

CHAPTER 10

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ARTICLE I

Offenses by or Against Public Officers and Government

Sec. 10-1. Refusing to aid a peace officer.

A person shall be in violation of this Section if he or she, when commanded to do so by a peace officer, 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. 128 §1 VIII, 1977)

Sec. 10-2. False reporting.

A person commits false reporting to authorities if:

- (1) He or she knowingly causes a fire alarm, or alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department or rescue squad; or
- (2) He or she knowingly makes a report to a law enforcement agency or peace officer of a crime or other incident within their official concern, which he or she knows did not occur.
- (3) He or she 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. (Ord. 128 §1 IX, 1977; Ord. 195 §1, 1993)

Sec. 10-3. Impersonating a peace officer.

A person who falsely pretends to be a peace officer and performs an act in that pretended capacity commits a violation of this Chapter. (Ord. 128 §1 X, 1977)

Sec. 10-4. Refusing to disperse.

A person shall be guilty of a violation of this Chapter if, after receiving a verbal or written order by a peace officer acting in the interest of public safety, he or she refuses to disperse, or leave the area designated in such order, within the time specified within such order. (Ord. 128 §1 XI, 1977)

Sec. 10-5. Resisting arrest.

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

- (1) Using or threatening the use of physical force or violence against the peace officer or another; or
- (2) Using any other means which creates a substantial risk of causing physical injury to the peace officer or another.

(b) It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which was in fact unlawful, if he or she was acting at the time under the color of his or her official authority. A peace officer acts under the color of his or her official authority when, in the course of assigned duties, he or she makes a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her. (Ord. 128 §1 IV, 1977)

Secs. 10-6—10-20. Reserved.

ARTICLE II

Offenses Against Public Decency

Sec. 10-21. Indecent exposure.

A person shall be guilty of a violation of this Chapter if he or she:

(1) In a manner calculated to alarm or to excite, exposes, in a public place, or a place open to public view, the external genitalia, or female breast; or

(2) Urinates or otherwise relieves himself or herself in a public place, or a place open to public view. (Ord. 128 §3, 1977)

Secs. 10-22—10-40. Reserved.

ARTICLE III

Offenses Against Property

Sec. 10-41. Criminal trespass.

(a) A person commits the crime of 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 premises which are fenced to exclude intruders.

(b) It shall be unlawful for any person to climb in or upon, to deface or damage in any way, to open or close any valve or to trespass upon the property immediately under the Town water tower, except for such persons authorized by the Board of Trustees to conduct necessary construction, maintenance or repair to the Town water tower. (Ord. 128 §2 I, 1977; Ord. 151 §4, 1981)

Sec. 10-42. Defacing property.

(a) Any person who destroys, defaces, removes or damages any historical monument is guilty of defacing property.

(b) Any person who destroys, defaces, aids in or permits defacing of any public or private property without the consent of the owner is guilty of defacing property. (Ord. 128 §2 III, 1977)

Sec. 10-43. 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 one thousand dollars (\$1,000.00), or such greater amount as may be authorized by Section 18-4-401, C.R.S., and:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;
- (2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
- (3) Uses, conceals or abandons the thing of value, intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or
- (4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person. (Ord. 195 §1, 1993; Ord. 2008-003 §1; Ord. 2010-004 §1)

Sec. 10-44. 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 one thousand dollars (\$1,000.00), or such greater amount as may constitute a class 1 misdemeanor under state law. (Ord. 195 §1, 1993; Ord. 2008-003 §1; Ord. 2010-004 §1)

Sec. 10-45. Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of the thing of value is less than one thousand dollars (\$1,000.00), or such greater amount as may constitute a class 1 misdemeanor under state law. (Ord. 195 §1, 1993; Ord. 2008-003 §1; Ord. 2010-004 §1)

Sec. 10-46. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than one thousand dollars (\$1,000.00), or such greater amount as may constitute a class 1 misdemeanor under state law, 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. 195 §1, 1993; Ord. 2008-O03 §1; Ord. 2010-O04 §1)

Sec. 10-47. Tampering and unauthorized connection.

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

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

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

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 195 §1, 1993)

Secs. 10-48—10-60. Reserved.

ARTICLE IV

Offenses Relating to Streets and Public Places

Sec. 10-61. Disorderly conduct.

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

- (1) Abuses or threatens a person in a public place in an obviously offensive manner;
- (2) Makes an unreasonable noise in a public place or near a private residence that he or she has no right to occupy;
- (3) Fights with another in a public place except in an amateur or professional contest of athletic skill; or

(4) Not being a police officer, discharges a firearm in a public place in a manner calculated to alarm. (Ord. 128 §1 III, 1977; Ord. 151 §1, 1981)

Sec. 10-62. Littering.

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

(b) It shall be an affirmative defense that such property is an area designated by law or authority for the disposal of such material and the person is authorized by the proper authority to so use the property.

(c) When any 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.

(d) The term *litter* means all rubbish, waste material, refuse, garbage, trash, debris or any other foreign substance solid or liquid. (Ord. 128 §4 III, 1977)

Sec. 10-63. Unlawful conduct on public property.

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

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

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

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

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

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

(6) Control and limitations 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 unless such notice is actually first given the person by the office or agency, including any agent thereof or by any law enforcement officer having jurisdiction or authority to enforce this Section.

(c) Any person who violates this Section is guilty of unlawful conduct on public property. (Ord. 195 §1, 1993)

Sec. 10-64. Public buildings; trespass; interference.

(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 chief administrative officer or his or her designee 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. 195 §1, 1993)

Sec. 10-65. Interfering with use of streets or sidewalks.

It shall be unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the Town shall obstruct, interfere with or prevent the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage

of any other person on that public highway, street, alley or sidewalk or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the Town or other authorized peace officer. (Ord. 195 §1, 1993)

Sec. 10-66. Injuring or destroying public property.

It shall be unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner injure or destroy real property, improvements thereto or moveable or personal property belonging to the Town. (Ord. 195 §1, 1993)

Sec. 10-67. Injury or removal of street signs.

It shall be unlawful for any person without proper authorization to remove, deface, injure or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street. (Ord. 195 §1, 1993)

Sec. 10-68. Discharge onto street.

(a) It shall be unlawful for any person to permit the flow or discharge into or onto any portion of any public street, alley, right-of-way or any public property or private property of any liquid or semiliquid or any other substance other than uncontaminated water from any property or vehicle or any other source. The person causing the flow into public streets, alleys, rights-of-way, or any public or private property shall immediately notify the local law enforcement authority of such flow and shall immediately take all necessary steps to clean up the unlawful discharge and shall be responsible for all costs and damages caused by such discharge.

(b) Nothing in this Section shall prevent any peace officer from issuing any summons for a violation of this Section. (Ord. 162 §2, 1983)

Secs. 10-69—10-80. Reserved.

ARTICLE V

Offenses Against Public Peace, Order and Safety

Sec. 10-81. Assault.

A person commits assault if he or she knowingly or intentionally causes bodily injury to another person, without the use of a deadly weapon. (Ord. 128 §1 I, 1977)

Sec. 10-82. 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 a person 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 or, without the consent of the owner thereof, onto private property or into a private residence;

(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) 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) Harassment is a misdemeanor.

(d) Any act prohibited by Subsection (a)(5) of this Section 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. 128 §1 II, 1977; Ord. 195 §1, 1993)

Sec. 10-83. Loitering.

It shall be unlawful for any persons to be upon any public way or place of public nature in such manner as to interfere with free and unobstructed use of such public way or place of public nature by any other person or persons or to be profane, lewd or wanton in speech or behavior in such public way or place. (Ord. 195 §1, 1993)

Sec. 10-84. Disturbing lawful assemblies.

No person shall disquiet or disturb any congregation or assembly met for religious worship or for any other lawful purpose, by making a noise or by rude and indecent behavior or profane discourse within the place of meeting or so near the same as to disturb the order or solemnity of the occasion; nor shall he or she disturb it in any other manner. (Ord. 195 §1, 1993)

Sec. 10-85. Storage of flammable liquids.

It shall be 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. 195 §1, 1993)

Sec. 10-86. Explosives.

It shall be 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. 195 §1, 1993)

Sec. 10-87. Abandoned iceboxes or vehicles and similar items.

Any person abandoning or discarding, in any public or private place accessible to children, any chest, closet, piece of furniture, refrigerator, icebox, motor vehicle or other article, having a compartment of a capacity of one and one-half (1½) cubic feet or more and having a door or lid which when closed cannot be opened easily from the inside, without tools or special knowledge, or who, being the owner, lessee or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition, violates this Chapter. (Ord. 128 §4 I, 1977)

Sec. 10-88. Burning trash or other matter.

Any person who intentionally, and without lawful authority, sets on fire, or cause to be set on fire, any trash, leaves, lumber, matter or grounds of any description, whether his or her own or those of another, except in a fireplace, stove or outdoor grill, for the purpose of heating a residence or preparing food, violates this Chapter. (Ord. 128 §4 II, 1977)

Sec. 10-89. Throwing of stones or missiles.

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. 195 §1, 1993)

Sec. 10-90. Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit or 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. 195 §1, 1993)

Sec. 10-91. Fraud by check.

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

(1) *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.

(2) *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.

(3) 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.

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

(5) 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.

(6) *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.

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

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

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

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

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

(f) A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to a sheriff, deputy sheriff,

undersheriff, police officer, district attorney, assistant district attorney, deputy district attorney or authorized investigator for a district attorney investigating or prosecuting a charge under this Section.

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

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

(2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue. (Ord. 195 §1, 1993; Ord. 2008-003 §1; Ord. 2010-004 §2)

Sec. 10-92. Accessory to crime.

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

(b) *Render assistance* means to:

(1) Harbor or conceal the other;

(2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;

(3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;

(4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or

(5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

(c) Being an accessory to crime is a misdemeanor if the offender knows that the person being assisted has committed or has been convicted of, or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated as a violation by this Code. (Ord. 195 §1, 1993)

Sec. 10-93. Reckless endangerment

A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment, which is a violation of this Code. (Ord. 195 §1, 1993)

Sec. 10-94. Fireworks.

(a) Definitions.

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

(2) Fireworks does not include:

a. Toy caps which do not contain more than twenty-five hundredths ($25/100$) of a grain of explosive compound per cap;

b. Sparklers, trick matches, cigarette loads, trick noisemakers, toy smoke devices and novelty auto alarms; or

c. Highway flares, railway fuses, ship distress signals, smoke candles and other emergency signal devices.

(b) Restrictions. It is unlawful for any person to offer for sale, expose for sale, sell, lend, give away, set fire to, discharge, use, explode or have in his or her possession with intent to offer for sale or use or to explode, any fireworks within the Town, except as provided for in this Code.

(c) Permits for display.

(1) The Board of Trustees may grant permits, within the Town, for supervised public displays of fireworks by the Town, fair associations, amusement parks and other organizations and groups. Such organizations or groups desiring such a permit shall file with the Town Clerk a written application for a permit. The application shall state the name of the organization or group, the date of the proposed public display of the fireworks, the name of the person or persons who will operate the display, the location of the display and the nature and type of fireworks to be displayed. The application shall be signed by the president or other principal officer of the organization or group making the application. The application must be filed at least fifteen (15) days in advance of the meeting of the Board of Trustees at which it is to be considered. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. Before a permit is granted, the operator, location and handling of the display shall be approved, after investigation, by the Chief of the Town Fire Department. No permit shall be transferable or assignable.

(2) No permit shall be required for such public display of fireworks by any county or district fair duly organized under the laws of the State. (Ord. 195 §1, 1993)

Secs. 10-95—10-110. Reserved.

ARTICLE VI

Offenses Relating to Alcoholic Beverages

Sec. 10-111. Definitions.

(a) *Alcoholic beverages* or *alcoholic liquors* means malt, vinous or spirituous liquors.

(b) *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.

(c) *Malt liquor* includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight.

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

(e) *Vinous liquor* means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 195 §1, 1993)

Sec. 10-112. Sales near schools.

It shall be unlawful for any person to sell, offer or expose for sale or gift, beer or any vinous, spirituous or malt liquors within a distance of five hundred (500) feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established. Nor shall this prohibition prevent the renewal upon the expiration thereof of any license in effect at such time authorizing such business within the restricted area hereby established. (Ord. 195 §1, 1993)

Sec. 10-113. Regulations concerning fermented malt beverages.

(a) It is unlawful to sell fermented malt beverage to any person under the age of twenty-one (21) years, or to any person between the hours of midnight and 5:00 a.m., or for any person under twenty-one (21) years to purchase or possess the same. It is unlawful to permit any fermented malt beverages to be sold or dispensed by a person under the age of twenty-one (21) years or to permit any such person to participate in the sale or dispensing thereof.

(b) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be of the age of twenty-one (21) years or more for the purpose of purchasing within the Town any fermented malt beverage.

(c) It is unlawful for any person over the age of twenty-one (21) years to purchase or attempt to purchase fermented malt beverage for a person under the age of twenty-one (21) years.

(d) It is unlawful for any minor under twenty-one (21) years of age to have in his or her possession fermented malt beverages in public places, including but not limited to, public streets, alleys, roads or highways. (Ord. 195 §1, 1993)

Sec. 10-114. Regulations concerning malt, vinous and spirituous liquors.

(a) It is unlawful for any person to sell malt, vinous or spirituous liquors as defined by state law to any person under the age of twenty-one (21) years or to permit any malt, vinous 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.

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

(c) It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any article which the person under the age of twenty-one (21) years of age is forbidden by law to purchase or possess.

(d) It is unlawful for any minor under twenty-one (21) years of age to have in his or her possession malt, vinous or spirituous liquors in public places, including but not limited to, public streets, alleys, roads or highways. (Ord. 195 §1, 1993)

Sec. 10-115. Illegal possession or consumption of alcoholic beverages by an underage person.

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

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

(2) *Private property* means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public, and privately owned real property which is not open to the public. Private property shall not include:

a. Any establishment which has or is required to have a license pursuant to Article 46, 47 or 48 of Title 12, C.R.S.;

b. Any establishment which sells alcoholic beverages or upon which alcoholic beverages is sold; or

c. Any establishment which leases, rents or provides accommodations to members of the public generally.

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

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

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

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

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

(e) During any trial for a violation of Subsection (b) 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 alcoholic beverages. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages. (Ord. 195 §1, 1993)

Sec. 10-116. Open container, service or consumption in public areas.

(a) It is unlawful for any person to serve, consume or have any open container of liquor, fermented malt beverage or alcoholic beverage when on, in or using by conveyance or otherwise, any public street, parking lot, alley, park, public place, avenue or sidewalk within the Town.

(b) This Section shall not apply to the purchase or consumption of alcoholic beverages from a group or organization holding a special event permit issued by the Town, which event may occur on or near any sidewalk, alley, parking lot, park or public place within the Town for which the special event permit has been lawfully obtained. (Ord. 2000-5 §1)

Secs. 10-117—10-130. Reserved.

ARTICLE VII

Offenses Relating to Weapons

Sec. 10-131. Carrying concealed weapons.

(a) A person violates this Chapter if he or she knowingly and unlawfully:

- (1) Carries a firearm concealed on or about his or her person;
- (2) Carries a knife concealed on or about his or her person; or
- (3) Carries an illegal weapon, as defined in Section VI 10-132 below, concealed on or about his or her person.

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

- (1) In his or her own dwelling or place of business or on property owned or under his or her control at the time of carrying;
- (2) In a private automobile or other private means of conveyance, and who carries the weapon for lawful protection of his or her own or another's person or property, while traveling;
- (3) A person who, prior to the time of carrying a concealed weapon, had been issued a permit for the carrying of such weapon by the chief of police of a city, the mayor of a town or the sheriff of a county; or
- (4) A peace officer in the performance of his or her duty. (Ord. 128 §1 V, 1977)

Sec. 10-132. Possessing an illegal weapon.

(a) As used in this Article, the term *illegal weapon* means a blackjack, sap, club, bomb, firearm silencer, gas gun, short shotgun or a shotgun with a barrel less than twenty-two (22) inches in length, gravity knife, num-chucks or any type of knife with a blade three and one-half (3½) inches in length or longer.

(b) No person shall knowingly possess an illegal weapon within the Town. (Ord. 128 §1 VI, 1977; Ord. 151 §2, 1981)

Sec. 10-133. Discharging a firearm.

It shall be unlawful for any person not a police officer to discharge a firearm within the Town limits. (Ord. 128 §1 VII, 1977)

Secs. 10-134—10-150. Reserved.

ARTICLE VIII

Offenses Relating to Minors

Sec. 10-151. Wrongs to children.

It shall be unlawful for any person having the care, custody, control or confidence of or influence over any child to willfully cause or permit the life of such child to be endangered, the health of such child to be injured or the morals of such child to be impaired, or to willfully cause or permit such child to be placed in such a situation, business or occupation that such child's life, health or morals shall be endangered; to willfully abandon such child; or to torture, torment, cruelly punish or willfully or negligently deprive such child of necessary food, clothing or shelter or in any other manner injure such child unnecessarily. (Ord. 195 §1, 1993)

Sec. 10-152. Parent or guardian aiding, abetting.

It shall be unlawful for any person to knowingly permit any minor child or children to aid, abet or encourage in or to approve, encourage, allow, permit, tolerate or consent to the violation by any minor child or children, of any provision of this Article or any ordinances of the Town. (Ord. 195 §1, 1993)

Sec. 10-153. Encouraging delinquency.

It shall be 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. 195 §1, 1993)

Sec. 10-154. False statement; false credentials.

It shall be 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. (Ord. 195 §1, 1993)

Sec. 10-155. Services of others.

It shall be 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. 195 §1, 1993)

Sec. 10-156. Loitering and other acts in or about schools.

It shall be 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. 195 §1, 1993)

Sec. 10-157. Use and possession of tobacco products by minors prohibited.

(a) Intent. It is the intent of this Section to protect the public health, safety and welfare by prohibiting the possession and use of tobacco products by minors and by prohibiting the dissemination and furnishing of tobacco products to minors.

(b) Definitions. As used in this Section, the following words or phrases are defined as follows:

Minor means any person younger than eighteen (18) years of age.

Retailer means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption or who operates a facility where vending machines or self-service displays are permitted under this Section.

Smoking means the holding or carrying of a lighted pipe, lighted cigar or lighted cigarette of any kind and includes the lighting of a pipe, cigar or cigarette of any kind.

Tobacco product means any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(c) Unlawful possession or use of tobacco products by minors.

(1) It shall be unlawful for any minor to knowingly possess, consume or use, either by smoking, ingesting, absorbing or chewing, any tobacco product.

(2) It shall be unlawful for any minor to knowingly obtain or attempt to obtain any tobacco product by misrepresentation of age or by any other method.

(3) It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identified the package or container as containing a tobacco product.

(4) The Municipal Court may, in its discretion and as part of the sentence to be imposed, require a person convicted of violating any portion of this Section to complete court-approved public service in an amount up to twenty-four (24) hours. Additionally, upon the first conviction of any person, the Court shall emphasize education as a component of any sentence.

(d) Unlawful furnishing of tobacco products to minors.

(1) It shall be unlawful for any person to knowingly furnish to any minor, by gift, sale or any other means, any tobacco product.

(2) Each retailer shall verify by means of photographic identification containing the bearer's date of birth that a person purchasing a tobacco product is eighteen (18) years of age or older. No such verification is required for any person over the age of twenty-six (26). It shall be an affirmative defense to a prosecution under this Section that the person furnishing the tobacco product was presented with and reasonably relied upon photographic identification containing the bearer's date of birth which identified the minor receiving the tobacco product as being eighteen (18) years of age or older.

(e) Retail sale of tobacco products.

(1) It shall be unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to engage, employ or permit any minor to sell tobacco products from such retail business.

(2) It shall be unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to stock or display a tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of an adult business employee for each transaction. The provisions of this Section shall not apply to stores possessing a valid retail liquor license as defined by the Colorado Liquor Code. The provisions of this Section shall not apply to vending machines meeting the requirements of Subsection (f) below.

(f) Vending machines.

(1) It shall be unlawful for any person to sell or offer to sell any tobacco product by use of a vending machine or other coin- or currency-operated machine, except that tobacco products may be sold at retail through vending machines only in places to which minors are not permitted access and such vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner.

(2) It shall be unlawful for any person to possess or allow upon premises controlled by such person an operable vending machine containing any tobacco product unless such vending machine is located in a place where minors are not permitted access and such vending machine is under direct supervision of the owner of the establishment or an adult employee of the owner.

(3) As used in this Section, *under direct supervision* means the vending machine shall be in plain vision of the adult employee or owner during regular business hours. (Ord. 1999-7 §1, 1999)

Sec. 10-158. Curfew established.

(a) It shall be unlawful for any person under the age of eighteen (18) years to loaf, play, loiter or remain upon the streets, public parks, alleys or any private unoccupied or vacant lot, block or building within the limits of the Town between the hours of 11:00 p.m. and 6:00 a.m. This Section shall not apply to persons meeting the following criteria:

- (1) A person engaged in lawful employment.
- (2) Any person engaging in religious activities protected by the First Amendment of the United States Constitution.
- (3) Any person accompanied by a parent, guardian or other person at least twenty-one (21) years of age or having the permission of the parent or guardian to have custody of such person.

(b) *Public place* shall include any street, alley, highway, sidewalk, park, playground, public right-of-way or place to which the general public has access for business, entertainment or other lawful purpose. A *public place* shall include, but not be limited to, any store, shop, restaurant, tavern, cafe or other business and shall also include the area immediately surrounding any of the above. (Ord. 1-96 §1, 1996)

Secs. 10-159—10-170. Reserved.

ARTICLE IX

Noise

Sec. 10-171. Disturbing the peace.

It shall be unlawful for any person to disturb the peace of another, or the community as a whole by:

- (1) Permitting any domestic animal to make a loud, continuous or bothersome noise, to the discomfiture of any person;
- (2) The sounding of a horn or audible signaling device for any unnecessary or unreasonable period of time;
- (3) Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television set, phonograph or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at the property boundary of the source or plainly audible through party walls within a building or plainly audible at fifty (50) feet from such device when operated within a vehicle parked on a public right-of-way. (Ord. 128 §1 XII, 1977; Ord. 151 §3, 1981)

Sec. 10-172. Unlawful use of sound amplifying equipment.

(a) A person commits a violation of this Chapter if he or she uses or operates sound amplifying equipment:

- (1) Out-of-doors, except between 9:00 a.m. and 10:00 p.m.;
- (2) Indoors, but for projection of the sound so as to reach persons out-of-doors, except between 9:00 a.m. and 10:00 p.m.;
- (3) At a sound level higher than necessary to accomplish the purposes for which the permit from the Board of Trustees was granted; or
- (4) Within five hundred (500) feet of any place where the Board of Trustees or any legally constituted municipal court is in session.

(b) It shall be an affirmative defense that the defendant has been granted a permit from the Board of Trustees and that the use and operation of the sound amplifying equipment were consistent with the use authorized by the permit.

(c) *Sound amplifying equipment*, as used in this Section, shall mean any machine or device for the amplification of the human voice, music or any other sound, and shall not be construed as including such equipment when used in a normal and reasonable manner in or about a residence, business establishment or standard automobile when used and intended to be heard only by the occupants thereof, or as including warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes. (Ord. 118 §2, 1975)

Sec. 10-173. Machine noise.

It shall be unlawful for any person to cause or permit the operation of any machine or device or to otherwise cause noise that is clearly audible at a distance of fifty (50) feet or more from the property line of the property owned by such person between the hours of 10:00 p.m. and 7:00 a.m.; if such noise disturbs the sleep of any person of ordinary sensibilities between the hours of 10:00 p.m. and 7:00 a.m. No person shall be convicted of a violation of this Section without the testimony of two (2) persons who have heard the noise, one (1) of whom may be a police officer, or testimony of one (1) person and other competent evidence establishing the existence of the prohibited noise. (Ord. 162 §1, 1983)

Sec. 10-174. Animal noise.

(a) No person, owner, keeper, harbinger or other person responsible for a dog, domestic animal or pet shall permit such dog, other domestic animal or pet to bark, howl, whine or make any continuous or intermittent noise so as to disturb or annoy any person of ordinary sensibilities during any time of the day or night.

(b) No person shall be convicted of a violation of this Section without two (2) witnesses who have heard the barking, howling, whining or other noise, one (1) of whom may be a peace officer or

testimony of one (1) person and other competent evidence establishing the existence of the prohibited barking, howling, whining or other noise. (Ord. 162 §3, 1983)

Secs. 10-175—10-190. Reserved.

ARTICLE X

Controlled Substances

Sec. 10-191. Marijuana.

It shall be unlawful for any person who is not authorized to have in his or her possession medical marijuana as is otherwise authorized by state law, and who possesses, displays, consumes or uses not more than two (2) ounces of marijuana or any derivative thereof. Such possession, display, consumption or use is a violation of this Code. (Ord. 2010-001 §2; Ord. 2010-004 §3)

Secs. 10-192—10-210. Reserved.