

Cherry Hills Village Municipal Code

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ARTICLE I

General Provisions

Sec. 10-1-10. 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 renders assistance to such person.

(b) *Render assistance* means to:

(1) Harbor or conceal the other;

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

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

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

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

(c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class. (Ord. 9 §1, 2003)

Sec. 10-1-20. 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 City, 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 City is likewise guilty of such offense. (Ord. 9 §1, 2003)

Sec. 10-1-30. Confiscation.

In all cases of arrest under the terms of this Chapter, the arresting officers are hereby authorized to confiscate the property involved and to deliver the same to the Chief of Police, to be held by him until final determination of the prosecution of said offense. Upon a finding of guilt, the Municipal Judge may order forfeiture of such property and deliver the same to the Chief of Police for destruction or for the account of the City. (Prior code 9-2-3-3)

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Sec. 10-1-40. Penalty.

Any person who violates any provision of this Chapter shall, upon conviction thereof, be punished as set forth in Section 1-4-20 of this Code. (Ord. 7, 1955; 1980 Code; prior code 9-2-3-4; Ord. 9 §1, 2003)

ARTICLE II

Government and Public Officers

Sec. 10-2-10. Definitions.

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

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

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. 9 §1, 2003)

Sec. 10-2-20. Impersonating a police officer.

Any person who, without due authority, dresses in the uniform of, or in a uniform which is an imitation or colorable imitation of the uniform adopted and worn by, a City police officer, who exercises or attempts to exercise the authority of a police officer, or who claims, pretends or holds himself out to be such a police officer is guilty of impersonating a police officer. (Prior code 9-2-4-3; Ord. 9 §1, 2003)

Sec. 10-2-30. Obstructing government operations.

(a) It is unlawful to obstruct government operations.

(b) A person commits obstructing government operations if he 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. 9 §1, 2003)

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

(d) A person commits obstructing a police officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, such person knowingly obstructs, impairs or hinders the enforcement of the law or the preservation of the peace by a police officer, acting under color of his official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his official authority.

(e) It is no defense to a prosecution under this Section that the police officer or firefighter was acting in an illegal manner, if the police officer or firefighter was acting under color of his official authority as defined in Subsection 10-2-50(c) of this Code.

(f) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Ord. 9 §1, 2003)

Sec. 10-2-50. Resisting an officer; resisting arrest.

(a) It is unlawful for any person to resist the Chief of Police, any police officer, fireman, the Animal Control Officer or any person duly empowered with peace officer authority, while in the discharge or apparent discharge of his duty, or in any way to interfere with or hinder him in the discharge or apparent discharge of his duty.

(b) It is unlawful to resist arrest. A person commits resisting arrest if he knowingly prevents or attempts to prevent a police officer, acting under color of his official authority, from effecting an arrest of the actor or another by:

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

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

(c) It is no defense to a prosecution under this Section that the police officer was attempting to make an arrest which in fact was unlawful, if the police officer was acting under color of his official authority, and in attempting to make the arrest, the police officer was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts *under color of his official authority* when, in the regular course of assigned duties, the police officer 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 the police officer.

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(d) The term *police officer* as used in this Section means a police officer in uniform or, if out of uniform, one who has identified himself by exhibiting his credentials as such police officer to the person whose arrest is attempted. (Prior code 9-2-4-1; Ord. 9 §1, 2003)

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

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

(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 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 knows that he 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. 9 §1, 2003)

Sec. 10-2-70. Duty of citizens to render aid.

It is the duty of all persons when called upon by the Chief of Police, any police officer, fireman, the Animal Control Officer or any police officer to promptly aid and assist such officer or member in the discharge of his duties. (Prior code 9-2-4-2; Ord. 9 §1, 2003)

ARTICLE III

Streets and Public Places

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

(a) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself 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:

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- (1) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings, grounds and other structures, and any object of scientific, historical or scenic interest;
- (2) Restriction or limitation of the use of such public buildings or property as to time, manner or permitted activities;
- (3) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance;
- (4) Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted;
- (5) Use of all vehicles as to place, time and manner of use; and
- (6) Control and limitation of fires and designation of places where fires are permitted.

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

(c) Any person who violates this Section is guilty of unlawful conduct on public property. (Ord. 9 §1, 2003)

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

(a) No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the City 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 City 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.

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(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. 9 §1, 2003)

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

It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the City 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 City or other authorized police officer. (Ord. 9 §1, 2003)

Sec. 10-3-40. Damage or removal of street signs.

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street. (Ord. 9 §1, 2003)

ARTICLE IV

Public, Private and Personal Property

Sec. 10-4-10. Criminal mischief.

It is unlawful for any person to knowingly damage the real or personal property of one (1) or more other persons in the course of a single criminal episode where the aggregate damage to the real or personal property is less than one thousand dollars (\$1,000.00). (Ord. 9 §1, 2003; Ord. 13 §1, 2007)

Sec. 10-4-20. Destroying or removing public or private property.

It is unlawful for any person to willfully, maliciously, wantonly, negligently or in any other manner injure, damage, destroy or remove without authorization any property, real or personal, owned by the City or by any person. (Ord. 4, 1970; prior code 9-2-6-2; Ord. 9 §1, 2003)

Sec. 10-4-30. Trespassing.

It is unlawful for any person to trespass upon, use or occupy the premises of another person without authority to do so from the owner or lawful occupant thereof. It is further unlawful for any person willfully and intentionally to deprive the owner or lawful occupant of the use, benefit or enjoyment of such premises. Nothing in this Section shall be construed as altering, amending or affecting

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the laws governing acquisition of property, or rights therein, by adverse possession, and nothing in this Section makes lawful door-to-door solicitation, as permitted by Section 10-10-20 of this Code, unlawful. (Ord. 4, 1970; prior code 9-2-6-1; Ord. 9 §1, 2003; Ord. 08 §1, 2008)

Sec. 10-4-40. Littering.

(a) It is unlawful to throw or deposit in any street, alley, sidewalk or public grounds in the City any paper, old clothes, cloth of any kind, boots, shoes, hats, leather, hair, grass, junk cars, straw, hay, trash or any other thing, except in public receptacles and authorized private receptacles.

(b) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the City or upon private property. (Ord. 9 §1, 2003)

Sec. 10-4-50. Theft.

It is unlawful for a person to commit theft. A person commits theft when he or she knowingly obtains or exercises control over anything of another without authorization or by threat or deception when the value of the thing is less than one thousand dollars (\$1,000.00), 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 or 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. 9 §1, 2003; Ord. 13 §2, 2007)

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

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if 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). (Ord. 9 §1, 2003; Ord. 13 §3, 2007)

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

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of such thing is less than one thousand dollars (\$1,000.00). (Ord. 9 §1, 2003; Ord. 13 §4, 2007)

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

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than one thousand dollars (\$1,000.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 9 §1, 2003; Ord. 13 §5, 2007)

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

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

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

(c) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he 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. 9 §1, 2003)

ARTICLE V

Public Peace, Order and Decency

Sec. 10-5-10. Disorderly conduct.

(a) A person commits disorderly conduct if he 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;

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(3) Makes unreasonable noise in a public place or near a private residence that he 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 police officer, discharges a deadly weapon in a public place except when engaged in lawful target practice or hunting; or

(6) Not being a police 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 abusive or threatening conduct. (Prior code 9-2-3-1; Ord. 9 §1, 2003)

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

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 9 §1, 2003)

Sec. 10-5-30. Harassment.

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

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

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

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

(4) Initiates communication with a person, anonymously or otherwise by telephone, computer, computer network or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone, computer, computer network or computer system which is obscene;

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or

(7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not

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said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by subparagraph (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received. (Ord. 9 §1, 2003)

Sec. 10-5-40. Loitering.

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

(b) It is unlawful for a person to:

(1) Loiter for the purpose of begging;

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

(3) Loiter 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, loiter in or about a school building or 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 not having written permission from a school administrator or having been asked to leave by a school administrator or his representative or by a police officer; or

(5) Loiter with one (1) or more persons for the purpose of unlawfully using or possessing a narcotic or dangerous drug.

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

(d) In all cases of arrest under the terms of this Section, the violators may be kept or caused to be kept in custody by the arresting officers, unless lawfully released on bond, until trial. (1980 Code; prior code 9-2-8; Ord. 9 §1, 2003)

Sec. 10-5-50. Assault.

(a) An assault is an unlawful attempt of a person, coupled with a present ability, to commit a bodily injury on another person.

(b) It is unlawful to assault, beat, strike, wound, imprison or inflict violence on another. (Ord. 9 §1, 2003)

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Sec. 10-5-60. False alarms.

Any person who shall intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor. (Ord. 9 §1, 2003)

Sec. 10-5-70. 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 City or in any other part of the City, except those areas zoned for such uses. (Ord. 9 §1, 2003)

Sec. 10-5-80. Explosives.

It is unlawful for any person to store within the City 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. 9 §1, 2003)

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

It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, structure or dwelling under his 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. 9 §1, 2003)

Sec. 10-5-100. Throwing of objects threatening public health and safety prohibited.

No person shall throw or shoot any object at or upon any person, vehicle, animal or property, if such action causes a threat to public health or safety. (Ord. 9 §1, 2003; Ord. 8 §1, 2009)

Sec. 10-5-110. 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 of a person authorized to draw the check on himself.

Insufficient funds means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account

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with the drawee, or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for "no account" shall also be deemed to be dishonored for insufficient funds.

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

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

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

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

(c) Any person, having acquired rights with respect to a check which is not paid because the drawer has insufficient funds, shall have standing to file a complaint under this Section, whether or not he 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 has no account upon which the check or order is drawn with the bank or other drawee at the time he issues the check or order; or

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(2) He 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. 9 §1, 2003; Ord. 13 §6, 2007)

Sec. 10-5-120. Public indecency.

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

- (1) An act of sexual intercourse or deviate sexual intercourse;
- (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or
- (3) A lewd fondling or caress of the body of another person. (Ord. 9 §1, 2003)

Sec. 10-5-130. Indecent exposure.

(a) It is unlawful for any person to appear in public in a state of nudity or to commit or attempt to commit in the presence of another in a place open to the public view any indecent, wanton or lascivious act.

(b) In all cases of arrest under the terms of this Section, the violators shall be kept or caused to be kept in custody by the arresting officers, unless lawfully released on bond, until trial. (Ord. 10, 1955; 1980 Code; prior code 9-2-5-1, 9-2-5-2; Ord. 9 §1, 2003)

ARTICLE VI

Minors

Sec. 10-6-10. Curfew.

(a) It is unlawful for any person under the age of eighteen (18) years, unless accompanied by a parent, guardian or other adult person twenty-one (21) years of age or older, to congregate or loiter, either on foot or in or upon any conveyance being driven or parked on or about any street, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground or yard, whether public or private, without the consent or permission of the owner or occupant thereof during the following hours:

(1) Between 11:00 p.m. and 5:00 a.m. on Sunday, Monday, Tuesday, Wednesday and Thursday; or

(2) Between 12:00 a.m. and 5:00 a.m. on Friday or Saturday, or any night preceding a national holiday, according to the applicable time standard then in effect for the City, unless accompanied by a parent, guardian or other adult person over the age of twenty-one (21) years.

(b) Definitions:

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(1) As used in this Section, *loitering* or *loiter* shall mean remaining idle in essentially one (1) location, to be dilatory, to tarry or to dawdle, and shall include, but not be limited to, standing around, hanging out, sitting, kneeling, sauntering or prowling.

(2) As used in this Section, *public place* means a place to which the public or a substantial number of the public has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities. (Prior code 9-2-9; Ord. 7, 1990; Ord. 9 §1, 2003)

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

It is unlawful for any person to knowingly permit any minor child, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the City. (Ord. 9 §1, 2003)

Sec. 10-6-30. Encouraging delinquency.

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended. (Ord. 9 §1, 2003)

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

It is unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Ord. 9 §1, 2003)

Sec. 10-6-50. Services of others.

It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase. (Ord. 9 §1, 2003)

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

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

(1) Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school;

(2) Annoy, disturb, assault or molest any student or employee of any such school, college or seminary while in any such school building or on any school grounds;

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(3) Conduct himself 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. 9 §1, 2003)

ARTICLE VII

Alcoholic Beverages and Drugs

Sec. 10-7-10. Definitions.

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

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

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

Drug paraphernalia means any machine, instrument, tool, equipment or device which is primarily designed and intended for one (1) or more of the following:

- a. To introduce into the human body any controlled substance under circumstances in violation of state law;
- b. To enhance the effect on the human body of any controlled substance under circumstances in violation of state law;
- c. To conceal any quantity of any controlled substance under circumstances in violation of state law; or
- d. To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of state law.

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

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

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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.

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

- a. Any establishment which has or is required to have a license pursuant to Article 46, 47 or 48 of Title 12, C.R.S.;
- b. Any establishment which sells alcoholic beverages or upon which alcoholic beverages are sold; or
- c. Any establishment which leases, rents or provides accommodations to members of the public generally.

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

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

Vinous liquor means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 9 §1, 2003)

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

(a) It is unlawful for any person under the age of twenty-one (21) years to represent himself to be over the age of twenty-one (21) years for the purpose of purchasing within the City 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.

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(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. 9 §1, 2003)

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

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

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

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

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

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

(d) Prima facie evidence of a violation of Subsection (a) 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

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

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

(f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age. (Ord. 9 §1, 2003)

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

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of five hundred (500) feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal, upon the expiration thereof, of any license in effect at such time authorizing such business within the restricted area hereby established. (Ord. 9 §1, 2003)

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

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

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

(c) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages. (Ord. 9 §1, 2003)

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Sec. 10-7-60. Open container.

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 10-7-10 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 City; 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. 9 §1, 2003)

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

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

(b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense. (Ord. 9 §1, 2003)

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

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

(b) It is unlawful to possess one (1) ounce or less of cannabis or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine as set forth in Appendix A to this Code.

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

(d) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act. (Ord. 9 §1, 2003)

Sec. 10-7-90. Abusing toxic vapors.

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

(b) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous

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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. 9 §1, 2003)

ARTICLE VIII

Weapons

Sec. 10-8-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) It is an affirmative defense to any provision of this Article, that the act was committed by a police officer in the lawful discharge of his duties. (Ord. 9 §1, 2003)

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

(a) Except as provided in Subsections (c) and (e) hereof, it is unlawful for any person to wear under his clothes or concealed about or upon his person, to display in a threatening manner or to flourish any dangerous or deadly weapon, including, but not by way of limitation, any pistol, revolver, short-barreled rifle, shotgun, air gun, gas-operated gun, spring gun, slingshot, black jack, club, bill, brass knuckles, knuckles of any material whatsoever, Bowie knife, dirk, dagger, knife resembling a Bowie knife, or any other dangerous or deadly weapon.

(b) It is unlawful for any person to use, possess or carry any knife having the appearance of a pocket knife, the blade of which exceeds three and one-half (3½) inches in length and which can be opened by a flick of a button, pressure on the handle or other mechanical contrivance. Any such knife is hereby declared to be a dangerous or deadly weapon within the meaning of Subsection (a) above.

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

(d) Nothing in this Section shall be construed to forbid a police officer or any duly appointed or elected enforcement officer of the various law enforcement agencies of the United States or of the State, any sheriff, deputy or ex officio police officer from carrying, wearing or using such weapons as shall be necessary while on duty in the proper discharge of his duties.

(e) In all cases of arrest under the terms of this Section, the violators may be kept or caused to be kept in custody by the arresting officers, unless lawfully released on bond, until trial.

(f) The Mayor or the Chief of Police may issue and promulgate from time to time rules and regulations to provide for the health, safety and welfare of the residents of the City in relation to issuing permits to individuals to carry concealed weapons. Such rules may pertain by way of example to:

- (1) Permit application and fees;
- (2) Qualification of the permittee;
- (3) The manner of the conduct of the permittee;
- (4) Duration of the permit;
- (5) Permit revocation and renewal;
- (6) Make and type of the weapon to be carried; and
- (7) Identification cards.

Pursuant to such properly issued and promulgated rules and regulations, the Mayor or Chief of Police may issue permits authorizing individuals to carry concealed weapons.

(g) It is an affirmative defense to a charge of carrying a concealed weapon in violation of this Section that the defendant was:

- (1) A person in his own dwelling or place of business or on property owned by him or under his control at the time of the act of carrying;
- (2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his 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 permit to carry the weapon by the Mayor or the Chief of Police, the mayor of any other municipality, the Chief of Police of any other municipality or the sheriff of any county; or
- (4) A police officer. (Ord. 11, 1955; 1980 Code; Ord. 9, 1980; prior code 9-2-1-2; Ord. 9 §1, 2003)

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

It is the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the weapon to the Police Department, to be held by the Department until the final determination of the prosecution for said offense. (Ord. 9 §1, 2003)

Sec. 10-8-40. Discharging firearms prohibited.

It is unlawful for any person to discharge any firearms, including, but not by way of limitation, any cannon, gun, fowling piece, pistol or firearm of any size or description, within the corporate limits of the City, without written permission from the Chief of Police, which permission shall prescribe the time and method of discharge of such firearm and shall be subject to revocation by said Chief of Police at any time after the same has been granted. However, nothing herein shall be construed to restrict the right of the Chief of Police or duly appointed law enforcement officers from such use of firearms as may be proper in carrying out their duties of law enforcement. (Ord. 3, 1964; 1980 Code; prior code 9-2-1-1; Ord. 9 §1, 2003)

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

(a) A person commits a misdemeanor if he:

- (1) Knowingly and unlawfully aims a firearm at another person;
- (2) Recklessly or with criminal negligence discharges a firearm or shoots a bow and arrow;
- (3) Knowingly sets a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present;
- (4) Has in his possession a firearm while he is under the influence of intoxicating liquor or of a controlled substance. Possession of a permit issued under Section 18-12-105.1, C.R.S., is no defense to a violation of this Section; or
- (5) Knowingly aims, swings or throws a throwing star or nunchaku at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.

(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.

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(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 duties. (Ord. 9 §1, 2003)

Sec. 10-8-60. 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 City to such person. (Ord. 9 §1, 2003)

ARTICLE IX

Noise

Sec. 10-9-10. Noises on public property.

It is unlawful, without prior written permission from the City Manager or Chief of Police, for any person, either as principal, agent or employer, to play, use or operate for any purpose whatever on the streets or other public places in the City any device known as a sound truck, loudspeaker, sound amplifier, radio or phonograph with a loudspeaker or amplifiers, or any other instrument of any kind or character whatever that amplifies sound or which emits loud and raucous noises. Police and fire officers and anti-theft devices are excepted from the provisions of this Section. (Prior code 9-2-3-2; Ord. 9 §1, 2003)

Sec. 10-9-20. 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. 9 §1, 2003)

Sec. 10-9-30. Animals.

It is unlawful for any person to use, keep, have in his possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals licensed for the treatment of small animals or to premises occupied or used by the City animal shelter. (Ord. 9 §1, 2003)

Sec. 10-9-40. 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. 9 §1, 2003)

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ARTICLE X

Miscellaneous Provisions

Sec. 10-10-10. Fireworks.

Any person who, within the corporate limits of the City, discharges any firecrackers, fireworks as defined by state law, or explosives of any description without written permission from the Chief of Police, which permission shall limit the time and fix the place of the discharge of such firecrackers, fireworks or other explosives, and which permission shall be subject to revocation by the Chief of Police at any time after the same has been granted, shall be guilty of a misdemeanor. (Ord. 4, 1947; 1980 Code; prior code 9-2-2; Ord. 9 §1, 2003)

Sec. 10-10-20. Door-to-door solicitation.

(a) It shall be unlawful for any person to engage in door-to-door solicitation within the City after the earlier of sunset or 8:00 p.m. and before 9:00 a.m. For purposes of this Section, *sunset* shall mean the time of day published by the *Denver Post* newspaper as the time of sunset for such day.

(b) It shall be unlawful for any person to engage in commercial door-to-door solicitation within the City at any time.

(c) It shall be unlawful for any person to engage in door-to-door solicitation within the City at a private residence where it is displayed at the primary entrance of such residence a sign reading "No Solicitation" in legible print not smaller than one and one-half (1½) inches in height.

(d) It shall be unlawful for any person, organization, corporation or business entity to instruct, direct, command, order, organize or otherwise arrange for any person to engage in door-to-door solicitation in violation of Subsections (a), (b) or (c) above.

(e) For purposes of this Section, the following terms and phrases shall have the meaning indicated:

Commercial door-to-door solicitation shall mean the act of going in or upon private properties or private residences, without the consent of the owners or occupants, for the purpose of advertising, offering, promoting, selling, explaining or soliciting the sale, rental, lease or other form of conveyance or transfer of any product, goods, wares, merchandise or services. *Commercial door-to-door solicitation* does not include: (i) the solicitation or acceptance of donations incidental to and associated with the discussion, advocacy, explanation or promotion of ideas or beliefs of a non-commercial nature; or (ii) the distribution of printed material at the primary entrance of a private property or residence without attempting to personally contact the owner or occupant.

Door-to-door solicitation shall mean the act of going in or upon private properties or private residences, without the consent of the owners or occupants, for the purpose of personally contacting the owners or occupants. *Door-to-door solicitation* includes: (i) the solicitation or acceptance of donations incidental to and associated with the discussion, advocacy, explanation or promotion of ideas or beliefs of a noncommercial nature; and (ii) the distribution of printed

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material at the primary entrance of a private property or residence without attempting to personally contact the owner or occupant. (Prior code 9-2-7; Ord. 2, 1991; Ord. 2, 1997; Ord. 9 §1, 2003)

Sec. 10-10-30. Hawkers and peddlers.

(a) Public ways. It is unlawful for any person to sell or attempt to sell merchandise on or from any public way.

(b) Private property. It is unlawful for any person to sell or attempt to sell merchandise on or from private property except:

(1) In zone districts permitting such sale as a use by right, and then only in accordance with the limitations on such activity applicable to each such zone district; or

(2) In zone districts not permitting commercial activity as a use by right only after obtaining from the City any applicable permits or other approvals specified by this Code. (Prior code 9-2-10; Ord. 6, 1993)