refuge, conservation or recreation area; and any residential, farm or ranch properties or timberlands.

(d) It shall be an affirmative defense that:

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

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

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

(e) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom. (Ord. 18-1994 §4-309)

Sec. 10-5-90. Bottles, littering in parks.

(a) It is unlawful for any person to bring or to have in his or her possession any glass bottle in any park or other public area in the Town.

(b) It is unlawful for any person to bring in and dump, deposit or leave any bottles or other containers made of glass, any broken glass, ashes, papers, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash in or upon any park or other public area in the Town.

(c) It is unlawful for any person utilizing the facilities of any park or other public area in the Town to leave such area or facility without first completely extinguishing fires, after placing all trash in the nature of boxes, papers, cans or other containers, garbage and other refuse in the possession of such person in disposal receptacles, where provided. If no disposal receptacle is available, then such person shall carry away said refuse or trash in his or her possession from the area, to be disposed of in a proper and legal manner elsewhere. (Ord. 18-1994 §11-403; Ord. 11-2007 §1)

Sec. 10-5-100. Use of a noxious substance.

(a) It is unlawful for any person to deposit on the land or in the building or vehicle of another, without his or her consent, any stink bomb or device, irritant or offensive-smelling substance with the intent to interfere with another's use or enjoyment of the land, building or vehicle.

(b) It shall be an affirmative defense that a peace officer in the performance of his or her duties reasonably used a noxious substance. (Ord. 18-1994 §4-310; Ord. 11-2007 §1)

Sec. 10-5-110. 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 another without authorization or by threat or deception when the value of the thing is less than five hundred dollars (\$500.00), and he or she:

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

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

(3) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and 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. (Ord. 18-1994 §4-201; Ord. 11-2007 §1)

Sec. 10-5-120. Theft of rental property.

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

(1) Obtains the temporary use of personal property of another, 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;

(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 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. 11-2007 §1)

Sec. 10-5-130. 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 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, where the value of such thing is less than five hundred dollars (\$500.00). (Ord. 18-1994 §4-204; Ord. 11-2007 §1)

Sec. 10-5-140. 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. (Ord. 18-1994 §4-202)

Sec. 10-5-150. 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. 11-2007 §1)

Sec. 10-5-160. Motor vehicle theft.

It is unlawful to commit motor vehicle theft. A person who knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception commits motor vehicle theft. (Ord. 18-1994 §4-203; Ord. 11-2007 §1)

Sec. 10-5-170. Tampering and unauthorized connection.

(a) It is unlawful to commit tampering and unauthorized connection.

(1) 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.

(2) Any person who in any manner alters, obstructs or interferes 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 person owning said meter commits tampering and unauthorized connection.

(b) 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. 18-1994 §4-305; Ord. 11-2007 §1)

Sec. 10-5-180. Second degree criminal tampering.

Except as provided in Subsection 10-5-170(b), a person commits the crime of second degree criminal tampering if he or she 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. (Ord. 18-1994 §4-304)

Sec. 10-5-190. Fourth degree arson.

A person who knowingly or recklessly starts or maintains a fire or causes an explosion, on his or her own property or that of another, and by so doing places any building or occupied structure of another in danger of damage commits fourth degree arson. (Ord. 18-1994 §4-101)

ARTICLE 6

Public Peace, Order and Decency

Sec. 10-6-10. Disorderly conduct.

(a) 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) Abuses or threatens a person in a public place in an obviously offensive manner;

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

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

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

(6) 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 Subsection (a)(2) of this Section that the actor had significant provocation for his or her abusive or threatening conduct. (Ord. 18-1994 §9-101; Ord. 11-2007 §1)

Sec. 10-6-20. Disrupting lawful assembly.

It is unlawful to commit 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. 18-1994 §9-102; Ord. 11-2007 §1)

Sec. 10-6-30. 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, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone 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 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 was either made or received. (Ord. 18-1994 §9-103; Ord. 11-2007 §1)

Sec. 10-6-40. 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 possession of a controlled substance, as defined in Section 10-8-10 of this Chapter.

(c) It shall be an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievance, either in the course of labor disputes or otherwise. (Ord. 18-1994 §9-104; Ord. 11-2007 §1)

Sec. 10-6-50. Throwing stones or missiles.

(a) It is unlawful for any person to knowingly project any missile at or against any vehicle or equipment designed for the transportation of persons or property.

(b) No person shall throw or shoot any stone or other missile at or upon any person, animal, public or private property, building, structure, tree or shrub. (Ord. 18-1994 §9-107; Ord. 11-2007 §1)

Sec. 10-6-60. Reckless endangerment.

It is unlawful to commit reckless endangerment. A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment. (Ord. 18-1994 §3-102; Ord. 11-2007 §1)

Sec. 10-6-70. False imprisonment.

It is unlawful to commit false imprisonment. Any person who knowingly confines or detains another without the other's consent and without proper legal authority commits false imprisonment. This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties. (Ord. 18-1994 §3-103; Ord. 11-2007 §1)

Sec. 10-6-80. Menacing.

It is unlawful to commit menacing. A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury. (Ord. 18-1994 §3-101; Ord. 11-2007 §1)

Sec. 10-6-90. Assault.

(a) A person commits the crime of assault if he or she intentionally, knowingly or recklessly causes bodily injury to another; except that this provision shall not apply if such bodily injury is inflicted by means of a deadly weapon.

(b) It is unlawful to assault, beat, strike, wound, imprison or inflict violence on another. (Ord. 18-1994 §3-104; Ord. 11-2007 §1)

Sec. 10-6-100. False alarms.

It is unlawful for any person to intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor. (Ord. 11-2007 §1)

Sec. 10-6-110. 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. 11-2007 §1)

Sec. 10-6-120. Explosives.

It is unlawful for any person to store within the Town limits or within one (1) mile thereof any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high explosive in excess of one (1) fifty-pound box or in excess of five hundred (500) caps or other devices used for the detonation of such high explosives. (Ord. 11-2007 §1)

Sec. 10-6-130. 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. 11-2007 §1)

Sec. 10-6-140. 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 not having a sufficient balance in account with a bank or other drawee for the payment of a check or order when the check or order is presented

for payment and it remains unpaid thirty (30) days after such presentment. 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) A person commits fraud by check, which is unlawful, if he or she issues or passes a check or similar sight order for the payment of money 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, knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders outstanding at the time of issuance.

(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) This ordinance does not relieve the prosecution from the necessity of establishing the required knowledge by evidence. 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 days after issuance.

(f) 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.

(g) A bank savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the issuer'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. (Ord. 18-1994 §5-201; Ord. 11-2007 §1)

Sec. 10-6-150. Unlawfully using slugs.

(a) A person commits unlawfully using slugs if:

(1) With intent to defraud the vendor of property or a service sold by means of a coin machine, he or she knowingly inserts, deposits or uses a slug in such machine or causes the machine to be operated by any other unauthorized means; or

(2) He or she makes, possesses or disposes of a slug or slugs with intent to enable a person to use it or them fraudulently in a coin machine.

(b) *Slug* means any object or article which, by virtue of its size, shape or any other quality, is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token and of thereby enabling a person to obtain without valid consideration the property or service sold through the machine. (Ord. 18-1994 §5-101)

Sec. 10-6-160. Public indecency; public urination.

(a) 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.

(b) No person shall urinate or defecate while in any park within the Town limits, or on any property zoned for residential uses without the express permission of the owner, or within any portion of the Town zoned for business, industrial or public uses, unless such voiding is made into a receptacle that has been provided for that purpose that stores or disposes of the wastes in a sanitary manner and that is enclosed from the view of the general public. (Ord. 18-1994 §9-109; Ord. 11-2007 §1)

Sec. 10-6-170. Indecent exposure.

It is unlawful to commit indecent exposure. A person commits indecent exposure if he or she knowingly exposes his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 18-1994 §7-101; Ord. 11-2007 §1)

Sec. 10-6-180. Fireworks, Explosives and Firearms.

a. The selling or keeping for sale of fire crackers, roman candles or any form of fireworks or other thing of like nature containing powder or other combustible matters or explosive material of any nature whatsoever is hereby prohibited within the Town, without having obtained a license from the Town. Such license shall only permit the sale of those above named articles from the first to the fifth day of July, both days inclusive, except where the first day of July comes on Sunday of each year, then the license shall be good for one (1) more day and the place of sale within the Town shall not be assignable and shall not permit the sale of any of the above articles if prohibited by other applicable law. Such license may be revoked by Town, acting through the Town Administrator or

Mayor for cause, including violations of applicable law, at any time. The fee for said license shall be the current fee charged for a general business license, payable in advance. The application for said license shall be upon a form prepared by the Town Clerk and approved and shall be signed by the applicant. This subsection shall not be held to prohibit exhibitions of fireworks given under the authority of the Town on July 4, or any public holiday, at any public park or other area in the Town.

b. The firing of any cannon, gun or BB gun or firearm of any description, or the exploding of any fire cracker, roman candle, rocket or other thing containing powder or other combustible material is hereby prohibited within the Town, except that permission may be granted by the Town Administrator for the shooting of BB or air guns for the removal and elimination of doves, sparrows, pigeons or other birds or animals that may become nuisances, but the killing of which is not contrary to Federal or State laws which permit shall be limited as to person, time and place by the Town Administrator.

c. The shooting of bows and arrows and sling shots is hereby prohibited within the Town. (Ord. 11-2008).

ARTICLE 7

Minors

Sec. 10-7-10. Child abuse.

(a) A person commits child abuse if he or she causes an injury to a child's life or health or permits a child to be unreasonably placed in a situation which poses a threat of injury to the child's life or health.

(b) In this Section, *child* means a person under the age of sixteen (16) years.

(c) The statutory privilege between patient and physician and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this Section.

(d) No person, other than the perpetrator, complicitor, co-conspirator or accessory, who reports an instance of child abuse to law enforcement officials shall be subjected to criminal or civil liability for any consequence of making such report unless he or she knows at the time of making it that it is untrue.

(e) Deferred prosecution is authorized for a first offense under this Section. (Ord. 18-1994 §11-201; Ord. 11-2007 §1)

Sec. 10-7-20. 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. 11-2007 §1)

Sec. 10-7-30. 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 or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited

articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Ord. 11-2007 §1)

Sec. 10-7-40. 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 minor is forbidden by law to purchase. (Ord. 11-2007 §1)

Sec. 10-7-50. 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. 11-2007 §1)

10-7-55. Prohibition of Sale to or Possession of Tobacco Products by Minors.

- (a) No person shall, within the Town give, sell, distribute or offer for sale to any person who is under eighteen years of age any cigarettes or tobacco products.
- (b) No person under eighteen years of age shall, within the Town, possess any cigarettes or tobacco products
- (c) As used in this section, unless the context otherwise requires:
 - (i) "Cigarette" shall have the same meaning as set forth in § 39-28-202 (4), C.R.S.
 - (ii) "Possession" means that a person:
 - (1) Has or holds any amount of cigarettes or tobacco products anywhere on his or her person;
 - (2) Owns or has custody of cigarettes or tobacco products; or
 - (3) Has cigarettes or tobacco products within his or her immediate presence and control.

(iii) “Tobacco product” shall have the same meaning as set forth in §18-13-121 (5), C.R.S.

(Ord. 15-2008 §1)

Sec. 10-7-60. Curfew.

(a) It is unlawful for any parent, guardian or other person having care or custody of any child under the age of eighteen (18) years to allow or permit any such child to loiter or remain upon any street, alley or other public place, on foot or in or upon a vehicle, subsequent to the hour of 10:00 p.m. on Sunday through Thursday, and 11:00 p.m. Friday and Saturday, or prior to 6:00 a.m. Sunday through Saturday, except for lawful employment, school, church or other organized activity, or unless such child is accompanied by the parent, guardian or other person of the age of twenty-one (21) years having permission of the parent or guardian to have the custody or care of such child.

(b) It is unlawful for any child under the age of eighteen (18) years to loiter or remain upon any street, alley or public place, on foot or within or upon a vehicle, subsequent to the hour of 10:00 p.m. on Sunday through Thursday, and 11:00 p.m. Friday and Saturday, or prior to 6:00 a.m. Sunday through Saturday, except for lawful employment, school, church or other organized activity, or unless such child is accompanied by the parent, guardian or other person of the age of twenty-one (21) years having permission of the parent or guardian to have the custody or care of such child.

(c) Any person found guilty of violating this Section shall be fined not less than ten dollars (\$10.00) but not more than one hundred dollars (\$100.00) for each violation. (Ord. 18-1994 §11-301; Ord. 11-2007 §1)

ARTICLE 8

Alcoholic Beverages and Drugs

Sec. 10-8-10. Definitions.

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

Alcoholic beverages or *alcoholic liquors* means 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 all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, injecting, investing, inhaling or otherwise introducing into the human body a controlled substance in violation of state law. *Drug paraphernalia* includes, but is not limited to:

a. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of state law;

b. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

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

d. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

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

f. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; or

g. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material such as a marijuana cigarette that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine veils;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;
10. Air-driven pipes;
11. Chillums;
12. Bonges; or
13. Ice pipes or chillers.

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 including any members, employees and occupants associated therewith.

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.

In public means:

- a. In or upon any public highway, street, alley, walk, parking lot, building, park or other public property or place, whether in a vehicle or not;
- b. In or upon those portions of any private property upon which the public has an express or implied license to enter or remain; or
- c. In or upon any other private property without the express or implied permission of the owner or person in possession and control of such property or such person's agent.

Malt liquors 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.

Opened container means any container other than an original closed container as sealed or closed for sale to the public by the manufacturer or bottler of the liquor or beverage. If an original container has been unsealed, undone or opened in any manner, it is an opened container for purposes of this Section.

Possession of ethyl alcohol means that a person has or holds any amount of ethyl alcohol anywhere on his person, or that a person owns or has custody of ethyl alcohol, or has ethyl alcohol within his 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* does not include:

- a. Any establishment which has or is required to have a license pursuant to Articles 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 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.

Spirituuous liquors 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 spirituuous liquor.

Vinous liquors 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. 18-1994 §§6-101, 11-101, 11-102, 11-106, 11-107, 11-108 and 11-404; Ord. 11-2007 §1)

Sec. 10-8-20. License to manufacture, sell.

It is unlawful for any person to manufacture for sale, sell, barter, trade or offer to do so any fermented malt beverage without first having obtained a license therefor in accordance with state law. (Ord. 18-1994 §11-102)

Sec. 10-8-30. Conduct of alcohol-selling establishments.

(a) Definitions. For purposes of this Section, the following definitions shall apply:

Lewd or indecent displays means performing acts of or acts which simulate:

- a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- b. The touching, caressing or fondling of the breast, buttocks, anus or genitals;
- c. The displaying of the pubic hair, anus, vulva or genitals; or
- d. The displaying of the post-pubertal human female breast below a point immediately above the top of the areola or the displaying of the post-pubertal human female breast where the nipple only, or the nipple and areola only, are covered.

Nudity means uncovered or less than opaquely covered post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only, or the nipple and the areola only, are covered.

(b) Generally. Each licensee shall conduct his or her establishment in a decent, orderly and respectable manner and shall not permit within or upon the licensed premises the loitering of habitual drunkards or intoxicated persons, lewd or indecent displays, profanity, rowdiness, undue noise or other disturbance or activity

offensive to the senses of the average citizen or to the residents of the neighborhood in which the establishment is located.

(c) Begging drinks or beverages. No licensee, manager or agent shall permit, upon any licensed on-sale premises, anyone to loiter in or about the premises for the purpose of begging and soliciting any patron or customer or of visitor in such premises to purchase any drinks or beverages, of any type or nature whatsoever, for the one soliciting or begging.

(d) Consumption when sale unlawful. No licensee shall permit the consumption of malt, vinous or spirituous beverages or fermented malt beverages on the licensed premises at any time when the sale of such beverages is prohibited by laws.

(e) Employee solicitation of drinks or beverages. No licensee, manager or agent shall employ or permit, upon any liquor licensed on-sale premises, any employee waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg, procure or solicit the purchase or sale of drinks or beverages for the use of the one begging, procuring or soliciting, or for the use of any other employee.

(f) Gambling. No licensee for the sale of spirituous, vinous or malt beverages or fermented malt beverages shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine, apparatus or other thing contrary to this Article or to the laws of the State, or which is kept or used for the purpose of gambling, either directly or indirectly. This Article shall not be construed to prohibit the use of bona fide amusement devices which do not and cannot be adjusted to pay anything of value, and which may not be used for gambling, directly or indirectly, and for the scoring, achievement, use or operation of which no prize, reward or thing of value is offered or paid by any person.

(g) Nudity. No licensee for retail sale by the drink of spirituous, vinous or malt beverages or fermented malt beverages shall permit any person or persons to appear in a state of nudity within or upon the premises.

(h) Showing depictions of prohibited acts. No licensee for retail sale by the drink of spirituous, vinous or malt beverages or fermented malt beverages shall permit the showing of film, still pictures, electronic reproductions or other visual reproductions depicting any act or live performance prohibited by this Article. (Ord. 18-1994 §11-108; Ord. 11-2007 §1)

Sec. 10-8-40. Disturbances.

(a) It is unlawful for any licensee to permit any disturbance, undue noise or unlawful or disorderly act or conduct by any person or group of persons upon the premises.

(b) It is unlawful for any licensee, in any manner, to encourage or participate in any disturbance or unlawful act or disorderly conduct upon the premises; provided, however, that such licensee may use such lawful means as may be proper to protect his or her property or person from damage or injury.

(c) Any licensee shall immediately report to the police authority of the Town any unlawful or disorderly act, disorderly conduct or disturbance committed on the premises. Failure to so report shall be a violation of this Section.

(d) It shall not be a defense that the licensee was not personally present on the premises at the time of any violation of this Section, provided, however, that an agent, servant or employee of the licensee shall not be liable under this Section when absent from the premises while not on duty. (Prior code 3.04.23; Ord. 18-1994 §11-109; Ord. 11-2007 §1)

Sec. 10-8-50. Display of cards.

Every licensee of a place where fermented malt beverages are sold shall display at all times in a prominent place a printed card, with a minimum height of fourteen (14) inches and a width of eleven (11) inches, with each letter to be of a minimum height of one-half (½) inch, which shall read as follows:

WARNING

WELLINGTON LAW ENFORCEMENT
 AUTHORITIES MUST BE NOTIFIED OF ALL
 DISTURBANCES IN THIS ESTABLISHMENT.

(Prior code 3.04.23)

Sec. 10-8-60. Possession and consumption in public.

(a) It is unlawful for any person to consume, sell or serve within the Town limits any malt, vinous or spirituous liquors in or upon any street, alley, highway, public way and/or public building, except that this provision shall not apply to any place duly licensed pursuant to this Section for the sale of such liquors.

(b) Except as provided in Section 10-8-120 of this Article, no person within the Town limits shall possess an opened container of or consume any malt, vinous or spirituous liquor or fermented malt beverage in public, except upon premises licensed for consumption of the liquor or beverage involved.

(c) It is an affirmative defense to a charge of violating this Section that the premises were licensed by the Town or by the State for the consumption of the liquor or beverage involved, and any judge shall take judicial notice of the official records of such license and dismiss forthwith any charge to which this defense applies. If such dismissal is ex parte, the judge shall notify the Town Attorney, who may petition the court for permission to refile the charge.

(d) It is a specific defense to a charge of violating this Section that:

(1) The owner of the property involved or the owner's agent gave express permission to the accused or to members of the accused's class to perform the acts complained of; or

(2) The accused was transporting the liquor or beverage from one (1) place where it could be lawfully consumed directly and without delay to another such place, and the container was at all times during the transportation capped, corked or otherwise resealed with a firmly affixed waterproof lid. When the liquor or beverage was being transported in a motor vehicle, this defense is only available if the container was in the trunk or was not otherwise immediately accessible to the driver or any passenger. (Prior code 3.04.08; Ord. 18-1994 §11-107; Ord. 11-2007 §1)

Sec. 10-8-70. Sale of malt, vinous, spirituous liquors.

(a) It is unlawful for any licensed person to sell at retail fermented malt beverage, malt, vinous or spirituous liquors to any person under the age of twenty-one years, to a habitual drunkard or to an intoxicated person, 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. If a person who, in fact, is not twenty-one (21) years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this Section.

(b) It is unlawful for any person licensed to sell, serve or distribute any malt, vinous or spirituous liquors at any time other than the following:

(1) For consumption on the premises, on any Monday through Saturday and on any Sunday which falls on December 31, beginning each day at 12:00 midnight until 2:00 a.m. and from 7:00 a.m. until 12:00 midnight;

(2) For consumption on the premises, on any Sunday, other than any Sunday which falls on a December 31, and on Christmas, beginning at 12:00 midnight until 2:00 a.m. and from 8:00 a.m. until 8:00 p.m.;

(3) Notwithstanding Subparagraphs (1) and (2) of this Section, for consumption on the premises on the day following Christmas, beginning at 7:00 a.m. until 12:00 midnight; or

(4) Notwithstanding hotel and restaurant licensees, beer and wine licensees, tavern licensees, club licensees and arts licensees, upon the payment of an additional annual fee of two hundred dollars (\$200.00) to the local licensing authority, must have obtained a special license to sell, serve or distribute malt, vinous and spirituous liquors by the drink after the hour of 8:00 p.m. and until 12:00 midnight on any Sunday other than a Sunday which falls on a December 31, and Christmas. (Ord. 18-1994 §11-103; Ord. 11-2007 §1)

Sec. 10-8-80. 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, or to permit any fermented malt beverage, malt or vinous liquors to be sold or dispensed by a person under eighteen (18) years of age, or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.

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

(f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting. (Ord. 18-1994 §11-104; Ord. 11-2007 §1)

Sec. 10-8-90. Illegal possession or consumption by an underage person.

(a) Any person under twenty-one (21) years of age who possesses or consumes ethyl alcohol anywhere in the State commits illegal possession

or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(b) Illegal possession or consumption of ethyl alcohol by an underage person is a Class 2 petty offense and shall be punished by a fine of not more than one hundred dollars (\$100.00). The court, upon sentencing a defendant pursuant to this paragraph, may, in addition to any fine, order that the defendant perform up to twenty-four (24) hours of useful public service, subject to the conditions and restrictions of Section 18-1.3-507, C.R.S., and may further order that the defendant submit to and complete an alcohol education program or an alcohol treatment program at such defendant's own expense. The penalty assessment provisions of Section 18-1.3-503, C.R.S., shall not apply to any charge under this Section.

(c) It shall be 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 his or her parent or legal guardian who was present during such possession or consumption;

(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(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 ethyl alcohol by weight.

(d) 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.

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

(1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed ethyl alcohol 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 ethyl alcohol intoxication or impairment while present anywhere in this State.

(f) During any trial for a violation of Subsection (a) above, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label 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 ethyl alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" 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 was composed in whole or in part of ethyl alcohol.

(g) 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 ethyl alcohol to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (c)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Articles 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 ethyl alcohol to a person under twenty-one (21) years of age. (Ord. 18-1994 §11-106; Ord. 11-2007 §1)

Sec. 10-8-100. 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. 11-2007 §1)

Sec. 10-8-110. Open containers; permits.

(a) It is unlawful for any person to serve, consume or have any open container or keg of alcoholic beverage or fermented malt beverage in any municipal park in the Town, or any other public place, except by permit.

(b) Organized groups and family gatherings may obtain a one-day permit for 8:00 a.m. to 12:00 midnight, excepting the prohibitions of

Subsection (a) above and regulations contained in this Article, by making application for same, with payment of the required fee to the Town Administrator/Clerk at least twenty-four (24) hours in advance of such use.

(c) It is unlawful for any person to possess or consume by open container any alcoholic beverage, whether such possession is actual or constructive, in any public place as defined in Section 10-8-10 of this Chapter, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by 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. (Ord. 18-1994 §11-404; Ord. 11-2007 §1)

Sec. 10-8-120. Possession of drug paraphernalia.

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of state law.

(b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense.

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

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) The proximity of the object to controlled substances;
- (3) The existence of any residue of controlled substances on the object; and

(4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he or she knows or reasonably should know, could use the object to facilitate a violation of state law. (Ord. 18-1994 §6-102; Ord. 11-2007 §1)

Sec. 10-8-130. Possession of marijuana.

(a) *Cannabis* 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, but does 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 for any person to possess not more than one (1) ounce 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 not more than one (1) ounce 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 Article XVIII of the Colorado Constitution and applicable Colorado Law or the Dangerous Drugs Therapeutic Research Act. (Ord. 18-1994 §6-201; Ord. 11-2007 §1, Ord 6-2010, §1(B))

Sec. 10-8-140. 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. 18-1994 §6-301; Ord. 11-2007 §1)

ARTICLE 9

Weapons

Sec. 10-9-10. Definitions.

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.

Deadly weapon means any of the following which in the manner it is used or intended to be used is capable of producing death or serious bodily injury:

- a. A firearm, whether loaded or unloaded;
- b. A knife;
- c. A bludgeon; or
- d. Any other weapon, device, instrument, material, or substance, whether animate or inanimate.

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. (Ord. 11-2007 §1)

Sec. 10-9-20. Carrying concealed weapon.

(a) A person unlawfully carries a concealed weapon if such person knowingly and unlawfully:

- (1) Carries a knife concealed on or about his or her person; or
- (2) Carries a firearm concealed on or about his or her person;

(b) 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 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 such person's or another's person 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 state law to carry the weapon by the chief of police of a town, city or city and county or the sheriff of a county;
- (4) A peace officer, level I or level Ia, as defined in Section 18-1-901(3)(1)(I) or (II), C.R.S., performing the lawful discharge of his or her duties;
- (5) A peace officer, level II, as defined in Section 18-1-901(3)(1)(III), while on duty; or
- (6) A United States probation officer or a United States pretrial services officer while on duty and serving in the state of Colorado under the authority of rules and regulations promulgated by the judicial conference of the United States. (Ord. 18-1994 §10-101; Ord. 11-2007 §1)

Sec. 10-9-30. Carrying concealed weapon or possessing weapon on school grounds.

(a) A person unlawfully carries a concealed weapon if he or she knowingly and unlawfully and without legal authority carries, brings or has in his or her possession a deadly weapon as

defined in Section 10-9-10 above in or on the real estate and all improvements erected thereon of any public or private elementary or secondary school or any public or private college, university or seminary, 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 an employee of an educational institution which require the use of a deadly weapon or for the purpose of participation in an authorized extracurricular activity or athletic team.

(b) It shall not be an offense under this Section if:

(1) The weapon is unloaded and remains inside a motor vehicle while upon the real estate of any public or private college, university or seminary;

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

(3) The person is in a private automobile or other private means of conveyance and is carrying a weapon for lawful protection of that person's or another's person or property while traveling;

(4) The person, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to state law to carry the weapon by the chief of police of a town, city or city and county or the sheriff of a county;

(5) The person is a peace officer, level I or level Ia, as defined in Section 18-1-901(3)(1)(I) or (II), C.R.S.;

(6) The person is a peace officer, level II, as defined in Section 18-1-901(3)(1)(III), C.R.S., while on duty;

(7) The person is a peace officer, level IIIa, as defined in Section 18-1-901(3)(1)(IV.5), C.R.S. while on duty and under supervision; or

(8) The person has possession of the weapon for use in an educational program approved by a school, which program includes, but is not limited to, any course designed for the repair or maintenance of weapons. (Ord. 18-1994 §10-102; Ord. 11-2007 §1)

Sec. 10-9-40. 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 it unattended by a competent person immediately present.

(4) Have in his or her possession a firearm while he or she is under the influence of intoxicating liquor or of a controlled substance as defined in Section 10-8-10 of this Code. Possession of a permit issued under Section 18-12-105.1, C.R.S. is no defense to a violation of this Section.

(5) Knowingly aims, swings or throws a throwing star or nunchaku at another person, or knowingly possesses a throwing star or

nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, inaccessible container.

(b) Nothing contained in this Section shall prevent the use of any such instruments in shooting galleries or in any private grounds or residences under circumstances when such instrument can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence; 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.

(c) Nothing contained in this Section shall prevent the use of any such instruments by any peace officer as shall be necessary in the proper discharge of his or her duties. (Ord. 18-1994 §10-103; Ord. 11-2007 §1)

Sec. 10-9-50. Dangerous or deadly weapons; forfeiture.

(a) 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 10-9-20(b) above, and is subject to forfeiture to the Town as provided in Subsection (b) below.

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

(c) 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. (Ord. 11-2007 §1)

Sec. 10-9-60. 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. 11-2007 §1)

ARTICLE 10

Noise

Sec. 10-10-10. Unreasonable noise.

No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable. (Ord. 11-2007 §1)

Sec. 10-10-20. 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. 11-2007 §1)

Sec. 10-10-30. Disturbance; breach of peace.

It is unlawful for any person to make, countenance or assist in the making of undue or unnecessary noise, riot, disturbance or breach of peace on public or private property so as to disturb or cause to be disturbed the lawful peace and quiet of another person. (Ord. 18-1994 §9-108)

ARTICLE 11

Miscellaneous Offenses

Sec. 10-11-10. Gambling.

It is unlawful for any person to engage in gambling, namely, the risking of any money, credit, deposit or other thing of value for gain, contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but not including:

(1) Circumstances involving a person who engages in professional gambling, which entails aiding or inducing another to engage in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one (1) or more of the other participants;

(2) Any game, wage or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only and in which no person is participating, directly or indirectly, in professional gambling;

(3) Bona fide contests of skill, speed, strength or endurance in which the awards are made only to entrants or owners of the entries;

(4) Bona fide business transactions which are valid under the law of contracts; or

(5) Other acts or transactions nor or hereafter expressly authorized by law. (Ord. 18-1994 §11-110; Ord. 11-2007 §1)

Sec. 10-11-20. Burning.

No person shall kindle or maintain any bonfire or burn or permit to be burned any trash, paper, rubbish, wastepaper, wood, weeds, brush, plants or other combustible or flammable material anywhere within the Town limits or anywhere on Town property outside the Town limits, except when:

(1) The burning is in the course of an agricultural operation in the growing of crops as a gainful occupation and presents no fire hazard to other property in the vicinity and is expressly authorized by fire officials;

(2) The burning is for the noncommercial cooking of food for human beings;

(3) The burning is a smokeless flare or a safety flare used to indicate some danger to the public; or

(4) The burning is a training fire conducted by the Fire Department or a training fire conducted by another fire department and approved in writing by the Town Administrator/Clerk. (Ord. 18-1994 §11-402)

Sec. 10-11-30. Motorbikes, motorized skateboards, segways.

The operation anywhere within the Town, whether on private or public property, of any so-called motorbike, mini bike, dirt bike, motorized skateboard, segway or other such motorized vehicle not designed and equipped for operation on a public street or highway, is hereby declared and deemed a public nuisance, and it is unlawful for any person to cause or maintain such public nuisance. (Ord. 18-1994 §11-601; Ord. 11-2007 §1)

The operation of motorbikes, mini bikes or dirt bikes shall not be permitted on the public streets of the Town but may be permitted within the Town in areas approved by the Town Board or Town Administrator/Clerk including within areas designated as motor cross or BMX tracks in conjunction with supervised events approved in advance by the Board or Town Administrator/Clerk and operated by a franchisee designated by the Board. Before approval of any event, any supervising shall provide proof of adequate insurance coverage naming the Town as an additional insured, shall afford releases and waivers of liability acceptable to the Town Attorney and Town Administrator/Clerk, shall provide an event schedule, including a statement of safety policies and event times, and shall obtain from the Town and have in place a current business license. (Ord. 1-2009 §1).