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ARTICLE I

General Provisions

Sec. 10-1-10. Definitions.

As used in this Chapter, the following words and phrases shall have the following meanings, unless otherwise clearly indicated:

Affirmative defense means that, unless the state's evidence raises the issue involving the alleged defense, the defendant, to raise the issue, shall present some credible evidence on that issue. If the issue involved in an affirmative defense is raised, the guilt of the defendant must be established beyond a reasonable doubt as to that issue, as well as all other elements of the offense.

Alcoholic beverage means fermented malt beverage or malt, vinous or spirituous liquors.

Animal means any live vertebrate creature, domestic or wild.

Animal Control Officer means any person designated by the City as a law enforcement officer for the purpose of enforcing the provisions of this Chapter.

Authorized representative means police or animal control officers employed by the City.

Bodily injury means physical pain, illness or any impairment of physical condition.

Cat means any member of the species *Felis catus*.

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

Criminal instruments means any personal property seized as evidentiary property and used directly in the commission of any criminal act, other than such property used in the commission of a traffic offense.

Criminal negligence means when a person, acting in gross deviation from the standard of care that a reasonable person would exercise, fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

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

- a. A firearm, whether loaded or unloaded;
- b. A knife;
- c. A bludgeon; or

d. Any other weapon, device, instrument, material or substance, whether animate or inanimate.

Dog means any member of the species *Canis familiaris*.

Domestic animal means all species of animals commonly and universally accepted as being tame or domesticated. These include, but are not limited to, dogs; cats; confined domestic hares and rabbits, and birds; and animals raised and/or maintained in confinement, including small, harmless pet animals, such as species of aquarium fish, cage birds; and certain rodents, such as mice, hamsters and guinea pigs.

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

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

Emergency medical service provider means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as such emergency medical service provider.

Establishment means any place of business, open to the general public, wherein alcoholic beverages are sold under a state and/or local tavern license.

Evidentiary property means any goods, merchandise or other personal property obtained as evidence in, or the fruit of, any criminal investigation.

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%) alcohol by volume and not more than three and two-tenths percent (3.2%) alcohol by weight or four percent (4%) alcohol by volume.

Firearm means any handgun, automatic or semi-automatic pistol, revolver, rifle, shotgun or other instrument or device capable or intended to be capable of discharging bullets, cartridges or other explosive charges.

Firefighter means the volunteers and personnel of fire districts and fire departments who are assisting the fighting of fires, responding to hazardous materials incidents or emergency situations.

Good faith purchaser for value means a person who has purchased goods, with honesty in fact and in the conduct or transaction concerned, and given sufficient consideration for the item purchased. In deciding on sufficiency of consideration, consideration may be given to whether the party claiming good faith purchaser status has been unjustly enriched by the transaction.

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* or *closed account* shall also be deemed to be dishonored for *insufficient funds* if such account was closed within thirty (30) days of posting the check.

Intangible personal property means:

- a. Monies, checks, drafts, deposits, interest, dividends and income;
- b. Credit balances, customer overpayments, gift certificates, refunds, credit memos and unidentified remittances;
- c. Stocks and other intangible ownership interests in business associations;
- d. Monies deposited to redeem stocks, bonds, coupons and other securities or to make distributions;
- e. Security deposits, unpaid wages and unused airline tickets;
- f. Deposits held by utilities;
- g. Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits;
- h. Amounts due and payable under the terms of insurance policies; or
- i. Bonds posted for court appearance or other reasons.

Intentionally or *with intent* means a person acts *intentionally* or *with intent* when such person's conscious objective is to cause the specific result proscribed by the ordinance defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

Issue means 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.

Knowingly or *willfully* means a person acts *knowingly* or *willfully* with respect to conduct or to a circumstance when such person is aware that his or her conduct is of such nature or that such circumstance exists. A person acts *knowingly* or *willfully* with respect to a result of his or her conduct, when such person is aware that his or her conduct is practically certain to cause the result. Neither requires knowledge of the unlawfulness of such conduct.

Litter means all rubbish, waste material, refuse, garbage, trash, fecal material, debris or other foreign substance, solid or liquid, of every form, size, kind and description. stand idly around, to linger, delay or wander about, or to remain, abide, or tarry in a public place.

Malt liquors means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight or four percent (4%) alcohol by volume, and includes beer.

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

Negotiable order of withdrawal account and share draft 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 the 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.

Open container means any container of alcoholic beverage or fermented malt beverage, whether open or closed, except a sealed container in the original condition required by Section 12-47-103(33), C.R.S., for retail liquor sales. If an original container has been unsealed, undone or opened in any manner, it is an open container. Exception: It is not a violation of this Chapter if a wine bottle is present which has previously been corked but is now uncorked.

Peace officer means a person who has the authority to enforce all laws of the State while acting within the scope of his or her authority and in the performance of his or her duties. A police officer, including a chief of police employed by a municipality, is a peace officer whose authority shall include the enforcement of all laws of the State and who shall be certified by the P.O.S.T. Board.

Personal property means any goods, currency, merchandise or other tangible items other than animals, contraband, evidentiary property or criminal instruments.

Police officer means a police officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such police officer to the person whose arrest is attempted.

Premises means any real estate and all improvements erected thereon.

Public or private property includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, playground or building, any refuge, conservation or recreation area, and any residential, farm or ranch properties or timberlands.

Public servant means any officer or employee of the City, whether elected or appointed, and any person participating as an advisor or consultant, or otherwise performing a governmental function, including but not limited to any person performing work for or on behalf of the City on a contractual basis.

Recklessly means when a person acts in conscious disregard of a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Rescue specialist means a member of a public or private rescue agency, whether that person is a volunteer or receives compensation for services rendered as such rescue specialist.

Running at large means off the premises of the owner, or agent of the owner, and not restrained by means of a leash, cord or chain, not more than six (6) feet in length, which is attached to the animal and held by the owner or other competent person.

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

Substances releasing toxic vapors means the following products: plastic (styrene) cements containing toluene, acetone, benzene, aliphatic acetates (such as ethyl acetate and methylcellosolve acetate), hexane; model cements containing acetone, toluene or naphtha toluene or naphtha of petroleum origin; household cements containing toluene, acetone, isopropanol, methyl ethyl ketone or methyl isobutyl ketone; fingernail polish removers containing acetone, aliphatic acetates, benzene or alcohol; lacquer thinners containing toluene, aliphatic acetates or methyl, ethyl or propyl alcohol; lighter fluids or cleaning fluids containing naphtha of petroleum origin, perchlorethylene, trichloroethane or carbon tetrachloride.

Vicious animal means an animal that bites, attempts to bite or attacks humans or other animals; or approaches any human or other animal in a vicious or terrorizing manner or in an apparent attitude of attack, whether or not an attack actually occurs.

Vinous liquors means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) alcohol by volume, and shall be construed to mean an alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

ARTICLE II

Attempt, Conspiracy, Complicity and Accessory

Sec. 10-2-10. Attempt.

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

(b) Aiding in attempt. A person who engages in conduct intending to aid another to commit an offense commits attempt if the conduct would establish his or her complicity as described in this

Article were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) Defense. It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the offense or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of his or her civil or criminal intent. (Ord. 04-16 Art. 3)

Sec. 10-2-20. Conspiracy.

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

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

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

(d) If a person conspires to commit a number of offenses, he or she is guilty of only one (1) conspiracy so long as such multiple offenses are part of a single episode. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

Sec. 10-2-30. Complicity.

A person is legally accountable as principal for the behavior or acts of another constituting an offense under this Article if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. 04-16 Art. 3)

Sec. 10-2-40. Accessory.

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

(b) *Render assistance* means to:

(1) Harbor or conceal the perpetrator of the offense.

(2) Warn such person of impending discovery or apprehension; however, 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.

(5) Conceal, destroy or alter any physical or testimonial evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

ARTICLE III

Offenses Involving Weapons

Sec. 10-3-10. Regulations.

(a) Prohibitions.

(1) Prohibition on open carrying, wearing or possessing firearms at City facilities: It shall be unlawful for any person, who is not a peace officer, to knowingly and openly wear, carry or possess any firearm at any City facility.

(2) Prohibition on carrying, wearing or possessing deadly weapons other than firearms at City facilities: It shall be unlawful for any person, who is not a peace officer, to knowingly wear, carry or possess any deadly weapon other than a firearm at City facilities.

(b) Affirmative defenses.

(1) The following matters shall constitute an affirmative defense to a charge under this Article if the defendant was found at a particular City facility wearing, carrying or in possession of any firearm or other dangerous weapon:

a. Militia activities: It shall be an affirmative defense if the defendant was carrying a firearm or other dangerous weapon at the City facility as part of his or her duties in the militia of the State and the following conditions are met:

1. The defendant is a lawfully commissioned officer or enlisted person in the militia of the State;

2. He or she has been ordered to duty as part of the militia of the State by the Governor, or any officer in the Governor's lawful chain of command;

3. The Governor or an officer in the Governor's lawful chain of command has ordered the defendant to perform duties at City Facilities; and

4. The firearm, bayonet, knife, club or other deadly weapon is one that the defendant is authorized to carry as part of his or her duties with the militia of the State by the Governor or an officer in the Governor's lawful chain of command.

b. Persons ordered to assist in law enforcement: It shall be an affirmative defense if the defendant was carrying a firearm at the City facility after being ordered to assist in law enforcement, and the following conditions are met:

1. The defendant was ordered to assist in law enforcement duties at the City facilities by a peace officer of the Lone Tree Police Department, Douglas County Sheriff's Office or Colorado State Patrol; and

2. Such peace officer had ordered the defendant to perform duties at the City facilities at the time that the defendant was found at the City facilities wearing, carrying or in possession of any firearm.

c. Certain security guards: It shall be an affirmative defense if the defendant was acting as a security guard at the City facilities, and the following conditions are met:

1. The defendant was employed as a security guard;

2. The defendant was on duty as a security guard at the time;

3. The defendant was assigned by his or her employer to work as a security guard at the City facilities;

4. The defendant was authorized by his or her employer to carry the type of firearm carried, worn or possessed as part of his or her duties as a security guard;

5. The defendant was wearing his or her uniform as a security guard; and

6. The firearm was not concealed.

d. Certain emergency circumstances: It shall be an affirmative defense if the defendant was responding to an emergency at the City facilities, and the following conditions are met:

1. Another person who was not a peace officer was making use of unlawful force against the defendant or other persons;

2. The unlawful force posed a threat of death or serious bodily injury to the defendant or other persons;

3. The firearm or other deadly weapon was carried, worn, possessed and used in response to such an emergency; and

4. The firearm or other deadly weapon was used lawfully and only for purposes of self-defense or defense of others.

e. Firearms and other deadly weapons kept in motor vehicles: It shall be an affirmative defense if the defendant was in a private motor vehicle or the firearm or deadly weapon was left inside a motor vehicle.

f. Failure to post signs: It shall be an affirmative defense if the City has failed to post signs at the public entrances to the City building or specific area informing persons that the open carrying of firearms is prohibited in the City building or specific area, in compliance with Section 29-11.7-104, C.R.S.

(2) The following matters shall not constitute an affirmative defense to a charge under this Article:

- a. The firearm was unloaded;
- b. The magazine for the firearm was detached, removed or not present;
- c. The firearm or deadly weapon was disassembled; or
- d. The firearm or other deadly weapon, or any part thereof, was locked, enclosed in a locked or open case, or rendered inoperative. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

ARTICLE IV

Offenses Against the Person

Sec. 10-4-10. Assault.

(a) Assault. It is unlawful to intentionally, knowingly or recklessly cause bodily injury to another person; however, this Section shall not apply when bodily injury is caused by a deadly weapon.

(b) Physical force.

(1) Justified physical force: Use of reasonable and appropriate physical force by those listed below is justified when:

a. A person is acting to defend himself or herself or a third person from what such person reasonably believes to be the use or imminent use of unlawful physical force by that other person. Such person may use a degree of force he or she reasonably believes to be necessary for that purpose; or

b. A police officer, when such officer reasonably believes it necessary:

1. Acts to effect an arrest or prevent the escape from custody of an arrested person, unless such officer knows that the arrest is unauthorized;

2. Acts to defend himself or herself or a third person from what such officer reasonably believes to be the use or imminent use of physical force, during an arrest, or while preventing or attempting to prevent an escape from custody; or

3. Acts to take a person into custody as authorized by Section 27-10-105 or 25-1-310, C.R.S.

c. A police officer acts to prevent what such officer reasonably believes to be the escape of a prisoner from a detention facility or prisoner transport vehicle; or

d. A police officer acts to maintain order and discipline in the police department detention facility or prisoner transport vehicle; or

e. A person, directed by a police officer, acts to assist the officer to effect an arrest or to prevent an escape from custody, unless such person knows that the arrest or prospective arrest is not authorized.

(2) Physical force not justified: A person is not justified in using physical force if:

a. With intent to cause bodily injury to another person, such person provokes the use of unlawful physical force by that other person.

b. Such person is the initial aggressor; however, his or her use of physical force upon another person under the circumstances is justifiable if such person withdraws from the encounter and effectively communicates to the other person his or her intent to do so, but the latter nevertheless continues or threatens the use of unlawful physical force.

c. The physical force involved is the product of a combat by agreement not specifically authorized by law. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

Sec. 10-4-20. Disorderly conduct.

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

(1) Offensive words or gestures: 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) Noise: Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy. Unreasonable noise shall include, but not be limited to, noise which is electronically amplified such that it is loud enough to be heard by a person of normal hearing seventy-five (75) feet beyond the property line of the property upon which the loudspeaker is located during the hours of 9:00 p.m. to 7:00 a.m. or if the speaker is located in a vehicle on a public street, highway, alley or right-of-way. The noise which is electronically amplified shall constitute a violation of this Section if it can be heard by a person of normal hearing ten (10) feet from the edge of the lane of the public street, highway, alley or right-of-way in which the vehicle is located.

(3) Fighting: In any manner, encouraging or permitting, by verbal or physical action, another person to engage in a fight or physical combat or by engaging in a fight or physical combat.

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

(5) Display of deadly weapon: Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm. (Ord. 04-16 Art. 3)

Sec. 10-4-30. Harassment.

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

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

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

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

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

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

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

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

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

(c) Any act prohibited in 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. 04-16 Art. 3; Ord. 05-09 Art. 3)

Sec. 10-4-40. Menacing.

It is unlawful to knowingly place or attempt to place another person in fear of imminent bodily injury by any threat or physical action; however, this provision shall not apply if the threat is committed by use of a deadly weapon. (Ord. 04-16 Art. 3)

Sec. 10-4-50. Reckless endangerment.

It is unlawful to recklessly engage in conduct which creates a substantial risk of serious bodily injury to another person. (Ord. 04-16 Art. 3)

Sec. 10-4-60. Throwing missiles.

It is unlawful to knowingly throw, shoot or project any stone or other missile at:

- (1) Any person or animal, in such a manner as may cause injury or damage;
- (2) A building or other public or private property of another without the consent of the owner;
or
- (3) A vehicle, whether moving or not. (Ord. 04-16 Art. 3; Ord. 05-09 Art. 3)

Sec. 10-4-70. Disturbing the peace.

It shall be unlawful for any person to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct (and the conduct by its very nature tends to incite an immediate breach of the peace), or by loud, unnecessary or unusual noise, or by unseemly, profane, obscene or offensive language (and the language by its very utterance tends to incite an immediate breach of the peace), or by assaulting, striking, fighting or challenging another to fight, or for any person to permit any such conduct in any house or upon any premises owned or possessed by such person or under his or her management or control, when such person's power to prevent, so that others in the vicinity are or may be disturbed thereby. (Ord. 05-09 Art. 3)

ARTICLE V

Offenses Involving Property

Sec. 10-5-10. Theft.

(a) Theft prohibited. It is unlawful to knowingly obtain or exercise control over any thing or things of value of another, worth less than one thousand dollars (\$1,000.00), without authorization or by threat or deception, and:

- (1) With the intent to deprive the other person permanently of the use or benefit of the thing of value;
- (2) Knowingly use, conceal or abandon the thing of value so as to deprive the other person permanently of its use or benefit;
- (3) Use, conceal or abandon the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or
- (4) Demand any consideration to which one is not legally entitled as a condition of restoring the thing of value to the other person.

(b) As used in this Section, a *thing of value* is that of another if anyone other than the defendant has a possessory or proprietary interest therein.

(c) Shoplifting deemed theft. If any person willfully conceals unpurchased goods, wares or merchandise owned and 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, and makes no effort to pay for such goods, such actions are prima facie evidence that the person intended to commit the crime of theft. (Ord. 04-16 Art. 3; Ord. 07-15 Art. 3)

Sec. 10-5-20. Theft of rental property.

A person commits theft of rental property if the value of the property is less than one thousand dollars (\$1,000.00) and he or she:

(1) Obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or

(2) Having fully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return said property to the owner thereof or his or her 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. (Ord. 04-16 Art. 31; Ord. 07-15 Art. 3)

Sec. 10-5-30. Price switching.

It is unlawful for any person willfully to alter, remove or switch the indicated price of any unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment with a price of under one thousand dollars (\$1,000.00). (Ord. 04-16 Art. 3; Ord. 07-15 Art. 3)

Sec. 10-5-40. Theft by receiving.

It shall be unlawful for any person knowingly to receive, retain, loan money by pawn or pledge on, or dispose of anything having a value of less than one thousand dollars (\$1,000.00) belonging to another, knowing or believing that said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value. (Ord. 04-16 Art. 3; Ord. 07-15 Art. 3)

Sec. 10-5-50. Fuel piracy.

A person commits fuel piracy when such person knowingly leaves the premises of an establishment that offers fuel for sale after dispensing fuel and knowingly fails to pay for such fuel if the value of the fuel is less than one thousand dollars (\$1,000.00). (Ord. 04-16 Art. 3; Ord. 07-15 Art. 3)

Sec. 10-5-60. Theft of cable service.

(a) Definitions.

Cable operator means any person who provides:

- a. Cable service over a cable system in which such person directly or through one (1) or more affiliates owns a significant interest;
- b. Two-way interactive services delivered over a cable system;
- c. Subscriber interaction, if any, that is required for the selection or use of such video programming or interactive service.

Cable system means a facility consisting of a set of closed transmission paths and associated signal operation, reception and control equipment that is designed to provide cable service.

(b) A person commits theft of cable service if the value of the property and services is less than one thousand dollars (\$1,000.00) and such person knowingly:

(1) Obtains cable service from a cable operator by trick, artifice, deception, use of an unauthorized device or decoder or other means without authorization or with the intent to deprive such cable operator of lawful compensation for the services rendered;

(2) Makes or maintains, without authority from or payment to a cable operator, a connection or connections, whether physical, electrical, mechanical, acoustical or otherwise, with any cable, wire, component or other device used for the distribution of cable services. This Paragraph shall not include circumstances where a person has attached a wire or cable to extend service that the person has paid for or that has been authorized to an additional outlet, or where the cable operator has failed to disconnect a previously authorized cable service.

(3) Modifies, alters or maintains a modification or alteration to a device installed or capable of being installed with the authorization of a cable operator, which modification or alteration is for the purpose of intercepting or receiving cable service carried by such cable operator without authority from or payment to such cable operator.

(4) Possesses without authority, with the intent to receive cable operator services without authorization from or payment to a cable operator, a device or printed circuit board designed in whole or in part to facilitate the following acts:

a. To receive cable services offered for sale over a cable system; or

b. To perform or facilitate the performance of any act set forth in Paragraphs (1) through (3) above.

(5) Fails to return or surrender equipment used to receive cable service and provided by a cable operator, after such services has been terminated for any reason.

(c) This Section does not apply to satellite dishes. (Ord. 04-16 Art. 3; Ord. 04-17 §1; Ord. Ord. 07-15 Art. 3)

Sec. 10-5-70. Theft of public transportation services by fare evasion; inspectors; qualifications.

(a) A person commits theft of public transportation services by fare evasion if such person either occupies, rides in or uses a public transportation vehicle without paying the applicable fare.

(b) No person shall occupy, ride in or use a public transportation vehicle without possession of proof of prior fare payment. Such proof of prior fare payment shall be presented upon demand of a fare inspector appointed or employed pursuant to Subsection (d) below, a peace officer or any other employee or agent of a public transportation entity.

(c) Any violation of this Section is a class 2 petty offense and shall be punishable by a fine not to exceed one hundred dollars (\$100.00).

(d) Public transportation entities are authorized to appoint or employ, with the power of removal, fare inspectors as may be necessary to enforce the provisions of this Section.

(1) A person appointed or employed as a fare inspector pursuant to this Section shall meet the following requirements:

a. The person is a citizen of the United States and the State.

b. The person possesses a high school diploma.

c. The person has never been convicted of or pleaded guilty or entered a plea of nolo contendere to any felony charge under federal or state law.

d. The person satisfies such other requirements as the public transportation entity that appoints or employs such person shall require.

(2) A fare inspector appointed or employed pursuant to this Section is authorized to enforce the provisions of this Section while acting within the scope of his or her authority and in the performance of his or her duties. A fare inspector is authorized to issue a citation to any person who commits theft of public transportation services by fare evasion in violation of this Section. Said citation shall be issued on behalf of the City in which the person occupying, riding in or using a public transportation vehicle without paying the application fare is located at the time the theft is discovered. The public transportation entity whose fare inspector issued the citation shall timely deliver the citation to the local law enforcement agency for the jurisdiction in which the accused person is located at the time the theft is discovered. This local law enforcement agency shall transmit the citation to the clerk of the appropriate city court for purposes of enforcement and prosecution of the violation of this Section. The public transportation entity shall also deliver a copy of the citation to the city attorney for the city on behalf of which the citation is issued pursuant to this Paragraph. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

Sec. 10-5-80. Computer crime.

A person commits computer crime if the loss, damage, value of services or thing of value taken, or cost of restoration or repair caused by a violation of this Section, is less than one thousand dollars (\$1,000.00) and the person knowingly:

(1) Accesses a computer, computer network or computer system or any part thereof without authorization; exceeds authorized access to a computer, computer network or computer system or any part thereof; or uses a computer, computer network, computer system or any part thereof without authorization or in excess of authorized access;

(2) Accesses any computer, computer network, computer system or any part thereof for the purpose of devising or executing any scheme or artifice to defraud;

(3) Accesses any computer, computer network, computer system or any part thereof to obtain, by means of false or fraudulent pretenses, representations or promises, money; property; services; passwords or similar information through which a computer, computer network, computer system or any part thereof may be accessed, or other thing of value;

(4) Accesses any computer, computer network, computer system, or any part thereof to commit theft;

(5) Without authorization or in excess of authorized access alters, damages, interrupts or causes the interruption or impairment of the proper functioning of, or causes any damage to, any computer, computer network, computer system, computer software, program, application, documentation or data contained in such computer, computer network, computer system or any part thereof; or

(6) Causes the transmission of a computer program, software, information, code, data or command by means of a computer, computer network, computer system or any part thereof with the intent to cause damage to or to cause the interruption or impairment of the proper functioning of or that actually causes damage to or the interruption or impairment of the proper functioning of any computer, computer network, computer system or part thereof. (Ord. 04-16 Art. 3; Ord. 07-15 Art. 3)

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

(a) Fraud by check prohibited. It shall be unlawful for any person, knowing he or she has insufficient funds with the drawee or, with intent to defraud, to issue a check for payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, where the fraudulent check or the sum of all fraudulent checks issued is less than one thousand dollars (\$1,000.00).

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

(1) He or she has no account upon which the check or order is drawn with the bank or 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. 04-16 Art. 3; Ord. 07-15 Art. 3)

Sec. 10-5-100. Fraud in effecting sales.

It is unlawful for a person if, in the course of business, he or she knowingly:

(1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity.

(2) Sells, offers or exposes for sale or delivers less than the represented quantity of any commodity or service.

(3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he or she furnishes the weight or measure.

(4) Sells, offers or exposes for sale an adulterated or mislabeled commodity. *Adulterated* means varying from the standard of composition or quality prescribed by or pursuant to any statute of the State or the United States providing criminal penalties for such variance, or set by established commercial usage. *Mislabeled* means varying from the standard of truth or disclosure in labeling prescribed or pursuant to any statute of the State or the United States providing criminal penalties for such variance, or set by established commercial usage.

(5) Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services. (Ord. 04-16 Art. 3)

Sec. 10-5-110. Bait advertising.

(a) A person commits bait advertising if, in any manner, including advertising or any other means of communication, he or she offers property or services as part of a scheme or plan, with the intent, plan or purpose not to sell or provide the advertised property or services at all, or not at the price at which he or she offered them, or not in a quantity sufficient to meet the reasonable expected public demand, unless the quantity is specifically stated in the advertisement.

(b) It shall be an affirmative defense that a television or radio broadcasting station or a publisher or printer of a newspaper, magazine or other form of printed advertising which broadcasted, published or printed a false advertisement prohibited by Section 18-5-301(1)(e), C.R.S., or a bait advertisement prohibited by Subsection (a) above or a telephone company which furnished a service to a subscriber did so without knowledge of the advertiser's or subscriber's intent, plan or purpose. (Ord. 04-16 Art. 3)

Sec. 10-5-120. Avoiding payment of admission fees.

It shall be unlawful for any person to knowingly enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the admission of police engaged in the performance of police duties to any place of public entertainment or amusement. (Ord. 04-16 Art. 3)

ARTICLE VI

Offenses Against Property

Sec. 10-6-10. Damage to property.

(a) Criminal mischief. It shall be 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).

(b) Damage to 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 or improvements thereto, or moveable or personal property, belonging to the City.

(c) Defacing public and private property. It shall be unlawful for any person to deface or cause, aid in or permit the defacing of public or private property without the consent of the owner by any method of defacement, including but not limited to painting, drawing, writing or otherwise marring the surface of the property by use of paint, spray paint, ink or any other substance or object. Any person convicted of violating this Subsection may be ordered by the court to personally make repairs to any property damaged, or properties similarly damaged, if possible. In addition, upon each conviction for defacing property pursuant to this Subsection, the offender's driver's license shall be revoked as provided in Section 42-2-125, C.R.S.

(d) Injury to 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 any sign erected or placed in or adjacent to any street indicating the name of such street or any traffic control device.

(e) Defacing posted notice. It shall be unlawful for any person to knowingly mar, destroy or remove any posted notice authorized by law. (Ord. 04-16 Art. 3; Ord. 07-15 Art. 3)

Sec. 10-6-20. Trespass.

(a) Events of trespass enumerated. It is unlawful to knowingly:

(1) Enter, remain upon or refuse to leave any private property of another, posted with signs visible to ordinarily observant persons entering upon the property or posted at reasonable intervals along the property boundary prohibiting trespassing;

(2) Enter, remain upon or refuse to leave any private property of another when the owner or person responsible for the care of the property has given oral or written notice that such entry or continued presence is prohibited;

(3) Enter, remain at or refuse to leave any private property when immediately before the entry, remaining or refusal to leave, a police officer or firefighter acting in the course of his or her employment has given a lawful order that such entry or continued presence is prohibited;

(4) Enter, remain upon or refuse to leave or disperse from any public place after being lawfully ordered to disperse, leave or not enter by any police officer or firefighter;

(5) Enter, remain upon or refuse to leave property used for education by any parochial school, private school or public school district after a principal, teacher, staff member or person authorized to maintain and supervise the property has told the defendant to leave or not enter;

(6) Enter or remain in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced; or

(7) Without being licensed, invited by a person with authority or otherwise privileged, enter, remain in or upon premises of another.

(b) Defense. It shall be an affirmative defense to charges under this Section that the defendant is licensed, invited by a person with authority or otherwise privileged to so enter, remain or refuse to leave.

(c) Definition and interpretation.

(1) As used in this Section, *private property* includes, but is not limited to, private property where the public is a business invitee. A person who enters or remains in or at premises which are open to the public does so with license until such license is withdrawn. A license to enter or remain in a building which is only partly open to the public is not a license to enter or remain in that part of the building which is not open to the public.

(2) A police officer or firefighter gives a lawful order when, in the course of duty, he or she is called upon to make and does make a good faith judgment, based on all circumstances known to him or her that he or she should give the order. (Ord. 04-16 Art. 3)

Sec. 10-6-30. Littering.

(a) Littering generally. It is unlawful to deposit, throw or leave any litter on any public or private property or in any waters.

(1) Defenses: It is an affirmative defense that:

a. The defendant deposited, threw or left the litter on property designated by law for the disposal of such material and had authority from the proper public authority to so use the property.

b. The defendant owned or lawfully possessed the property, or first obtained consent or acted under the personal direction of the owner or other person lawfully possessing the property.

c. The litter is placed in a receptacle or container installed on such property for that purpose.

(2) Responsibility of driver of vehicle: Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom.

(b) Truckloads causing litter. No person shall drive or move any truck or other vehicle within the City unless such vehicle is constructed or loaded as to prevent any load, content or litter from being blown or deposited upon any street, avenue, alley, sidewalk or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, avenue, alley, sidewalk or other public place mud, dirt, sticky substance, litter or foreign matter of any kind. Every cart or vehicle used to transport manure, garbage, soil or offal upon any street, alley or highway within the City shall be fitted with a substantial type box thereon, so that no portion of such filth will be scattered or thrown within the City.

(c) Advertisements. It shall be unlawful for any person to throw any posters, circulars, bills, letters, envelopes, samples or devices upon any of the streets, avenues, alleys, sidewalks, parks or public grounds of the City. (Ord. 04-16 Art. 3)

Sec. 10-6-40. Loitering.

(a) Definitions

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.

Public place means any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose; but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern, theater or other places of business usually open to the public, public ways, streets, sidewalks, alleys, parking lots; but shall not include the interior or enclosed yard area of private home, residences, condominiums or apartments

(b) Loitering on school grounds. It shall be unlawful for any person to loiter with intent to interfere with or disrupt the school program or with intent to interfere with or endanger school children in a school building in or on school grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds not having any reason or relationship involving custody of or responsibility for a student or any other specific, legitimate reason for being there.

(c) Loitering in public places. It shall be unlawful for any person to loiter in a public place in such a manner as to:

(1) Obstruct any public street, highway, walkway or other public place or building by hindering or impeding or intending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;

(2) Commit, in or upon any public street, highway or sidewalk or in any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, highway or sidewalk or any other public place or building, all of which events the free and uninterrupted ingress, egress and regress therein, thereon or thereto; or

(3) Obstruct the entrance of any business establishment against the express wish of the owner, lessee, managing agent or person in control or in charge of the building or premise.

(d) Defense. It shall be an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her right of lawful assembly as a part of peaceful and orderly petition for redress of grievances, either in the course of labor disputes or otherwise. (Ord. 04-16 Art. 3; Ord. 05-09, Art. 3)

ARTICLE VII

Offenses Related to Animals

Sec. 10-7-10. Cruelty.

It is unlawful for any person to commit cruelty to animals. A person commits cruelty to animals if he or she overdrives, overloads, overworks, tortures, torments, deprives of necessary subsistence, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries or confines in or upon any vehicle in a cruel or reckless manner, or otherwise mistreats or neglects any animal, or causes or procures to be done, or having the charge and custody of any animal, fails to provide it with proper food, drink or protection from the weather, or abandons it. (Ord. 04-16 Art. 3)

Sec. 10-7-20. Vicious animals.

(a) It is unlawful for any person to harbor or keep a vicious animal within the City.

(b) Seizure and destruction by City. Any vicious animal shall be deemed a public nuisance and may be seized by any police officer or animal control officer of the City, and upon appropriate complaint and order of the Municipal Court or any other court of competent jurisdiction, may be humanely destroyed or otherwise disposed of as the Court may determine, in the abatement of the nuisance and protection of the public safety. Nothing in this Section shall be construed to prevent the immediate killing of a vicious animal if, under the circumstances, such action is required to protect the public safety.

(c) Hearing on destruction of vicious animal.

(1) Upon the filing of a motion for destruction of a vicious animal, the Municipal Court shall set a hearing as soon as practical. The Court or City Attorney shall promptly serve the owner, if known or reasonably discoverable, with written notice of the hearing and a copy of the motion at least five (5) days before the hearing. Service shall be pursuant to C.M.C.R. 204(e) and 249(b) and C.R.C.P 5(b).

(2) The hearing shall be for the purpose of deciding if the animal is a public nuisance. The City shall bear the burden of proof at the hearing, by a preponderance of the evidence. If the owner, without good cause, fails to appear at the hearing, at arraignment or at trial, the animal shall be deemed abandoned and, upon proper proof of the public nuisance, may be destroyed or otherwise disposed of consistent with this Section.

(3) A continuance of the hearing on the motion for destruction, or a stay of the destruction order, may be granted only if the owner posts a bond sufficient to cover the total costs of the impoundment and destruction.

(4) Defense: It shall be an affirmative defense to prosecution under this Section that:

a. An animal is under the control of a law enforcement agency; or

b. The actual or intended victim of any attack has made an unlawful entry into the dwelling of the animal's owner or threatened or attacked an owner of the animal. (Ord. 04-16 Art. 3)

Sec. 10-7-30. Licensing.

Each dog owner within the City shall obtain and maintain a current rabies certificate and tag issued by a licensed veterinarian for each dog that he or she owns. Each dog must possess a current certificate and tag by the time the animal is five (5) months old, or within one (1) month of being brought in to the City if the animal is over five (5) months old. Every dog required to have a tag shall wear it at all times. The tag shall be the City license. (Ord. 04-16 Art. 3)

Sec. 10-7-40. Running at large.

It is unlawful for any owner to allow or permit any dog to run at large within the City. (Ord. 04-16 Art. 3)

Sec. 10-7-50. Noise.

It shall be unlawful for any owner or keeper of any dog to permit the animal to disturb any person by barking, howling, yelping or any other audible sound. No summons shall be issued and no person shall be convicted at trial for violating this Section unless a minimum of two (2) witnesses from separate households testify about the nature of the barking, howling, yelping or other audible sound, unless there is other evidence corroborating the testimony of a single witness. A police officer or code enforcement officer may corroborate the elements of this Section and may issue the summons and testify as a second witness. (Ord. 04-16 Art. 3)

Sec. 10-7-60. Damage to property.

It shall be unlawful for any owner, possessor or person who keeps any dog or cat to permit such dog or cat to destroy or damage the real or personal property of any person, or any public property of the City. (Ord. 04-16 Art. 3)

Sec. 10-7-70. Excrement.

When any animal defecates upon the public ways, within public places or upon the property of another, including common area of condominiums, townhouses or apartments, it shall be the duty of the owner or custodian of the animal to immediately remove and properly dispose of the excrement. (Ord. 04-16 Art. 3)

Sec. 10-7-80. Impoundment.

(a) Animal shelter. Animals impounded under the provisions of this Article shall be placed in a designated animal shelter. The City may provide by contract with any public agency, private society or association, or animal hospital which is interested in the humane care and treatment of animals, for the establishment, maintenance and operation of such animal shelter.

(b) Impoundment of animals. An animal control officer and/or authorized representative is authorized to impound any animal in the following instances:

(1) In any case where an animal is suspected of having bitten any person, the animal may be impounded for observation for a period of ten (10) days or until released by the animal control officer. Licensed animals may be quarantined at the owner's residence if, in the officer's discretion, the animal can be securely contained and the animal will be available for observation during and after the quarantine period. It is unlawful for any owner to allow a "bite-quarantined" animal to run loose during the quarantine period.

(2) Where there is reasonable cause to believe that an animal is being mistreated or neglected and the owner or responsible person is unavailable, the animal control officer may impound such animal for care and/or treatment. In the event an animal is removed from private property, the owner or keeper of such animal shall be notified by leaving written notification of where and by whom the animal was taken at the location from where the animal was removed.

(3) When any animal is found running at large.

(4) When any animal whose owner or person responsible for its care is incapacitated or otherwise not available to provide for the animal's welfare, or the owner or responsible person's absence is of sufficient duration to jeopardize the animal's well-being.

(c) Fees. It shall be the obligation of any person having ownership, charge, care, custody or control of any animal being impounded under authority of this Chapter to pay for all impoundment fees and other charges assessed. It is unlawful for such person to refuse to pay the fees and charges, and the refusal of such person to retrieve the animal shall not relieve that person of the duty to make such payment.

(d) Redemption of impounded animals. Within five (5) days after the impoundment of an animal under the provisions of Subsection (b) above, the owner shall redeem the animal on payment of the impoundment fee and other charges, and upon proof of current license, if applicable. Unlicensed dogs shall be licensed prior to redemption at the owner's expense.

(e) Disposition of unclaimed animals. Impounded animals shall be held for five (5) days to determine ownership. Animals whose ownership is not determined after five (5) days may be destroyed in a humane manner, or may be adopted by any person paying the appropriate adoption fees. The owner of an animal whose ownership is determined shall be notified that, unless claimed within five (5) days, the animal shall be deemed abandoned and humanely destroyed or made available for adoption. In the case of an animal impounded under Subsection (b) above, the animal must be claimed within five (5) days after the notice to the owner or a person designated by the owner. No vicious animal shall be made available for adoption. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

Sec. 10-7-90. Unlawful keeping of pit bulls.

(a) Prohibited. Except as otherwise provided herein, it shall be unlawful for any person to have, own, possess, keep, exercise control over, maintain, harbor, transport or sell within the City any pit bull as herein defined.

(b) Definitions.

Immediate family, for purposes of this Article, shall mean the owner's spouse, child, parent or sibling.

Muzzle, for purposes of this Article, shall mean a restraining device made of metal, plastic, leather, cloth or a combination of these materials that, when fitted and fastened over a snout, mouth or head, prevents the dog from biting but allows room for the dog to breathe and pant. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

Pit bull, for purposes of this Article, shall mean any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, American Bulldog (Old Country Bulldog), *Dogo Argentino*, Canary Dog (Canary Island Dog, *Presa Canario*, *Perro de Presa Canario*), Presa Mallorquin (*Pero de Presa Mallorquin*, *Ca de Bou*), *Tosa Inu* (Tosa Fighting Dog, Japanese Fighting Dog, Japanese Mastiff), *Cane Corso* (*Cane di Macellaio*, *Sicilian Branchero*), *Fila Brasileiro*, or any dog displaying the majority of physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

Secure area shall mean a defined space enclosed by barriers capable of physically separating a pit bull from a person or other animal and capable of preventing escape of a pit bull through, under, over or around the barriers. Any gate, door or other entryway located in a barrier that encloses space where a pit bull is kept shall be equipped with a working lock that effectively prevents unauthorized access inside the barrier. Examples of a secure area include, but are not limited to, an enclosed vehicle, a residential structure or unit, a room within a residential structure or unit, or a fenced yard if the fence entirely encloses the yard and does not allow entry or exit by a person or animal except through a gate.

(c) Exceptions. The prohibition in Subsection (a) above shall not apply in the following circumstances. Failure by the owner to comply and remain in compliance with all of the terms of any applicable exception shall subject the pit bull to immediate impoundment and possible disposition and shall preclude the owner from asserting the provisions of this Subsection as a defense.

(1) The owner of a pit bull who has applied for and received a pit bull license within sixty (60) days of the effective date of the ordinance codified herein in accordance with Subsection (d) of this Section, and who maintains the pit bull at all times in compliance with the pit bull license requirements of Subsection (d) of this Section and all other applicable requirements of this Article, may keep the pit bull at his or her residence within the City.

(2) The City Code Enforcement Officer or a City police officer may transport and harbor any pit bull solely for purposes of enforcing the provisions of this Article.

(3) A veterinarian may treat or groom a pit bull or temporarily board a pit bull as necessary after treatment until claimed by the owner or released to the City Code Enforcement Officer or a City police officer.

(4) A nonresident may bring a pit bull into the City for up to twenty-four (24) hours, provided that a muzzle is affixed to the dog at all times when the dog is not in a secure area.

(d) License. The owner of a pit bull shall be allowed to keep such pit bull within the City for more than twenty-four (24) hours, provided that he or she has applied for and received a pit bull license within sixty (60) days of the effective date of the ordinance codified herein. Issuance of a pit bull license is contingent upon the following:

(1) The owner of a pit bull shall pay a fee for issuance of the license in an amount sufficient to cover reasonable costs of administration as determined by the City Manager. The owner shall renew the license annually for as long as he or she has possession of the dog in the City. Each annual license renewal shall be accompanied by a renewal fee in an amount determined in the same manner as the initial license fee. The license is not transferable or renewable except by the holder of the license or by a member of the immediate family of such licensee. A pit bull license tag will be issued to the owner at the time of issuance of the license. Such license tag shall be attached to the pit bull by means of a collar or harness which must be worn by the animal at all times, clearly visible, and shall not be attached to any pit bull other than the pit bull for which the license was issued.

(2) The owner of the pit bull shall provide proof of a current rabies vaccination.

(3) The owner shall be at least eighteen (18) years of age.

(4) The owner shall present to the City Manager or designee proof that the owner has liability insurance coverage in the amount of one hundred thousand dollars (\$100,000.00) or more that will cover any damage or injury caused by his or her pit bull for the duration of the license and any renewal thereof. The policy shall provide for notice of cancellation to the City by the insurer at least thirty (30) days prior to such cancellation.

(5) The owner is encouraged to have his or her licensed pit bull spayed or neutered. If, subsequent to the effective date of the ordinance codified herein, the owner gets his or her pit bull spayed or neutered by a licensed veterinarian and presents to the City Manager or designee documentary proof from a licensed veterinarian that sterilization has been performed and proof of payment for the surgery, the City will reimburse the owner for the cost of the surgery, provided that the cost was reasonable. Breeding of any pit bull within the City is prohibited. Offspring of a licensed pit bull shall not be eligible for a license and shall be removed from the City immediately upon weaning.

(6) The owner shall, at the owner's sole expense, have a microchip containing an identification number implanted into the pit bull, which microchip shall remain implanted in the pit bull for as long as the dog is kept in the City. The City Manager or designee shall maintain a file containing

the registration numbers and names of licensed pit bulls and the names and addresses of their owners. The owner shall notify the City Manager or designee of any change of address.

(e) Additional regulations. Failure to comply with the following additional regulations shall constitute automatic revocation of the license, shall place the owner in violation of Subsection (a) above and shall result in the impoundment and possible disposition of the dog as provided in Subsection (f) below:

(1) At all times that a pit bull is at the residence or other property of the owner, the owner shall keep the pit bull confined to a secure area such that the dog is unable to exit the secure area of its own volition. Whenever a person who does not reside with the owner is at the residence or other property of the owner with the owner's consent, and the owner is not present, the owner shall confine the pit bull to a closed and locked secure area that prevents physical contact between the pit bull and that person. Whenever the owner or all persons over the age of eighteen (18) who reside with the owner are absent from the residence or property, the pit bull shall be confined to a closed and locked secure area that prevents physical contact between the pit bull and any person lawfully passing the residence or property. Notwithstanding the foregoing, a pit bull may be kept outside a secure area at the residence or other property of the owner, provided that the provisions of Paragraph (e)(3) below are complied with. In the event that a pit bull causes injury, damage or other harm to a person or property, the owner shall have the burden of proving that he or she complied with the provisions of this Paragraph.

(2) The owner shall post in a conspicuous location clearly visible to a person who approaches the residence or property from any direction in which there is a public right-of-way a legible pit bull warning sign, in letters not less than one (1) inch in height, stating that there is a pit bull on the premises confined according to the terms of this Section.

(3) At all times that a pit bull is away from the owner's residence or property, the pit bull shall wear a muzzle and shall be securely attached to a leash no longer than six (6) feet in length held by someone eighteen (18) years of age or older who is capable of effectively controlling the dog. Extension-style leashes may not be used. The leashed pit bull shall not be tethered to an inanimate object. A muzzle shall not be required if the pit bull is in an enclosed vehicle and the owner is present in the vehicle or the vehicle is closed (except to provide necessary ventilation) and locked.

(4) The owner shall not sell or otherwise transfer the pit bull to any person residing within the City except a member of the owner's immediate family, who will then become the owner and will be subject to all of the provisions of this Section.

(5) The owner shall immediately notify the City Manager or designee in the event that the pit bull is loose, stolen, at large or unconfined, has mauled, bitten, attacked, threatened or in any way menaced another animal or human or has died.

(f) Impoundment and disposition. The City Code Enforcement Officer or designee or a City police officer is authorized to immediately impound any pit bull found within the City limits that does not fall within the exceptions listed in Subsection (c) or (d) above, subject to a pretrial hearing. If the dog is found to be a pit bull, it shall be destroyed unless the owner produces evidence deemed sufficient by the court that the pit bull is to be permanently taken out of the City. Sufficient evidence must include, but is not limited to, a notarized agreement from the person taking custody of the

animal containing an address and date of transfer. Additionally, the owner must consent to an in-home inspection by the City Code Enforcement Officer or designee or a City police officer within thirty (30) days of release for the purpose of verifying the dog's removal from the City. Prior to release, the owner must pay the cost of impoundment and microchip the dog pursuant to Paragraph (d)(6) of this Section. If the dog is found not to be a pit bull, the dog shall be released to the owner.

(g) Penalty. Any person found guilty of violating this Section shall, upon conviction, be subject to the payment of a fine of not less than one thousand dollars (\$1,000.00). In addition to the fines stated in this Subsection, a person convicted under this Section may be subject to not more than one (1) year in jail. None of the minimum monetary fines in this Subsection shall be suspended by the Municipal Court, and the penalties in this Subsection may be imposed in addition to the court-ordered destruction provided for in Subsection (f) above. (Ord. 06-01 Art. 4)

Sec. 10-7-100. Feeding of wild animals prohibited.

(a) Definitions.

Attractant means any substance which could reasonably be expected to attract a wild animal or does attract a wild animal, including but not limited to garbage, food products, pet food, feed, grain or salt.

Feed shall mean all provision of edible or drinkable material, including, without limitation, bones, salt licks and water.

Wild animal means any animal which is not normally domesticated in this State, including but not limited to bears, coyotes, foxes, mountain lions, deer, opossums, raccoons and skunks.

(b) Prohibition.

(1) No person shall feed or in any manner provide an attractant to any wild animal.

(2) No person shall leave, store or maintain any attractant in a manner, area or location accessible to any wild animal.

(c) Exception. This Section shall not apply to any person utilizing a bird feeder, provided that the feeder is elevated or suspended on a pole, cable or other device to make it inaccessible to wild animals and the area below the feeder is kept free from the accumulation of seed debris. (Ord. 10-04 Art. 3)

Sec. 10-7-110. Livestock – running at large prohibited.

(a) Definition.

Livestock means horses, ponies, donkeys, cattle, mules, asses, bovine animals, sheep, goats, swine, domestic fowl, buffalo, cattalo and hoofed animals.

(b) Prohibition. No owner or keeper of livestock shall permit the same to run at large within the City. Livestock shall be deemed to be running at large when:

(1) Off of or away from the premises of the owner or keeper thereof; and

(2) Not under the control of such owner, keeper, agent, servant or other competent person, either by rope, cord or chain.

(c) Restitution to City.

(1) Every order of conviction under this Section by the Municipal Court shall include consideration of restitution to the City to recover actual costs incurred by the City as a result of the violation. These costs may include reasonable out-of-pocket expenses, City personnel hourly wages associated with restoring livestock to its proper location and all other losses or injuries which can be reasonably calculated and recompensed in money.

(2) The Court shall base its order of restitution upon information presented to the Court by the prosecuting attorney, who shall compile such information prior to the order of conviction. The Court may extend this time if the information is not available prior to the order of conviction or there are extenuating circumstances affecting the prosecuting attorney's ability to determine restitution. The burden of proof for establishing the amount of restitution owed shall be a preponderance of the evidence. (Ord. 10-04 Art. 3)

ARTICLE VIII

Offenses Relating to Government

Sec. 10-8-10. Court.

Failure to obey required court appearance. It is unlawful for any person accused or convicted of any violation of this Chapter to knowingly fail to appear before the Municipal Court or agency of the Municipal Court at the time and place specified on any summons issued by the Court or summons and complaint served upon such person, or as specified by or upon any court order or notice of appearance provided by the Court. This action shall not be deemed to preclude the Court from exercising its full powers relating to the setting and forfeiture of bonds and contempt. It shall not be a defense to the provisions of this Article that the underlying charge is defective or the offense upon which the failure to appear is predicated does not result in a trial or conviction, or that the conviction is reversed upon appeal. (Ord. 04-16 Art. 3)

Sec. 10-8-20. Obstruction.

(a) Resisting arrest.

(1) Resisting arrest prohibited: It is unlawful to knowingly prevent or attempt to prevent a police officer, acting under color of such officer's official authority, from effecting an arrest of the person or another by:

a. Using or threatening to use physical force or violence against the police officer or another; or

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

(2) Defense: It is no defense that the police officer was attempting to make an arrest which in fact was unlawful, if such officer was acting under color of his or her official authority and, in attempting to make the arrest, such 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 or her official authority* when, in the regular course of his or her duties, such officer is called upon to make and does make a judgment in good faith, based upon supporting facts and circumstances, that such officer should make an arrest.

(b) False reports. It is unlawful to:

(1) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any fire district or department, any ambulance service or any agency of the City which deals with emergencies involving danger to life or property;

(2) Knowingly make a report or cause the transmission of a report to any law enforcement authorities of a crime or other incident within their official concern knowing that it did not occur;

(3) Knowingly make a report or knowingly cause the transmission of a report to the law enforcement authorities pretending to furnish information about an offense or other incident within their official concern when the person reporting has no such information or knows that the information is false; or

(4) Provide false identifying information to law enforcement authorities. *Identifying information* means a person's name, address, birth date, social security number, driver's license or Colorado identification number.

(c) Failure or refusal to leave premises or property upon request of a peace officer. It is unlawful for any person to barricade or refuse police entry to any premises or property through use of or threatened use of force and to knowingly refuse or fail to leave any premises or property upon being requested to do so by a peace officer who has probable cause to believe a crime is occurring and that such person constitutes a danger to himself, herself or others.

(d) Aid to police. A person, eighteen (18) years of age or older, violates this Section when, upon command by a person known to him or her to be a police officer, he or she unreasonably refuses or fails to aid the police officer in effecting or securing an arrest or preventing the commission by another of any offense.

(e) Escape. It is unlawful for any person charged with, held for or convicted of any ordinance violation of the City to knowingly escape or attempt to escape from custody of a police officer or from the Police Department detention facility.

(f) Obstructing emergency officials.

(1) Obstruction prohibited: It is unlawful to knowingly obstruct, hinder or impair, by using or threatening to use violence, force or physical interference or obstacle, the enforcement of the penal

law or preservation of the peace by a police officer acting under color of such officer's official authority, or the prevention, control or abatement of fire by a firefighter acting under color of such firefighter's official authority, or the administration of medical treatment or emergency assistance by an emergency medical service provider or rescue specialist, acting under color of his or her official authority, or the administration of emergency care or emergency assistance by a volunteer, acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.

(2) Defense: It is no defense that the police officer was acting illegally if the officer was acting under color of his or her official authority as defined in this Article. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

Sec. 10-8-30. Roadway obstruction.

(a) Obstructing highway or other passageway.

(1) An individual or corporation commits an offense if without legal privilege such individual or corporation intentionally, knowingly or recklessly:

a. Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from his or her acts alone or from his or her acts and the acts of others; or

b. Disobeys a reasonable request or order to move issued by a person the individual or corporation knows to be a peace officer, a firefighter or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

(2) For purposes of this Section, *obstruct* means to render impassable or to render passage unreasonably inconvenient or hazardous.

(b) Hindering transportation. It is unlawful for a person to knowingly and without lawful authority forcibly stop and hinder the operation of any vehicle used in providing transportation services of any kind to the public or to any person, association or corporation. (Ord. 04-16 Art. 3)

Sec. 10-8-40. Government and government officials obstruction.

(a) Obstructing government functions.

(1) Obstructions prohibited: It is unlawful to knowingly obstruct, impair or hinder the performance of a governmental function by a public servant, by using or threatening to use violence, force or physical interference or obstacle.

(2) Defense: It shall be an affirmative defense that:

a. The obstruction, impairment or hindrance was of unlawful action by a public servant; or

b. The obstruction, impairment or hindrance of a governmental function was by lawful activities in connection with a labor dispute with the City.

(b) Refusal to permit inspections.

(1) It is unlawful for a person if, knowing that a public servant is legally authorized to inspect property:

a. He or she refuses to produce or make available the property for inspection at a reasonable hour; or

b. If the property is available for inspection, he or she refuses to permit the inspection at a reasonable hour.

(2) For purposes of this Section, *property* means any real or personal property, including books, records and documents which are owned, possessed, or otherwise subject to the control of the defendant.

(3) A *legally authorized inspection* means any lawful search, sampling, testing or other examination of property, in connection with the regulation of a business or occupation, that is authorized by statute or lawful regulatory provision.

(c) Public buildings.

(1) No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the State or any of the political subdivisions of the State, or at any building owned, operated or controlled by the federal government as to willfully deny to an public official, public employee or invitee on such premises the lawful rights of such official, employee or invitee to enter, to use the facilities of or to leave any such public building.

(2) No person shall, at or in any such 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.

(3) 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 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.

(4) 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 designated to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

(5) 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.

(6) No person, alone or in concert with another, shall picket inside any building in which the chambers, galleries or offices of the general assembly, or either house thereof, are located, or in which the legislative office of any member of the general assembly is located, or in which a legislative hearing or meeting is being or is to be conducted.

(7) 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.

(d) Unlawful conduct on public property.

(1) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on the same in violation of any order, rule or regulation concerning any matter prescribed in this Paragraph (1), 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:

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

b. Restriction or limitation of the use of such public buildings or property as to time, manner or permitted activities;

c. 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;

d. Necessary sanitation, health and safety measures, consistent with Section 25-13-113, C.R.S.;

e. 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;

f. Use of all vehicles as to place, time and manner of use; and

g. Control and limitation of fires, including but not limited to the prohibition, restriction or ban on fires or other regulation of fires to avert the start of or lessen the likelihood of wildfire, and the designation of places where fires are permitted, restricted, prohibited or banned.

(2) 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 officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this Section. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

Sec. 10-8-50. Abuse of public records.

(a) A person commits abuse of public records if:

- (1) The person knowingly makes a false entry in or falsely alters any public record;
- (2) Knowing the person lacks the authority to do so, the person knowingly destroys, mutilates, conceals, removes or impairs the availability of any public record;
- (3) Knowing the person lacks the authority to retain the record, the person refuses to deliver up a public record in the person's possession upon proper request of any person lawfully entitled to receive such record; or
- (4) Knowing the person has not been authorized by the custodian of the public record to do so, the person knowingly alters any public record.

(b) As used in this Section, the term *public record* includes all official books, papers or records created, received or used by or in any governmental office or agency. (Ord. 04-16 Art. 3)

Sec. 10-8-60. Disrupting lawful assembly.

It is unlawful and a person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 04-16 Art. 3)

Sec. 10-8-70. Public officials.

(a) First degree official misconduct. A public servant commits first degree official misconduct if, with intent to obtain a benefit for the public servant or another or maliciously to cause harm to another, he or she knowingly:

- (1) Commits an act relating to his or her office but constituting an unauthorized exercise of his or her official function;
- (2) Refrains from performing a duty imposed upon him or her by law; or
- (3) Violates any statute or lawfully adopted rule or regulation relating to his or her office.

(b) Second degree official misconduct. A public servant commits second degree official misconduct if he or she knowingly, arbitrarily and capriciously:

- (1) Refrains from performing a duty imposed upon him or her by law; or
- (2) Violates any statute or lawfully adopted rule or regulation relating to his or her office.

(c) Impersonating public officials. It is unlawful to falsely pretend to be a public servant of the City other than a police officer and perform an act in that pretended capacity, except in a bona fide theatrical performance. It is no defense that the office the person pretended to hold did not in fact exist. (Ord. 04-16 Art. 3)

Sec. 10-8-80. City services.

(a) Misuse of City services. No person, except the City's customer of record responsible for the service, shall knowingly obtain or use any electric, water, sewer, refuse or sanitation utility service provided by the City. It is an affirmative defense to an alleged offense under this Section that the defendant, consistent with all otherwise applicable laws, ordinances, rates, rules and regulations, obtained or used City utility service with express permission from, or as a guest or household member of, the City's customer of record responsible for the service used or obtained.

(b) First degree criminal tampering. Except as provided in Sections 18-4-506(3) and 18-4-506(5), C.R.S., a person commits the crime of first degree criminal tampering if, with intent to cause interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, he or she tampers with property of a utility or institution.

(c) Second degree criminal tampering. Except as provided in Sections 18-4-506(3) and 18-4-506(5), C.R.S., a person commits the crime of second degree criminal tampering if he or she tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another or if he or she knowingly makes an unauthorized connection with property of a utility.

(d) Tampering with equipment associated with oil or gas gathering operations.

(1) It is unlawful for any person who in any manner knowingly destroys, breaks, removes or otherwise tampers with or attempts to destroy, break, remove or otherwise tamper with any equipment associated with oil or gas gathering operations.

(2) It is unlawful for any person who in any manner, without the consent of the owner or operator, knowingly alters, obstructs, interrupts or interferes with or attempts to alter, obstruct, interrupt or interfere with the action of any equipment used or associated with oil or gas gathering operations.

(e) Tampering with a utility meter.

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

(2) Any person who in any manner alters, obstructs or interferes with the action of any meter provided for measuring or registering the quantity of gas, water or electricity passing through said meter without the knowledge and consent of the person owning said meter commits a violation.

(3) 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. 04-16 Art. 3)

ARTICLE IX

Offenses Related to Alcohol

Sec. 10-9-10. Open containers.

(a) Prohibitions enumerated. Except upon premises holding valid licenses to sell or serve alcoholic beverages, it is unlawful:

(1) Generally: To carry or possess any open container of alcoholic beverage on any street, sidewalk, alley or other public place in the City, or in or upon any motor vehicle so located in the City, or on the grounds of any public or private school, college or university in the City.

(2) Public consumption: To consume any alcoholic beverage in any public place except any licensed premises permitted under state law to sell such liquor by the drink for consumption on the premises.

(3) Open container in vehicle: For the operator of a vehicle in any public place in the City to allow any open container of alcoholic beverage within the passenger compartment of the vehicle.

(b) Exemptions. Nothing in this Section shall prohibit possession or consumption of alcoholic beverages in public areas where authorized by a properly issued special event permit, where the person possessing or consuming the alcoholic beverage is twenty-one (21) years of age or older; however, no such permit shall allow the possession or consumption of alcoholic beverages in any vehicle. (Ord. 04-16 Art. 3)

Sec. 10-9-20. Underage possession, consumption or sale of alcohol.

(a) Prohibitions enumerated. It is unlawful for any person:

(1) To sell, serve, give away, dispose of, exchange or deliver or permit the sale, serving, giving or procuring of any alcoholic beverage to or for any person under the age of twenty one (21) years;

(2) To obtain or attempt to obtain any alcoholic beverage by misrepresentation of age or by any other method in any place where alcoholic beverages are sold when such person is under the age of twenty-one (21) years;

(3) To possess or consume alcoholic beverages anywhere in the City, including but not limited to in any public or private place, or in any vehicle, when such person is under twenty-one (21) years of age; or

(4) To permit any person under twenty-one (21) years of age, of whom he or she may be a parent or guardian, to violate this Subsection (a) or Subsection 10-9-10(a).

(b) Prima facie evidence.

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

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

b. Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with alcohol intoxication or impairment while present anywhere in the City.

(2) Defense:

a. It shall be an affirmative defense that the person under the age of twenty-one (21) years was participating in a religious ceremony or practice, or is participating in a supervised and bona fide investigation conducted by a law enforcement agency.

b. It shall be an affirmative defense that the person under the age of twenty-one (21) years while legally on private property with the knowledge and consent of the owner or legal possessor of such private property and the ethyl alcohol was possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption.

(c) Presumption. During any trial for a violation of this Article, 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 be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label to determine whether the contents of the bottle, can or other container were composed in whole or in part of alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liquor," "cordial" or "alcohol" shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of alcohol. (Ord. 04-16 Art. 3)

ARTICLE X

Offenses Relating to Cigarettes and Tobacco Products

Sec. 10-10-10. Minors; cigarettes and tobacco products.

(a) Prohibitions.

(1) Providing to minors: It is unlawful for any person to knowingly furnish to any person who is under eighteen (18) years of age, by gift, sale or any other means, any cigarettes or tobacco products. It shall be an affirmative defense to a prosecution under this Subsection that the person furnishing the cigarettes or tobacco product was presented with and reasonably relied upon a document which identified the person receiving the cigarettes and/or tobacco product as being eighteen (18) years of age or older.

(2) Purchase by minors: It is unlawful for any person who is under eighteen (18) years of age to purchase or attempt to purchase any cigarettes or tobacco products.

(3) Possession by minors: It is unlawful for any person who is under eighteen (18) years of age to possess any cigarettes or tobacco products.

(b) As used in this Section, *tobacco products* mean cigarettes, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour, Cavendish, plug and twist tobacco; fine cut and other chewing tobaccos; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking. (Ord. 04-16 Art. 3)

ARTICLE XI

Offenses Relating to Drugs and Drug Paraphernalia

Sec. 10-11-10. Possession of marijuana.

(a) Prohibitions enumerated.

(1) It shall be unlawful to possess less than one (1) ounce of marijuana. Transferring or dispensing not more than one (1) ounce of marijuana from one (1) person to another, for no consideration, shall be deemed possession and not dispensing or sale thereof.

(2) It is unlawful to openly and publicly display, consume or use up to one (1) ounce of marijuana.

(b) Interpretation. Consumption or use of less than one (1) ounce of marijuana shall be deemed possession thereof.

(c) As used in this Section, *marijuana* means all parts of the plant *Cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as *marijuana* in this Subsection. It does not include *marijuana concentrate*, which means hashish, tetrahydrocannabinol, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinol. (Ord. 04-16 Art. 3)

Sec. 10-11-20. Possession of drug paraphernalia.

(a) Possession prohibited. It is unlawful to knowingly possess drug paraphernalia.

(b) As used in this Section, *drug paraphernalia* means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human

body a controlled substance in violation of the law. *Drug paraphernalia* includes, but is not limited to:

- (1) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- (2) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- (3) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.
- (4) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- (5) Capsules, balloons, envelopes, baggies, bindles and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- (6) Containers or other objects used, intended for use or designed for use in storing or concealing controlled substances.
- (7) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - a. Water pipes;
 - b. Carburetion tubes and devices;
 - c. Smoking and carburetion masks;
 - d. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - e. Miniature cocaine spoons and cocaine vials;
 - f. Chamber pipes;
 - g. Carburetor pipes;
 - h. Electric pipes;
 - i. Air-driven pipes;
 - j. Bongs; or
 - k. Ice pipes or chillers.

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

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) The proximity of the object to controlled substances.
- (3) The existence of any residue of controlled substance on the object.
- (4) Instructions, oral or written, provided with the object concerning its use.
- (5) Descriptive materials accompanying the object which explain or depict its use.
- (6) National or local advertising concerning its use.
- (7) The existence and scope of legal uses for the object in the community.
- (8) Expert testimony concerning its use. (Ord. 04-16 Art. 3)

Sec. 10-11-30. Substances releasing toxic vapors.

(a) Use prohibited. 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 or nervous system, or possess, buy or use any such substance for the purpose of violating or aiding another to violate this Section.

(b) Sales or furnishing to minors. It is unlawful to knowingly sell, give, deliver or furnish any substance releasing toxic vapors to any child under the age of eighteen (18) years without the personal or written consent of a parent or guardian of such child, except when the sale of one (1) tube of glue is made simultaneously with or as part of a sale, purchase or delivery of a hobby or model kit. (Ord. 04-16 Art. 3)

ARTICLE XII

Curfew

Sec. 10-12-10. Curfew.

It shall be unlawful for any person who has not reached his or her eighteenth birthday to be or remain upon any public road, street or alley, to be or remain in any establishment open to the public, or to be or remain in any other public place in the City after the hour of 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 12:00 midnight on any Friday or Saturday, or prior to the hour of 5:00 a.m. on any day, except:

- (1) When accompanied by a parent, guardian or other person having legal custody of such minor.

(2) For lawful employment or for one-half (½) hour before or after such employment when commuting directly to or from such employment and when carrying an employer's written and signed statement specifying the type, hours and place of employment.

(3) When accompanied by a person who has reached his or her eighteenth birthday and who has in his or her possession the written and signed consent of the parent, guardian or other person having legal custody of the minor.

(4) When returning from an officially sanctioned school function or activity within one-half (½) hour after the conclusion of such activity or function.

(5) When engaged in an activity necessary to assist in an emergency involving a person's illness, injury or death.

(6) When traveling directly to or from the minor's home for a religious activity or purpose, when the minor had the consent to attend such activity from a parent or guardian who had the legal care or custody of such juvenile. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

Sec. 10-12-20. Knowingly allowing or permitting violation of curfew.

(a) It shall be unlawful for any parent, guardian or other person having legal custody of any minor who has not reached his or her eighteenth birthday to knowingly allow or permit any such minor to be or remain upon any public road, street or alley, to be or remain in any establishment open to the public, or to be or remain in any other public place in the City after the hour of 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, after the hour of 12:00 midnight on any Friday or Saturday, or prior to the hour of 5:00 a.m. on any day, except:

(1) When accompanied by a parent, guardian or other person having legal custody of such minor.

(2) For lawful employment or for one-half (½) hour before or after such employment when commuting directly to or from such employment and when carrying an employer's written and signed statement specifying the type, hours and place of employment.

(3) When accompanied by a person who has reached his or her eighteenth birthday and who has in his or her possession the written and signed consent of the parent, guardian or other person having legal custody of the minor.

(b) The term *knowingly*, as used herein, includes knowledge which a parent, guardian or other person having legal custody of a person who has not reached his or her eighteenth birthday should be reasonably expected to have concerning the whereabouts of said minor. (Ord. 04-16 Art. 3)

ARTICLE XIII

Panhandling

Sec. 10-13-10. Definitions.

(a) *Aggressive panhandling* shall mean:

(1) Continuing to solicit from a person after the person has given a negative response to such soliciting.

(2) Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting.

(3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact.

(4) Using violent or threatening gestures toward a person solicited.

(5) Persisting in closely following or approaching the person being solicited, with the intent of asking that person for money or other things of value, after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any thing of value to the solicitor.

(6) Using profane or abusive language which is likely to provoke an immediate violent reaction from the person being solicited.

(7) Soliciting money from anyone who is waiting in line for tickets, for entry to a building or for another purpose.

(8) Approaching or following a person for solicitation as part of a group of two (2) or more persons in a manner and with conduct, words or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or another thing of value.

(b) *Automated teller machine* shall mean a device, linked to a financial institution's account record, which is able to carry out transactions, including but not limited to: account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.

(c) *Automated teller machine facility* shall mean the area comprised of one (1) or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

(d) *Financial institution* shall mean any bank, industrial bank, credit union or savings and loan as defined in Title 11, C.R.S.

(e) *Public place* shall mean a place to which the public or a substantial group of persons has access, including but not limited to any street, sidewalk, highway, parking lot, plaza, transportation facility, school, place of amusement, park or playground.

(f) *Soliciting* or *panhandling* for purposes of this Section are interchangeable and mean any solicitation made in person requesting an immediate donation of money. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a *donation* for the purpose of this Section. *Panhandling* does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

Sec. 10-13-20. Prohibited acts.

(a) No person shall engage in aggressive panhandling in any public place.

(b) No person shall panhandle on private or residential property after having been asked to leave or refrain from panhandling by the owner or other person lawfully in possession of such property.

(c) No person shall panhandle within twenty (20) feet of public toilets.

(d) No person shall panhandle within twenty (20) feet of any automated teller machine; provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.

(e) No person shall solicit from any operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying or reserving a public parking space, or directing the operator or occupant to a public parking space.

(f) No person shall panhandle in any public transportation vehicle, within twenty (20) feet of any bus, train or light-rail station or stop, or in any public parking lot or structure.

(g) No person shall panhandle within six (6) feet of an entrance to a building.

(h) No person shall panhandle within twenty (20) feet of any pay telephone; provided that, when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility.

(i) No person shall solicit or panhandle after dark, which shall mean one-half (½) hour after sunset until one-half (½) hour before sunrise. (Ord. 04-16 Art. 3)

Sec. 10-13-30. Unlawful to solicit occupants of vehicles.

(a) Definitions.

Median means that portion of a highway separating opposing traffic flows.

Roadway means that portion of a highway, street, avenue or other right-of-way improved, designed and ordinarily used for vehicular travel and includes shoulders, medians and areas designated for travel by bicycles or pedestrians.

Shoulder means that portion of a roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

(b) Prohibited. It shall be unlawful for any person to enter or remain in a roadway for the purpose of soliciting or attempting to solicit employment, business, sales or contributions of any kind, or to collect money for the same, from the occupant of any vehicle. (Ord. 06-04 Art. 4; Ord. 06-08 Art. 3)

ARTICLE XIV

Seized Property

Sec. 10-14-10. Disposition of lost, abandoned or recovered stolen personal property.

(a) Custody of property. The Chief of Police shall have custody of all lost, abandoned and recovered stolen personal property coming into the possession of the City and property ordered confiscated by the Municipal Court.

(b) Disposition of lost or abandoned motor vehicles. The Chief of Police shall dispose of lost, abandoned or recovered stolen motor vehicles in accordance with the provisions of this Article, except that no motor vehicle may be disposed of until it has been in the custody of the Police Department for a period of six (6) months, and the identity or location of the owner cannot be ascertained. Disposition of motor vehicles shall be done in a manner consistent with regulations promulgated by the department or agency of the State responsible for the issuance of certificates of title for motor vehicles.

(c) Notification of owner of other property if known.

(1) Notice: The Chief of Police shall send notice by first class mail to the last known address of the owner that his or her property is in the possession of the Police Department and that it will be sold or otherwise disposed of by the City unless such owner reclaims the property within twenty (20) days after the effective date of the notice. Notice shall be effective when mailed.

(2) Proof of ownership: An owner may claim property by providing evidence of lawful ownership by title, sales receipt, serial number or otherwise, to the satisfaction of the Chief of Police.

(d) Advertising for owner if not known.

(1) When the owner of held property, including motor vehicles, is unknown or there is no known address of the owner or person having found the property, the Chief of Police shall publish notice in a newspaper of general circulation in the City on three (3) different days, which may be consecutive. Such notice shall contain the following information:

a. A description of the property; and

b. A statement that such property will be disposed of by the City unless the owner thereof reclaims such property in the manner provided for by law within thirty (30) days after the publication of the notice.

(2) The Chief of Police shall return the property to any claimant of such property, provided that the claimant submits evidence of his or her ownership which is sufficient to satisfy the Chief of Police that the claim is rightful.

(e) Disposition of unclaimed, lost or abandoned property. If a motor vehicle is still unclaimed after six (6) months or any other personal property after thirty (30) days, and in the event that such property remains unclaimed after giving notice as provided in Subsections (c) and (d) above, then at the discretion of the Chief of Police:

(1) The City may obtain the property for any use serving a public purpose;

(2) The property may be subject to public auction conducted by the Purchasing Department; however, no firearm, other deadly weapon or other item which may create a danger to the City or others shall be subject to public auction; or

(3) The property shall otherwise be destroyed or disposed of as appropriate.

(f) Disposition of evidentiary property and recovered stolen property.

(1) Evidentiary property and recovered stolen property, not seized from a person asserting ownership as a good faith purchaser for value, shall be returned to the owner after final resolution of any judicial proceedings or if no criminal filings are made. If the Police Department has information indicating that the owner has not claimed the property, the Police Department shall make reasonable efforts to notify the owner to claim the property as provided in Subsection (c) above. If the owner is unknown or has not been located through reasonable efforts, the Police Department shall attempt to find the owner by publication according to Subsection (d) above. Property may be released to the owner during the pendency of any criminal action in accordance with an order of the court having jurisdiction in the matter or at the direction of the prosecuting attorney.

(2) Recovered stolen property, claimed by or seized from a person asserting status as a good faith purchaser for value, shall be returned to its owner after final resolution of any judicial proceedings or if no criminal filings are made, and appropriate due process has been provided to determine ownership. The Police Department shall give both the owner and any person claiming to be a good faith purchaser for value notice pursuant to Subsection (c) above. The notice shall require the claimant to show proof of ownership or explain the claim to the property within thirty (30) days. If, after thirty (30) days, only one (1) person claims ownership, the property shall be given to that person upon proof of ownership. If two (2) or more parties respond with a claim of ownership, the Municipal Court shall have jurisdiction of the property for the purpose of determining ownership. In making its decision, the Court shall consider the standards set forth in Section 18-4-405, C.R.S. (Ord. 04-16 Art. 3; Ord. 04-17 §1)

ARTICLE XV

Enforcement Responsibility

Sec. 10-15-10. Enforcement.

Unless otherwise indicated, the provisions of this Chapter shall be enforced by the Lone Tree Police Department or other authorized law enforcement provider. (Ord. 04-16 Art. 3)

ARTICLE XVI

Violations and Penalties

Sec. 10-16-10. Penalty provisions.

(a) Penalty provisions generally.

(1) Noncriminal violations: Any person convicted of a noncriminal violation, as designated in Paragraph (b)(1) below, may be fined by an amount not to exceed one thousand dollars (\$1,000.00).

(2) Criminal violations: Any person, who at the time of the commission of the offense was at least eighteen (18) years of age, is convicted of a criminal violation, as designated in Paragraph (b)(2) below, may be incarcerated for a period of up to one (1) year or fined an amount not to exceed one thousand dollars (\$1,000.00), or both. Any person who, at the time of the commission of the offense, was at least ten (10) years but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to a criminal violation, as designated in Paragraph (b)(2) below, may be punished by a fine of not more than one thousand dollars (\$1,000.00).

(3) Voluntary pleas: Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all of the fines and/or penalties applicable to the original charge.

(4) Continuing violations: Where any violation is a continuing offense, each day that the violation continues shall be considered and held to be a separate and distinct offense.

(b) Violations and penalties enumerated.

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

<i>Sec. No.</i>	<i>Violation</i>
10-2-10	Attempt (where the counterpart violation is noncriminal)
10-2-20	Conspiracy (where the counterpart violation is noncriminal)
10-2-30	Complicity (where the counterpart violation is noncriminal)
10-2-40	Accessory (where the counterpart violation is noncriminal)
10-4-60	Throwing missiles
10-5-110	Bait advertising
10-5-120	Avoiding payment of admission fees
10-6-10	Injury to or removal of street signs
10-6-10	Defacing posted notice
10-6-30	Litter
10-6-30	Truckloads causing litter
10-6-30	Advertisements
10-6-40	Loitering on school grounds
10-7-30	Licensing requirements
10-7-40	Running at large
10-7-50	Noisy dogs
10-7-60	Damaging of property by domestic animals
10-7-70	Animal excrement
10-7-80	Animal impoundment fees
10-7-100	Feeding of wild animals
10-7-110	Livestock – running at large
10-8-50	Abuse of public records
10-9-10	Open alcohol containers
10-9-20	Underage possession, consumption or sale of alcohol
10-10-10	Minors – cigarettes and tobacco products
10-11-10	Possession of marijuana
10-11-20	Possession of drug paraphernalia
10-11-30	Substances releasing toxic vapors
10-12-10	Curfew violation
10-12-20	Permitting curfew violations
10-20-30	Fireworks

(2) Criminal violations: The following sections of this Chapter are designated criminal violations. Any person eighteen (18) years of age or older charged with violating any provision of this Chapter so designated may be subject to incarceration, in addition to fines and costs, upon conviction. Further, such person eighteen (18) years of age or older may be entitled to a trial by jury upon meeting the requirements of Rule 223 of the Colorado Municipal Court Rules, as amended:

<i>Sec. No.</i>	<i>Violation</i>
10-2-10	Attempt (where the counterpart violation is criminal)
10-2-20	Conspiracy (where the counterpart violation is criminal)
10-2-30	Complicity (where the counterpart violation is criminal)
10-2-40	Accessory (where the counterpart violation is criminal)
10-3-10	Unlawful carrying, wearing, possessing of weapons and firearms
10-4-10	Assault
10-4-10	Unjustified physical force
10-4-20	Disorderly conduct
10-4-30	Harassment
10-4-40	Menacing
10-4-50	Reckless endangerment
10-5-10	Theft
10-5-20	Theft of rental property
10-5-30	Price switching
10-5-40	Theft by receiving
10-5-50	Fuel piracy
10-5-60	Theft of cable service
10-5-70	Theft of public transportation services
10-5-80	Computer crime
10-5-90	Fraud by check
10-5-100	Fraud in effecting sales
10-6-10	Criminal mischief
10-6-20	Trespass
10-7-10	Cruelty to animals
10-7-20	Vicious animals
10-8-10	Failure to obey required court appearance
10-8-20	Resisting arrest
10-8-20	Escape
10-8-20	Failure to leave premises upon request
10-8-20	Refusing to aid police officers
10-8-20	False reports
10-8-30	Obstructing emergency officials

<i>Sec. No.</i>	<i>Violation</i>
10-8-40	Obstructing government functions
10-8-70	Impersonating public officials
10-8-70	Official misconduct
10-8-80	Criminal tampering
10-20-10	Public indecency
10-20-20	Public urination and defecation

(3) Presumption of noncriminal violation restrictions: Any provision of this Chapter not specifically designated as noncriminal or criminal in nature shall be presumed to be noncriminal,

provided that there is no counterpart state statute for which, upon conviction, incarceration is possible. (Ord. 04-16 Art. 3; Ord. 04-17 §1; Ord. 07-16 Art. 3; Ord. 10-04 Art. 3)

ARTICLE XVII

Court Costs and Surcharge

Sec. 10-17-10. Court costs and surcharge.

(a) Court costs. The Municipal Judge shall impose and collect as costs against a defendant in each case under this Chapter brought before the court in accordance with the following schedule:

(1) Thirty dollars (\$30.00) upon the entry of a plea of guilty or no contest at the time of the arraignment or prior to the date of trial.

(2) Thirty dollars (\$30.00) upon the entry of a plea of guilty or no contest on the date of trial to the court or upon a finding of guilty after a trial to the court.

(3) Fifty dollars (\$50.00), plus all actual juror costs, upon a finding of guilty after a trial to a jury, the entry of a plea of guilty after a trial to a jury, the entry of a plea of guilty or no contest, or request for a continuance prior to the commencement of a trial to a jury but after a jury has been summoned unless the court has been notified of the prospective plea or continuance at least forty-eight (48) hours prior to the date of trial.

(4) Thirty dollars (\$30.00) upon the issuance of a bench warrant for failing to appear in court, failing to pay fines and costs or failing to comply with any order of the court.

(5) Five dollars (\$5.00) for each subpoenaed City witness who appears at trial upon a finding of guilty by the court, by the jury or upon the entry of a plea of guilty or no contest on the date of trial.

(6) Fifty dollars (\$50.00) for each subpoenaed off-duty officer and ten dollars (\$10.00) for each subpoenaed City witness, including on-duty officers, who appear at trial and that trial is continued at the defendant's request. This provision shall not apply if a continuance is requested, in writing, forty-eight hours (48) prior to trial.

(7) Fifty dollars (\$50.00) for failure to comply with terms and conditions of a deferred judgment.

(b) Surcharge. In addition to any fines and costs assessed by the Municipal Judge under this Chapter, there shall be added and separately reported a surcharge of thirty-five percent (35%) of the fines and costs assessed, provided that total cost of the fine and surcharge shall be used for police functions, victim's assistance and facilities as approved by the City Council. Any surcharge imposed by this Section shall be rounded to the lower nearest dollar amount.

(c) In addition to any other fines, costs and/or surcharges imposed by this Article, any person who violates any of the provisions of this Article, whether said person acknowledges guilt or liability, is found guilty by the Municipal Court or has judgment entered against him or her, shall be subject to

a surcharge of ten dollars (\$10.00). This surcharge shall be paid to the Clerk of the Court by each person so convicted. Said moneys shall be used by the City for funding of necessary victims and witness assistance programs (Ord. 04-16 Art. 3; Ord. 05-08 Art. 4)

ARTICLE XVIII

Disposition of Fines and Forfeitures

Sec. 10-18-10. Disposition.

All fines and forfeitures for the violation of this Chapter shall be paid into the treasury of the City. (Ord. 04-16 Art. 3)

ARTICLE XIX

Noise

Sec. 10-19-10. Definitions.

As used in this Article, the following words shall have the following meanings:

Ambient noise level means the average equivalent sound level (LEQ) occurring during a six-minute period as measured with a sound level measuring instrument. The ambient noise level shall be determined with the noise source at issue silent, and in the same location and approximate time as the measurement of the noise level of the source at issue.

Commercial business area means an area where offices, clinics and the facilities needed to serve them are located; an area with local shopping and service establishments located within walking distance of the residents served; and a tourist-oriented area where hotels, motels and gasoline stations are located.

Construction means any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

dB(A) means a sound level in decibels measured on the A scale of a sound level having characteristics defined by the American National Standards Institute, Publication S1.4-1983, or the most recent edition.

Decibel is a unit describing the relative amplitude of sound. A *decibel* is a unit of sound pressure level equal to twenty (20) times the logarithm to the base ten of the ratio of the sound pressure to the reference pressure of $2 \times 10^{-5} \text{N/m}^2$ (Newtons/meter squared).

Firearm means any pistol, revolver, rifle or other weapon of any description from which any shot, projectile or bullet may be discharged.

Industrial and manufacturing area means an area where manufacturing, processing or fabrication of any commodity, storage and warehousing, wholesale sales of equipment, supplies and materials, repair, rental and servicing of commodities, research laboratories, motor vehicle repair and servicing and similar activities are conducted.

Interior construction means construction within any structure with enclosed walls, roof and door openings and, if applicable, enclosed window openings. All other construction shall be considered exterior construction for the purposes of this Article.

Motor vehicle means any vehicle propelled, or drawn by mechanical power, including but not limited to automobile, truck, motorcycle, all-terrain recreational vehicle, trail bike, dirt bike, minibike, go-cart, snowmobile, lawnmower or any other vehicle which is self-propelled.

Motorcycle means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and for travel primarily on public highways and which is generally and commonly used to transport persons and property over the public highways.

Muffler means a device consisting of a series of chambers or baffle plates or other mechanical design for the purpose of receiving exhaust gas from an internal combustion engine, and which is effective in reducing noise.

Residential area means an area of single- or multi-family dwellings where businesses may or may not be conducted in such dwellings. (Ord. 98-03, Art. 3)

Sec. 10-19-20. Excessive.

No person shall operate any type of motor vehicle, engage in or carry on any construction project in a residential area or discharge any firearm in a residential area which makes sound in excess of the levels specified in Sec. 10-19-40 below. (Ord. 98-03, Art. 4)

Sec. 10-19-30. Measurement of sound level.

(a) Sound from a motor vehicle operating on a public road or highway shall be measured at a distance of fifty (50) feet from the center of the lane of travel used by the motor vehicle.

(b) Sound from a motor vehicle operating on private property or public property which is not a road or highway shall be measured at a distance of fifty (50) feet or more from such motor vehicle.

(c) Sound from a nonvehicular exterior source shall be measured at the property boundary or any point within adjacent property.

(d) Sound shall be measured on the "A" weighting scale on a sound-measuring instrument of a design and quality and characteristics established by the American National Standard Institute, §1.4-1983 for Type 1 instruments, set to fast response time.

(e) For purposes of this Article, measurements with sound-measuring instrument meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour or fifteen (15) miles per hour with a wind screen.

(f) For all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement. For ambient levels within ten (10) decibels of the noise at issue, the ambient sound level shall be analytically subtracted from the combination of the noise source at issue and the ambient level. (Ord. 98-03, Art. 5)

Sec. 10-19-40. Prohibited noise levels.

(a) Sound from a vehicle being operated on a public road or highway with the following speed limits shall not exceed the following as measured on the "A" weighting scale dB(A):

<i>Type of Vehicle</i>	<i>Speed Limit of 35 mph or less</i>	<i>Speed Limit of more than 35 mph</i>
Motorcycle manufactured before 01/01/73	82 dB(A)	86 dB(A)
Motorcycle manufactured on or after 01/01/73	80 dB(A)	84 dB(A)
Vehicle manufacturer's gross vehicle rating of 10,000 lbs. or more, and any combination of vehicles towed by such vehicle	86 dB(A)	88 dB(A)
All other vehicles	80 dB(A)	84 dB(A)

(b) Sound from a vehicle being operated on private or public property which is not a road or highway shall not exceed the following as measured on the "A" weighting scale dB(A): All vehicles, 78 dB(A). (Ord. 98-03, Art. 6)

Sec. 10-19-50. Exceptions.

The provisions of this Article shall not apply to:

- (1) The use of property by the State, any political subdivision of the State or any other entity not organized for profit, including but not limited to nonprofit corporations, or any of the lessees, licensees or permittees, for the purpose of promoting, producing or holding cultural, entertainment, athletic or patriotic events, including but not limited to concerts, music festivals and fireworks displays for which a permit has been issued.
- (2) Property used for manufacturing, industrial or commercial business purposes.
- (3) Public utilities regulated pursuant to Title 40, C.R.S.
- (4) Oil and gas production subject to the provisions of Article 60 of Title 34, C.R.S.

(5) Operation of aircraft or other activities which are subject to federal law with respect to noise control.

(6) Any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

(7) Any mechanical device, apparatus or equipment used, related to or connected with any emergency machinery, vehicle or work.

(8) Noise sources associated with the maintenance of real property, provided that said activities take place between 8:00 a.m. and 8:00 p.m.

(9) Any activity to the extent that regulation thereof has been preempted by state or federal law.

(10) Operation of snowplows. (Ord. 98-03, Art. 7)

Sec. 10-19-60. Private abatement action not prohibited.

This Article shall not be construed to conflict with the right of any person to maintain a private action to abate a noise nuisance as provided by law. (Ord. 98-03, Art. 8)

Sec. 10-19-70. Vehicle muffler required.

(a) No person shall operate anywhere in the City any motor vehicle that is not equipped with a muffler in constant operation.

(b) No person shall operate any motor vehicle in which a muffler has been modified or is not properly maintained to prevent any noise in excess of the noise emitted when the manufacturer of the vehicle originally installed the muffler.

(c) No person shall operate anywhere in the City any motor vehicle having a muffler that has been equipped or modified with a cutoff, bypass or any similar device or modification. (Ord. 98-03, Art. 9)

Sec. 10-19-80. Construction hours.

Unless the Planning Director has issued a written variance, or an approved land use application specifies different hours, exterior construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, and shall be limited to the hours of 8:00 a.m. to 6:00 p.m. on Saturday, Sunday and state legal holidays. Interior construction shall be limited to the hours of 7:00 a.m. to 9:00 p.m. Any written variance issued by the Planning Director must be displayed at the construction site. (Ord. 98-03, Art. 10)

Sec. 10-19-90. Enforcement.

The provisions of this Article pertaining to noise resulting from the discharge of firearms and the operation of vehicles shall be enforced by the Police Department. The Director of the Department of

Planning and Community Development shall enforce the provisions of this Article pertaining to construction noise. (Ord. 98-03, Art. 14; Ord. 04-17 §1)

Sec. 10-19-100. Violations; penalties.

Any person who violates any of the provisions of this Article commits a class 2 petty offense. The arresting peace officer for any violation of this Article may follow the penalty assessment procedure provided in Section 16-2-201, C.R.S. Any person who is convicted of a violation of any of the provisions of this Article shall be punished by a fine of up to thirty dollars (\$30.00) for each separate violation, plus customary court costs and administrative costs as required by the City when applicable. The following graduated fine schedule for repeat offenses by the same individual within one (1) year shall apply: a thirty-dollar increase for each recurring offense, beginning at thirty dollars (\$30.00) to a maximum of three hundred dollars (\$300.00). (Ord. 98-03, Art. 11; Ord. 04-17 §1)

ARTICLE XX

Miscellaneous Offenses

Sec. 10-20-10. Public indecency.

(a) It is unlawful for any person, in a public place, to knowingly or intentionally:

- (1) Appear in the state of nudity;
- (2) Engage in an act of sexual intercourse;
- (3) Engage in an act of deviate sexual intercourse; or
- (4) Fondle the genitals of himself, herself or another person.

(b) For purposes of this Section, *nudity* means: the showing of the human male or female genitalia, pubic hair or buttocks with less than a fully opaque covering; the female breast below the top of the areola; the exposure of any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum, anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

(c) For purposes of this Section, *public place* includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission is levied.

(d) The prohibition set forth in Subsection (a)(4) above shall not apply to any child under ten (10) years of age, or to any individual exposing a breast in the process of breastfeeding an infant under two (2) years of age.

(e) Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act herein prohibited, 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 commit any act herein prohibited is likewise guilty of such offense. (Ord. 04-03 Arts. 3, 4; Ord. 04-17 §1; Ord. 07-16 Art. 3)

Sec. 10-20-20. Public urination and defecation.

It is unlawful for any person to urinate or defecate in a public place, whether in or on public or private property, except in a room or area designated and equipped for such purposes. (Ord. 05-09 Art. 3)

Sec. 10-20-30. Fireworks.

It shall be unlawful for any person to use fireworks within the City, except as authorized under Sections 12-28-101 and 12-28-102, C.R.S., as amended. (Ord. 05-06 Art. 3)

Sec. 10-20-40. Camping and erection of tents and temporary structures prohibited.

(a) It shall be unlawful for any person to camp or otherwise sleep overnight, at any time between the hours of 11:00 p.m. and 5:00 a.m., in or upon any public property, park, trail or open space, or to build or place any tent, shack, booth, stand or other temporary structure in or upon any public property, park, trail or open space, without first having obtained the written permission of the City Manager or designee.

(b) Any person who shall violate or fail to comply with any provision of this Section shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars (\$1,000.00). (Ord. 08-13 Art. 4)