

CHAPTER 10

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ARTICLE I

General Provisions

Sec. 10-1-10. Adopted.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., there is adopted by reference, in part, Title 18, C.R.S., officially approved, adopted and published by the State, of which one (1) copy is on file at the Town Hall and may be inspected during regular business hours, as set forth in this Chapter. (Ord. 481 §1, 2003)

Sec. 10-1-20. Legislative purpose.

It is the purpose of this Chapter to provide for the public health, safety and welfare of the Town. (Ord. 481 §1, 2003)

Sec. 10-1-30. Local question.

It is the intention of the Board of Trustees that the provisions of this Chapter deal with matters of "local" and "mixed" state and local concern and that no provision of this Chapter is to be construed expressly or by implication to permit conduct that is illegal under the laws of the State or to prohibit conduct that is expressly permitted by the laws of the State. The provisions of this Chapter are to be construed to apply to misdemeanors and other minor and petty offenses only and are not to be interpreted to apply to conduct that is defined as a felony under the laws of the State. (Ord. 481 §1, 2003)

Sec. 10-1-40. Irreconcilable ordinances.

If the Board of Trustees enacts an ordinance that is irreconcilable with another provision of this Chapter, the ordinance whose effective date is latest prevails. (Ord. 481 §1, 2003)

Sec. 10-1-50. Application of Code.

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

- (1) The conduct constitutes a violation and is committed either wholly or partly within the Town;
- (2) The conduct outside the Town constitutes an attempt, as defined in this Chapter, to commit a violation within the Town;
- (3) The conduct outside the Town constitutes a conspiracy to commit a violation within the Town, and an act in furtherance of the conspiracy occurs in the Town; or
- (4) The conduct within the Town constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction a violation prohibited under the laws of the Town and such other jurisdiction.

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

(c) The *Town*, as used in this Chapter and in any summons, summons and complaint or complaint alleging a violation of the Code or any ordinance, includes both the area within the territorial limits of the Town, and also those areas over which extraterritorial police power has been granted by state statutes. It is the intent of the Board of Trustees to extend the territorial jurisdiction of the Municipal Court as widely as possible. However, where specific sections of this Chapter require that the violation occur "within the Town," then the offense is limited to the territorial limits of the Town. (Ord. 481 §1, 2003)

Sec. 10-1-60. Definitions.

(a) Definitions set forth in any section of this Chapter apply wherever the same term is used in the same sense in another section of this Chapter, unless the definition is specifically limited or the context indicates that it is inapplicable.

Benefit means any gain or advantage to the beneficiary, including any gain or advantage to another person pursuant to the desire or consent of the beneficiary.

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

Deface means to alter the appearance of something by removing, distorting, adding to or covering all or a part of the thing.

Dwelling means a building which is used, intended to be used or usually used by a person for habitation.

Government includes the United States, any state, county, municipality or other political unit, any branch, department, agency or subdivision of any of the foregoing, and any corporation or other entity established by law to carry out any governmental function.

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

Motor vehicle includes any self-propelled device by which persons or property may be moved, carried or transported from one (1) place to another by land, water or air, except devices operated on rails, tracks or cables fixed to the ground or supported by pylons, towers or other structures.

Pecuniary benefit means benefit in the form of money, property, commercial interests or anything else, the primary significance of which is economic gain.

Public place means a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities.

Serious bodily injury means bodily injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement or a substantial risk of protracted loss or impairment of the function of any part or organ of the body.

Tamper means to interfere with something improperly, to meddle with it or to make unwarranted alterations in its condition.

Thing of value includes real property, tangible and intangible personal property, contract rights, choses in action, services, confidential information, medical records information and any rights of use or enjoyment connected therewith.

Utility means an enterprise which provides gas, sewer, electric, steam, water transportation or communication services, and includes any carrier, pipeline, transmitter or source, whether publicly or privately owned or operated.

(b) The following definitions are applicable to the determination of culpability requirements for offenses defined in this Chapter.

Act means a bodily movement, and includes words and possession of property.

Conduct means an act or omission and its accompanying state of mind or, where relevant, a series of acts or omissions.

Criminal negligence. A person acts with *criminal negligence* when, through a gross deviation from the standard of care that a reasonable person would exercise, he or she fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Culpable mental state means intentionally, with intent, knowingly, willfully, recklessly or with criminal negligence, as these terms are defined in this Section.

Intentionally or *with intent.* All offenses in this Chapter in which the mental culpability requirement is expressed as *intentionally* or *with intent* are declared to be specific intent offenses. A person acts *intentionally* or *with intent* when his or her conscious objective is to cause the specific result proscribed by the statute defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

Knowingly or *willfully.* All offenses defined in this Chapter in which the mental culpability requirement is expressed as *knowingly* or *willfully* are declared to be general intent crimes. A person acts *knowingly* or *willfully* with respect to conduct or to a circumstance described by a statute defining an offense when he or she 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 he or she is aware that his or her conduct is practically certain to cause the result.

Omission means a failure to perform an act as to which a duty of performance is imposed by law.

Recklessly. A person acts recklessly when he or she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Separate offense. Any act or omission which is prohibited by this Chapter which continues for more than twenty-four (24) hours shall be considered to be a separate offense for every twenty-four-hour period that the violation continues.

Voluntary act means an act performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his or her physical possession or control thereof for a sufficient period to have been able to terminate it. (Ord. 261 §5-1-101, 1990; Ord. 481 §1, 2003)

Sec. 10-1-70. Words and phrases.

Whenever any words and phrases used in this Chapter are not defined herein but are defined in the Code of Criminal Procedure or Criminal Code of the State, any such definition therein shall be deemed to apply to such words and phrases used in this Chapter. (Ord. 261 §5-15-101, 1990)

Sec. 10-1-80. Violations.

(a) The terms *crime*, *petty offense*, *offense*, *misdemeanor* and *violation*, as used in this Code or any uncodified ordinance, are synonymous. Any act or omission declared to be a violation or to be unlawful, required or prohibited by the phrase "no person shall" or similar mandatory language in this Code, any ordinance of the Town or any rule promulgated thereunder, constitutes a violation.

(b) Unless otherwise specifically provided in this Code, an ordinance of the Town or a rule promulgated thereunder, every day of a violation of this Code, ordinance or rule constitutes a separate violation. (Ord. 481 §1, 2003)

Sec. 10-1-90. Restraining order.

(a) There is hereby created a mandatory restraining order against any person charged with a violation of any of the provisions of this Chapter, which order shall remain in effect from the time that the person is advised of his or her rights at arraignment or the person's first appearance before the Court and informed of such order until final disposition of the action or until further order of the Court. Such order shall restrain the person charged from harassing, molesting, intimidating, retaliating against or tampering with any witness to or victim of the acts charged.

(b) At the time of arraignment or the person's first appearance before the Court, the Court shall inform the defendant of the restraining order effective pursuant to this Section and shall inform the defendant that a violation of such order is punishable by contempt.

(c) The provisions of the restraining order issued pursuant to this Section may be continued by the Court after sentencing if the Court deems such action reasonable and necessary. In addition, nothing in this Section shall preclude the defendant from applying to the Court at any time for modification or dismissal of such order or the District Attorney from applying to the Court at any time for further orders, additional provisions under the restraining order or modification or dismissal of the same. (Ord. 261 §5-2-101, 1990)

Sec. 10-1-100. Failure to obey summons or notice.

It is unlawful for any person to violate his or her promise to appear given to an officer upon arrest or issuance of a summons or notice for any violation of this Code. (Ord. 261 §5-14-101, 1990; Ord. 481 §1, 2003)

Sec. 10-1-110. Issuance of complaint.

In the event any person fails to comply with the notice given to such person, or fails to respond to a summons directing an appearance in the Court having jurisdiction, the Clerk of the Court having jurisdiction may have a complaint issued against such person and may issue and have served a warrant for his or her arrest. (Ord. 261 §5-14-102, 1990)

Sec. 10-1-120. Jurisdiction.

If the description of any offense as set forth in this Chapter could also define a Class 1 misdemeanor or a felony of any class as the description would apply to a particular violation, the Town shall not have jurisdiction and the charge shall be filed in the appropriate court. (Ord. 261 §5-14-103, 1990)

Sec. 10-1-130. Statute of limitations.

No person shall be prosecuted, tried or punished for any violation under this Code or any ordinance unless the action for said violation is instituted within one (1) year of the date of the alleged violation, but the statute of limitations within which a prosecution must be instituted shall be tolled for any period in which a prosecution is pending against the accused for the same conduct, even if the summons, complaint or summons and complaint that commences the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal. (Ord. 481 §1, 2003)

Sec. 10-1-150. Penalties.

The following penalties shall apply to this Chapter:

- (1) Every person convicted of a violation of any provision stated or adopted in this Chapter shall be punished as set forth in Section 1-4-20 of this Code.
- (2) Upon motion by the Town, it may elect to waive the provisions of this Section relative to imprisonment. (Ord. 261 §5-16-101, 1990; Ord. 481 §1, 2003)

ARTICLE II

Attempt, Conspiracy, Complicity, Accessory

Sec. 10-2-10. Criminal attempt.

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

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

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

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

(e) Criminal attempt to commit a petty offense is a crime of the same class as the offense itself. (Ord. 481 §1, 2003)

Sec. 10-2-20. Conspiracy.

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

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

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

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

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

(f) Conspiracy to commit a petty offense is a crime of the same class as the offense itself. (Ord. 481 §1, 2003)

Sec. 10-2-30. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. 481 §1, 2003)

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

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

(b) Render assistance means to:

(1) Harbor or conceal the other;

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

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

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

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

(c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class. (Ord. 481 §1, 2003)

ARTICLE III

Government and Public Officers

Sec. 10-3-10. Resisting arrest.

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

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

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

(b) It is no defense to prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if he or she was acting under color of his or her official authority and, in attempting to make the arrest, he or she was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts *under color of his or her official authority* when, in the regular course of assigned duties, he or she is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her.

(c) The term *peace officer*, as used in this Section means a peace officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such peace officer to the person whose arrest is attempted. (Ord. 261 §5-8-102, 1990)

Sec. 10-3-20. Obstructing a peace officer.

(a) It is unlawful for any person in any way to interfere with, hinder or obstruct any peace officer or other duly empowered police authority while such person is discharging his or her duties.

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

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

(d) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Ord. 261 §5-8-103, 1990; Ord. 481 §1, 2003)

Sec. 10-3-30. Refusal to permit inspections.

(a) A person commits refusal to permit inspections if, knowing that a public servant is legally authorized to inspect property:

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

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

(b) 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. A *legally authorized inspection* means any lawful search, sampling, testing or other examination of property, in connection with the construction or repair of real property; or regulation of a business or occupation that is authorized by statute or lawful regulatory provision. (Ord. 261 §5-9-101, 1990; Ord. 481 §1, 2003)

Sec. 10-3-40. Refusing to aid a peace officer.

It is unlawful for a person eighteen (18) years of age or older, upon command by a person known to him or her to be a peace officer, to unreasonably refuse or fail to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense. (Ord. 481 §1, 2003)

Sec. 10-3-50. Interference with firefighter.

It is unlawful for any person to hinder, obstruct, oppose or interfere with any member of the Fire Department while he or she is in the performance of his or her duty. (Ord. 481 §1, 2003)

Sec. 10-3-60. Compounding.

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

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

(2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime. (Ord. 481 §1, 2003)

Sec. 10-3-70. Obstructing government operations.

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

(b) It shall be an affirmative defense that:

- (1) The obstruction, impairment or hindrance was of unlawful action by a public servant; or
- (2) The obstruction, impairment or hindrance was of the making of an arrest. (Ord. 261 §5-8-101, 1990)

Sec. 10-3-80. False reporting to authorities.

A person commits false reporting to authorities if he or she:

- (1) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within the fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;
- (2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur; or
- (3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false. (Ord. 261 §5-9-102, 1990; Ord. 481 §1, 2003)

Sec. 10-3-90. Interference with alarm system; false alarm.

It is unlawful for any person to damage or interfere with any fire alarm system or appliance or any part of the same. It is unlawful for any person to make or give a false alarm of fire. (Ord. 481 §1, 2003)

Sec. 10-3-100. Impersonating a peace officer.

A person who falsely pretends to be a peace officer and performs an act in that pretending capacity commits impersonating a peace officer, which is a misdemeanor. (Ord. 481 §1, 2003)

Sec. 10-3-110. Escapes.

A person commits a Class 1 petty offense if, while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense, he or she knowingly escapes from said custody or confinement. (Ord. 481 §1, 2003)

ARTICLE IV

Streets and Public Places

Sec. 10-4-10. Unlawful conduct on public property.

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

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

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

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

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

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

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

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

(c) Any person who violates this Section is guilty of unlawful conduct on public property. (Ord. 481 §1, 2003)

Sec. 10-4-20. Trespass or interference in public buildings.

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

(b) No person shall, at or in any public building, willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation or by force and violence or threat thereof.

(c) No person shall willfully refuse or fail to leave any such public building upon being requested to do so by the Town officer charged with maintaining order in such public building, if the person has committed, is committing, threatens to commit or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

(d) No person shall, at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session or by any act designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

(e) No person shall, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such body or official.

(f) The term *public building*, as used in this Section, includes any premises being temporarily used by a public officer or employee in the discharge of his or her official duties.

(g) Any person who violates any of the provisions of this Section commits an unlawful act. (Ord. 481 §1, 2003)

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

It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the Town shall obstruct, interfere with or prevent the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other person on that public highway, street, alley or sidewalk or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the Town or other authorized peace officer. (Ord. 481 §1, 2003)

Sec. 10-4-40. Obstructing highway or other passageway.

(a) A person commits an offense if, without legal privilege, he or she intentionally, knowingly or recklessly:

(1) 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

(2) Disobeys a reasonable request or order to move issued by a person he or she knows to be a peace officer, firefighter or 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.

(b) For purposes of this Section, *obstruct* means to render impassable or to render passage unreasonably inconvenient or hazardous. (Ord. 261 §5-10-102, 1989; Ord. 481 §1, 2003)

Sec. 10-4-50. Damaging or destroying public property.

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner damage or destroy real property, improvements thereto or moveable or personal property belonging to the Town. (Ord. 481 §1, 2003)

Sec. 10-4-60. Damage or removal of street signs.

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or any sign erected or placed in or adjacent to any street indicating the name of such street. (Ord. 481 §1, 2003)

ARTICLE V

Public, Personal and Private Property

Sec. 10-5-10. Arson.

A person who, knowingly or recklessly, starts or maintains a fire or causes an explosion on his or her own property or that of another, and by so doing places another in danger of bodily injury or places any building or occupied structure of another in danger of damage, commits arson. (Ord. 261 §5-4-101, 1989; Ord. 481 §1, 2003)

Sec. 10-5-20. Theft.

A person commits theft when he or she knowingly obtains or exercises control over anything of value of another without authorization, or by threat or deception when the value of the thing is less than five hundred dollars (\$500.00), and:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;
- (2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
- (3) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or
- (4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person. (Ord. 261 §5-4-102, 1989; Ord. 481 §1, 2003)

Sec. 10-5-30. Obtaining control over stolen thing of value.

Every person who obtains control over any stolen thing of value, knowing the thing of value to have been stolen by another, may be tried, convicted and punished, whether or not the principal is charged, tried or convicted. (Ord. 481 §1, 2003)

Sec. 10-5-40. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 261 §5-4-103, 1989; Ord. 481 §1, 2003)

Sec. 10-5-50. Theft by receiving.

A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on, or disposes of anything of value of another, knowing or believing that said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value. (Ord. 261 §5-4-104, 1989)

Sec. 10-5-60. Criminal mischief.

Any person who knowingly damages the real or personal property of one (1) or more other persons in the course of a single criminal episode commits criminal mischief. (Ord. 261 §5-6-101, 1989; Ord. 481 §1, 2003)

Sec. 10-5-70. Criminal trespass.

(a) A person commits the crime of criminal trespass if he or she unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced; or if he or she knowingly and unlawfully enters or remains in or upon the premises of a hotel, motel, condominium or apartment building; or if he or she knowingly and unlawfully enters or remains in or upon the real or personal property, the equitable title to which is vested in a third person without such person's prior consent.

(b) A person *unlawfully enters or remains* in or upon premises when he or she is not licensed, invited or otherwise privileged to do so. A person who, regardless of his or her intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he or she defies a lawful order not to enter or remain, personally communicated to him or her by the owner of the premises or some other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public.

(c) It shall be unlawful for a person to be on real property owned by the Town where this real property has been posted to limit or exclude access to the property. (Ord. 261 §5-6-102, 1989; Ord. 293 §1, 1992; Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-5-80. Criminal tampering.

(a) A person commits the crime of criminal tampering if:

(1) The person, 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, tampers with property of a utility or institution.

(2) The person 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.

(3) The person 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.

(4) The person 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.

(b) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 261 §5-6-103, 1989)

Sec. 10-5-90. Damaging property of another.

(a) No person shall knowingly damage the real or personal property of another.

(b) This Section does not apply where the damage in the course of a single criminal episode is five hundred dollars (\$500.00) or more, is effected by means of fire or explosives or is otherwise feloniously caused. (Ord. 481 §1, 2003)

Sec. 10-5-100. Damaging public property.

No person shall damage, move, remove, destroy or injure in any manner whatsoever or cause to be damaged, moved, removed, destroyed or injured any grass, tree, shrub, plant, flower, railing, bridge, culvert, sign, building or any other property whatsoever belonging to the Town or under the possession and control of the Town, unless done pursuant to a written permit or contract from the Town. (Ord. 481 §1, 2003)

Sec. 10-5-110. Defacing property or posted notice.

(a) Any person who destroys, defaces, removes or damages any historical monument or who defaces, causes, aids in or permits the defacing of any public or private property without the consent of the owner of such property commits defacing of property.

(b) Any person who knowingly mars, destroys or removes any posted notice authorized by law commits defacing posted notice. (Ord. 261 §5-6-104, 1989; Ord. 481 §1, 2003)

Sec. 10-5-120. Littering of public and private property.

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

(b) It shall be an affirmative defense that:

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

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

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

(c) The term *litter*, as used in this Section, shall include but not be limited to all rubbish, waste material, canine feces, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

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

(e) It is in the discretion of the court, upon the conviction of any person and the imposition of a fine under this Section, to suspend any or all of the fine in excess of the mandatory minimum fine upon the condition that the convicted person gather and remove from specified public property any litter found thereon, or upon the condition that the convicted person pick up litter at the time prescribed by and at a place within the jurisdiction of the court for not less than eight (8) hours upon a second or subsequent conviction.

(f) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom. (Ord. 261 §5-6-105, 1989; Ord. 481 §1, 2003)

Sec. 10-5-130. Criminal use of a noxious substance.

(a) Any person who deposits on the land or in the building or vehicle of another, without his or her consent, any stink bomb or device, irritant or offensive-smelling substance, with the intent to interfere with another's use or enjoyment of the land, building or vehicle, commits criminal use of a noxious substance.

(b) It shall be an affirmative defense that a peace officer in the performance of his or her duties reasonably used a noxious substance. (Ord. 261 §5-6-106, 1989; Ord. 481 §1, 2003)

Sec. 10-5-140. Abandonment of a motor vehicle.

(a) Any person who abandons any motor vehicle upon a street, highway, right-of-way or any other public property, or upon any private property without the express consent of the owner or person in lawful charge of that private property commits abandonment of a motor vehicle.

(b) To *abandon* means to leave a thing with the intention not to retain possession of or assert ownership over it. The intent need not coincide with the act of leaving.

(c) It is prima facie evidence of the necessary intent that:

(1) The motor vehicle has been left for more than seventy-two (72) hours unattended and unmoved, or absence of an effective or valid registration;

(2) License plates or other identifying marks have been removed from the motor vehicle;

(3) The motor vehicle has been damaged or is deteriorated so extensively that it has value only for junk or salvage, there is the absence of one (1) or more parts from the vehicle necessary for the lawful operation of the vehicle upon the streets and highways, or there is more than one (1) flat tire on the vehicle; or

(4) The owner has been notified by a law enforcement agency to remove the motor vehicle, and it has not been removed within three (3) days after notification. (Ord. 261 §5-6-107, 1989; Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-5-150. Criminal simulation.

A person commits a criminal simulation when:

(1) With intent to defraud, he or she makes, alters or represents any object in such fashion that it appears to have an antiquity, rarity, source or authorship, ingredient, or composition which it does not in fact have; or

(2) With knowledge of its true character and with intent to use to defraud, he or she utters, misrepresents or possesses any object made or altered as specified in Subsection (1) above. (Ord. 261 §5-7-101, 1989)

ARTICLE VI

Public Peace, Order and Decency

Sec. 10-6-10. Disorderly conduct.

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

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

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

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

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

(5) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under Subsection (a)(2) of this Section that the actor had significant provocation for his or her abusive or threatening conduct. (Ord. 261 §5-10-101, 1989; Ord. 481 §1, 2003)

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

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 261 §5-10-103, 1989)

Sec. 10-6-30. Harassment.

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

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

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

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

(4) Initiates communication with a person, anonymously or otherwise by telephone, 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 that 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 sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by Subsection (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received. (Ord. 261 §5-10-105, 1989; Ord. 481 §1, 2003; Ord. 560 §1, 2007)

Sec. 10-6-40. Loitering.

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

(b) A person commits the offense of loitering if he or she:

(1) Loiters for the purpose of begging;

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

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

(4) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in or about a school building or on school grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific legitimate reason for being there, and not having written permission from or having been asked to leave by a school administrator or his or her representative or by a peace officer; or

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-8-10 of this Chapter.

(c) It shall be an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her right of lawful assembly as part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (Ord. 261 §5-10-106, 1989; Ord. 481 §1, 2003)

Sec. 10-6-50. Interference with staff, faculty or students of educational institutions.

(a) No person shall, on or near the premises or facilities of any educational institution, willfully deny to students, school officials, employees and invitees:

(1) Lawful freedom of movement on the premises;

(2) Lawful use of the property or facilities of the institution; *or*

(3) The right of lawful ingress and egress to the institution's physical facilities.

(b) No person shall, on the premises of any educational institution or at or in any building or other facility being used by any educational institution, willfully impede the staff or faculty of such institution in the lawful performance of their duties or willfully impede a student of the institution in the lawful pursuit of his or her educational activities through the use of restraint, abduction, coercion or intimidation or when force and violence are present or threatened.

(c) No person shall willfully refuse or fail to leave the property of or any building or other facility used by any educational institution upon being requested to do so by the chief administrative officer, his or her designee charged with maintaining order on the school premises and in its facilities, or a dean of such educational institution, if such person is committing, threatens to commit or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of the institution.

(d) It is an affirmative defense that the defendant was exercising his or her right to lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor, or any employee thereof. (Ord. 261 §5-10-104, 1989; Ord. 481 §1, 2003)

Sec. 10-6-60. Assault.

A person commits the crime of assault if he or she knowingly or recklessly causes bodily injury to another person, or with criminal negligence he or she causes bodily injury to another person. (Ord. 261 §5-3-101, 1989)

Sec. 10-6-70. Menacing.

A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury. (Ord. 261 §5-3-102, 1989)

Sec. 10-6-80. Reckless endangerment.

A person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits reckless endangerment. (Ord. 261 §5-3-103, 1989)

Sec. 10-6-90. False imprisonment.

Any person who knowingly confines or detains another without the other's consent and without proper legal authority commits false imprisonment, which is a misdemeanor. This Section shall not apply to a peace officer acting in good faith within the scope of his or her duties. (Ord. 481 §1, 2003)

Sec. 10-6-100. Unlawfully using slugs.

(a) A person commits unlawfully using slugs if:

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

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

(b) *Coin machine* means a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle, designed to receive a coin or bill of a certain denomination or token made for the purpose and, in return for the insertion or deposit thereof, to offer, provide, assist in providing or permit the acquisition of some property or some public or private service.

(c) *Slug* means any object or article which, by virtue of its size, shape or any other quality, is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token, and of thereby enabling a person to obtain without valid consideration the property or service sold through the machine. (Ord. 261 §5-7-102, 1989; Ord. 481 §1, 2003)

Sec. 10-6-110. Fraud by check.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) 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. 261 §5-7-105, 1989; Ord. 481 §1, 2003)

Sec. 10-6-120. Public indecency.

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

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

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

(3) A lewd fondling or caress of the body of another person. (Ord. 481 §1, 2003)

Sec. 10-6-130. Indecent exposure.

(a) A person commits indecent exposure if he or she knowingly exposes his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

(b) Indecent exposure is a misdemeanor. (Ord. 481 §1, 2003)

Sec. 10-6-140. Desecration of venerated objects.

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

(b) The term *desecrate* means defacing, damaging, polluting or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his or her action or its result. (Ord. 481 §1, 2003)

Sec. 10-6-150. Hindering transportation.

A person commits a misdemeanor if he or she knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person, association or corporation. (Ord. 481 §1, 2003)

Sec. 10-6-160. Throwing missiles at vehicles.

Any person who intentionally projects any missile at or against any vehicle or equipment designed for the transportation of persons or property commits a violation of this Section. (Ord. 177 §8-10, 1984)

Sec. 10-6-170. Abandoned containers and appliances.

It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device. (Ord. 481 §1, 2003)

Sec. 10-6-180. Disturbances at bars.

(a) For purposes of this Section, *licensee* means a person holding any liquor license issued pursuant to this Code and Title 12, Articles 46, 47 and 48, C.R.S.

(b) For purposes of this Chapter, *premises* means the premises specified in the application for a license issued and granted pursuant to Title 12, Articles 46, 47 and 48, C.R.S.

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

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

(e) Any licensee shall immediately report to the Chief of Police any unlawful or disorderly act, disorderly conduct or disturbance committed on the premises.

(f) It shall not be a defense that the licensee was not personally present on the premises at the time of any violation of this Section; provided, however, that an agent, servant or employee of the licensee shall not be liable under this Section when absent from the premises while not on duty. (Ord. 481 §1, 2003)

Sec. 10-6-190. Public urination.

No person shall urinate or defecate when in any park within the Town limits, or on any property zoned for residential uses without the express permission of the owner, or within any portion of the Town zoned for business, industrial or public uses, unless such voiding is made into a receptacle that has been provided for that purpose that stores or disposes of the wastes in a sanitary manner and that is enclosed from the view of the general public. (Ord. 481 §1, 2003)

Sec. 10-6-200. Residential solicitation.

(a) Residential door-to-door solicitation prohibited; exceptions. It is unlawful for any person to engage in residential door-to-door solicitation in the Town, not having been previously requested or invited by the occupant of the residence. The provisions of this Section shall not apply to charitable, religious or political solicitations unless a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance to such residence.

(b) All solicitation, including residential door-to-door solicitation, prohibited by posting of "No Solicitation" or "No Trespassing" sign. It is unlawful for any person to engage in any solicitation in the Town, not having been previously requested or invited by the occupant of the residence, when a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance to such premises. This provision shall apply to all solicitations, including, without limitation, those that are charitable, religious or political in nature. *Solicitation*, for the purpose of this Subsection, shall include the act of placing door hangers or depositing sales or promotional materials on private property.

(c) Attempt to obtain invitation through false or deceptive representation or statement prohibited. It is unlawful for any person to attempt to obtain, by telephone or otherwise, an invitation to visit any residence for the purpose of engaging in residential door-to-door solicitation by knowingly making a false or deceptive representation or statement.

(d) All residential door-to-door solicitation prohibited between certain hours. It is unlawful for any person to engage in residential door-to-door solicitation after the earlier of 8:00 p.m. or one-half (½) hour after sunset, and 8:00 a.m.

(e) Exempt solicitors required to name adult resident as agent for service of process. It is unlawful for any person to engage in exempt charitable, religious or political residential door-to-door solicitation in the Town without having first irrevocably appointed an adult resident of the Town as agent for service of process. Within two (2) weeks of receipt by the Town of an application including the name and address

of the agent, the Town shall confirm the residential status of the designated agent and his or her acceptance.

(f) Residential door-to-door solicitation defined. *Residential door-to-door solicitation* shall mean the act of going in and upon private residences for the purpose of contacting the owner or occupant, without his or her prior consent, in order to advertise, offer, promote, sell, explain or to solicit the sale, rental, lease or other form of conveyance or transfer of any product, goods, wares, merchandise, property, services or any other thing of value. (Ord. 581 §1, 2008)

ARTICLE VII

Minors

Sec. 10-7-10. Child abuse.

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

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

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

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

(e) Deferred prosecution is authorized for a first offense under this Section.

(f) An act of child abuse is a misdemeanor. (Ord. 481 §1, 2003)

Sec. 10-7-20. Curfew.

(a) It is unlawful for any child under the age of eighteen (18) years to be or remain in or upon any street, alley or other area open to the public, on foot or within or upon a vehicle, between the hours of 10:00 p.m. and 5:00 a.m. during the days of Sunday through Thursday; or between the hours of 12:00 a.m. and 5:00 a.m. during the days of Saturday and Sunday; provided, however, that the provisions of this Section shall not apply to a minor who is:

(1) Engaged in lawful employment, school, church or other organized activity at the time;

(2) Accompanied by the parent, legal guardian or other person of the age of twenty-one (21) years having permission of the parent or guardian to have the custody or care of such minor; or

(3) Upon an emergency errand or legitimate business directed by the parent, guardian or other adult person having the care and custody of the minor.

(b) It is unlawful for any parent, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly allow or permit such minor to be or remain in or upon any street, alley or other area open to the public, on foot or in or upon a vehicle, between the hours of 10:00 p.m. and 5:00 a.m. during the days of Sunday through Thursday; or between the hours of 12:00 a.m. and 5:00 a.m. during the days of Saturday and Sunday; provided, however, that the provisions of this Subsection shall not apply to those instances excepted in Subsection (a) above. (Ord. 261 §§5-12-101, 5-12-102, 1989; Ord. 272 §1, 1990; Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-7-30. Parent or guardian aiding, abetting.

It is unlawful for any person to knowingly permit any minor child, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the Town. (Ord. 481 §1, 2003)

Sec. 10-7-40. Furnishing and sale of tobacco products.

(a) It is unlawful for any person knowingly to sell, convey for valuable consideration, give or dispense tobacco products to a person under the age of eighteen (18) years.

(b) It is unlawful for a person under the age of eighteen (18) years to be in possession of tobacco products.

(c) When used herein, the term *tobacco products* shall include but not be limited to kinds and forms of tobacco prepared in such manner as to be suitable for chewing, smoking or both. (Ord. 261 §5-12-103, 1989; Ord. 481 §1, 2003)

Sec. 10-7-50. Encouraging delinquency.

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended. (Ord. 481 §1, 2003)

Sec. 10-7-60. Truancy.

(a) It is unlawful for any parent, guardian or person having the care, custody or control of any child, ward or other person who has attained the age of seven (7) years and is under the age of seventeen (17) to direct or permit such child or other person to be absent from school. This provision shall not apply under the following circumstances:

(1) Is home due to injury or illness as directed by a parent or guardian.

(2) Has a current age and school certificate or work permit issued pursuant to the "Colorado Youth Employment Opportunity Act of 1971," Title 18, Article 12, C.R.S.

(3) Has been directed by school officials not to go to school or permission to be absent was granted by school officials.

(4) Has graduated from the twelfth grade.

(5) Is pursuing a work-study program under the supervision of a public school.

(6) Is being instructed at home by a duly licensed teacher or under a nonpublic-approved home-based educational program.

(7) Is in the custody of a court or law enforcement authorities.

(b) Except as otherwise provided in Subsection (a) above, it is unlawful for any person who has attained the age of ten (10) years and is under the age of seventeen (17) years to be truant from school.

(c) For the purposes of this Section, *truant* means a person who lawfully must attend school, but who stays out of school without lawful permission. (Ord. 177 §7-3, 1984; Ord. 481 §1, 2003; Ord. 541 §1, 2006; Ord. 560 §1, 2007)

Sec. 10-7-70. False statement; false credentials.

It is unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Ord. 481 §1, 2003)

Sec. 10-7-80. Services of others.

It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase. (Ord. 481 §1, 2003)

Sec. 10-7-90. Loitering and other acts around schools.

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

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

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

(3) Conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in or about any school building or school grounds; or

(4) Park or move a vehicle in the immediate vicinity of or on the grounds of any such school, college or seminary for the purpose of annoying or molesting the students or employees thereof or in an effort to induce, entice or invite students into such vehicles for immoral purposes. (Ord. 481 §1, 2003)

ARTICLE VIII

Alcoholic Beverages and Drugs

Sec. 10-8-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Toxic vapors means the following substances or products containing such substances: alcohols, including methyl, isopropyl, propyl or butyl; aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate; acetone; benzene; carbon tetrachloride; cyclohexane; Freons, including Freon 11 and Freon 12; hexane; methyl ethyl ketone; methyl isobutyl ketone; naphtha; perchlorethylene; toluene; trichloroethane or xylene.

Vinous liquor means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. 481 §1, 2003)

Sec. 10-8-20. Alcohol-related violations.

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

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

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

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

dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.

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

(f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting. (Ord. 481 §1, 2003)

Sec. 10-8-30. Illegal possession or consumption of alcoholic beverages by an underage person.

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

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

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

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

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

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

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

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

(e) During any trial for a violation of Subsection (a) above, any bottle, can or other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the

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

(f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Subsection (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age. (Ord. 481 §1, 2003)

Sec. 10-8-40. Sales near schools.

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of five hundred (500) feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal, upon the expiration thereof, of any license in effect at such time authorizing such business within the restricted area hereby established. (Ord. 481 §1, 2003)

Sec. 10-8-50. Alcoholic beverages in certain places.

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

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

(c) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages. (Ord. 481 §1, 2003)

Sec. 10-8-60. Open container.

It is unlawful for any person to possess or consume by open container any alcoholic beverage, whether such possession is actual or constructive, in or upon any street, alley or other public place as defined in Section 10-8-10 of this Chapter, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by the Town; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license and at such times and places as expressly authorized by the Board of Trustees. (Ord. 261 §5-11-104, 1989; Ord. 481 §1, 2003)

Sec. 10-8-70. Possession of drug paraphernalia.

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

(b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense. (Ord. 481 §1, 2003)

Sec. 10-8-80. Possession of cannabis.

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

(b) It is unlawful for any person to possess one (1) ounce or less of cannabis or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).

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

(d) It is unlawful to transfer or dispense not more than one (1) ounce of cannabis concentrate from one (1) person to another for no consideration. Such action shall be deemed possession and not dispensing or sale thereof.

(e) It is unlawful to transfer or dispense not more than one (1) ounce of cannabis concentrate for consideration. Such action shall be considered dispensing or sale thereof.

(f) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act. (Ord. 261 §5-5-101, 1989; Ord. 481 §1, 2003)

Sec. 10-8-90. Drug distribution.

It is unlawful for any person to throw or scatter on any street or on any premises in the Town any drugs, medicine or other compounds intended for internal or external use, either in sample packages or otherwise. (Ord. 177 §8-12, 1984; Ord. 481 §1, 2003)

Sec. 10-8-100. Abusing toxic vapors.

(a) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system. No person shall knowingly possess, buy or use any such substance for the purposes described in this Section. This Subsection shall not apply to the inhalation of anesthesia for medical or dental purposes.

(b) It is unlawful for any person knowingly to sell, offer for sale, deliver or give away to any other person any substance or product releasing toxic vapors, where the seller, offeror or deliverer knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system.

(c) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described as toxic vapors in Section 10-8-10 above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 481 §1, 2003)

Sec. 10-8-110. Retail sale of methamphetamine precursor drugs – limitations.

Retail distributors selling products containing a *methamphetamine precursor drug*, defined herein as ephedrine, pseudoephedrine or phenylpropa nolamine or their salts, isomers or salts of isomers, must place such products in a secured area that is only accessible to the public with the assistance of the retailer or its employees, who shall be trained to prevent theft or diversion of these products. Such retailers must provide proof of such a training program to the Town.

(1) Methamphetamine precursor drug does not include a substance contained in any package or container that is labeled by the manufacturer as intended for pediatric use.

(2) The retail sale of methamphetamine precursor drugs by a store to a purchaser shall be limited to sales in blister packs with each blister to contain not more than two (2) dosage units or, when the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

(3) Retail distributors may not deliver in a single sale in or from a store more than three (3) packages of a methamphetamine precursor drug or a combination of two (2) or more methamphetamine precursor drugs.

(4) Upon satisfactory application by a manufacturer, the Town may exempt any product it determines to have been formulated to effectively prevent the conversion of any active ingredient in the product into methamphetamine or any other controlled substance.

(5) No person in the course of selling, offering for sale or otherwise distributing a pseudoephedrine-containing product shall provide locally displayed advertisement or representation in any manner that the product causes euphoria, ecstasy, a "buzz" or "high" or an altered mental state; heightens sexual performance; or, because it contains ephedrine alkaloids, increases muscle mass. (Ord. 541 §1, 2006)

ARTICLE IX

Weapons

Sec. 10-9-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

Stun gun (also variously known as a *conducted energy device* or *electronic restraint device*) means a device designed and capable of disrupting a subject's central nervous system by means of deploying an electrical energy charge sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses and thereby temporarily immobilizing the subject.

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

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

(b) It is an affirmative defense to any provision of this Article that the act was committed by a peace officer in the lawful discharge of his or her duties. (Ord. 481 §1, 2003; Ord. 541 §1, 2006)

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

(a) A person commits a misdemeanor if he or she knowingly and unlawfully:

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

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

(3) Without legal authority, carries, brings or has in his or her possession a firearm or any explosive, incendiary or other dangerous device on the property of or within any building in which a legislative hearing or meeting is being or is to be conducted, or in which the official office of any member, officer or employee of the Town is located.

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

(1) A person in his or her own dwelling or place of business or on property owned by such person or under his or her control at the time of the act of carrying;

(2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of such person's or another's property while traveling;

(3) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to state law;

(4) A peace officer as defined by state statutes; or

(5) A federal officer while on duty and serving within the Town under the authority of federal rules and regulations. (Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-9-30. Disposition of confiscated concealed weapons.

It shall be the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to take custody of the weapon and handle and dispose of it as directed by Police Department and appropriate court policies and procedures. (Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-9-40. Possession of illegal weapon.

(a) As used in this Section, the term *illegal weapon* means a blackjack, bomb, firearm silencer, gas gun, machine gun, short shotgun, short rifle, brass knuckles, knives with blades over four (4) inches, switchblade knives, clubs, stun guns or other items which could be used to disfigure, harm or immobilize a person.

(b) A person commits a violation of this Section if he or she knowingly possesses an illegal weapon, unless he or she is a peace officer as defined by the state statutes, a federal officer operating under federal rules or regulations, or is a member of the armed forces of the United States or Colorado National Guard and possesses the weapon as required by his or her superiors and in the performance of his or her duties. (Ord. 177 §6-1, 1984; Ord. 541 §1, 2006)

Sec. 10-9-50. Possession of defaced firearm.

A person commits a violation of this Section if he or she knowingly possesses a firearm, the manufacturer's serial number or any other distinguishing number or identification mark of which has been removed, defaced, altered or destroyed, except by normal wear and tear. (Ord. 177 §6-2, 1984; Ord. 481 §1, 2003)

Sec. 10-9-60. Defacing a firearm.

A person commits a violation of this Section if he or she intentionally removes, defaces, covers, alters or destroys the manufacturer's serial number or any other distinguishing numbers or identification mark of a firearm. (Ord. 177 §6-3, 1984)

Sec. 10-9-80. Prohibited use of weapons.

(a) A person commits the offense of prohibited use of weapons if he or she:

- (1) Knowingly and unlawfully aims a firearm at another person;
- (2) Recklessly or with criminal negligence discharges a firearm or shoots a bow and arrow or utilizes any other type of illegal weapon as defined in Section 10-9-40 of this Code;
- (3) Knowingly sets a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present;
- (4) Has in his or her possession a firearm while he or she is under the influence of intoxicating liquor or of a controlled substance, as defined in Section 10-8-10 of this Chapter and Article 18, C.R.S. Possession of a permit issued under Chapter 18, Article 12, C.R.S., is no defense to a violation of this Section; or
- (5) Knowingly aims, swings or throws a throwing star or nunchaku as defined in Section 10-9-10 above at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.

(b) Nothing contained in this Section shall be construed to prevent the carrying of any type of legal firearm, when unloaded and properly cased, to or from any lawful range or shooting gallery. (Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-9-90. Discharge of weapons.

(a) It is unlawful for any person, except a law enforcement officer in the performance of his or her duties, to fire or discharge within the Town a revolver or pistol of any description, shotgun or rifle which may be used for the explosion of cartridges or shells, or any air gun, gas-operated gun, spring gun, sling shot or bow and arrow.

(b) Permission to discharge a firearm or weapon for public health or safety purposes may be granted in writing by the Chief of Police. Such permission shall be granted annually at the request of the petitioner and shall limit the time and place of such firing and specifically set forth the purpose and limitations for which such permission to discharge a firearm or weapon has been granted. When the firing of a firearm or weapon is within the authorized limits, it shall not be deemed a violation hereof. Permission may be revoked at any time in the discretion of the Chief of Police. (Ord. 261 §5-11-101, 1989; Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-9-100. Selling weapons to intoxicated persons.

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

(b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the Town to such person. (Ord. 481 §1, 2003)

ARTICLE X

Fireworks

Sec. 10-10-10. Fireworks prohibited.

Except as provided in Sections 12-28-103 and 12-28-106, C.R.S., it is unlawful in the Town for any person to offer for sale, expose for sale, sell or have in his or her possession with intent to offer for sale, sell, use or explode, any fireworks. (Ord. 261 §5-11-102, 1989; Ord. 481 §1, 2003)

Sec. 10-10-20. Permits for display.

(a) The Board of Trustees has the power to grant permits within the Town for supervised public displays of fireworks by the Town, fair associations, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits.

(b) Application for a permit as provided for herein shall be filed with the Town Clerk, together with a license fee and nonrefundable inspection fee as set forth in the Fee Schedule. The application shall contain at least the following information:

(1) The name and address of the person or organization sponsoring the display, together with the names and addresses of the persons who will actually be in charge of the display;

(2) The date and time of day at which the display is to be held;

(3) The address and detailed description of the exact location planned for the display, including a diagram of the location and surrounding area;

(4) The names and addresses of the competent fireworks operators who are to supervise the discharge of the fireworks, and written evidence regarding their competency as fireworks operators;

(5) The type and class of fireworks to be discharged;

(6) The manner and place of storage of such fireworks prior to and during the display;

(7) Proof that satisfactory compensation insurance is carried by the applicant for all of the applicant's employees who will be working at the display; and

(8) Proof that the applicant has public liability insurance with the limits and coverage as set forth in Section 10-10-30, protecting the Town, fire district, applicant, manufacturer, wholesaler, seller, supplier, property owner and operators of the display from any liability or claims of damages arising out of or as a result of or related to the fireworks.

(c) Such application shall be made in writing at least thirty (30) days in advance of the date of display. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. Before a permit is granted, the operator and the location and handling of the display shall be approved, after investigation, by the Fire Chief or the Chief of Police.

(d) No person displaying fireworks under this Section shall fail to dispose of any unfired fireworks in a safe manner after the display is concluded.

(e) No permit shall be transferable or assignable. No permit shall be required for such public display of fireworks at any county or district fair duly organized under the laws of the State and the ordinances of the Town. (Ord. 481 §1, 2003; Ord. 571 §2, 2007)

Sec. 10-10-30. Insurance.

The Board of Trustees shall require a certificate of insurance to protect persons and property from death or injury as a result of any fireworks display for which a permit is issued, in an amount not less than one hundred fifty thousand dollars (\$150,000.00) per person injured and four hundred thousand dollars (\$400,000.00) per incident. The insurance shall cover any liability of the Town or any employee or agent thereof arising out of or connected with the permit and the fireworks display permitted thereunder. (Ord. 481 §1, 2003)

Sec. 10-10-40. Bond.

Any permittee shall be required to obtain a performance bond in a sum not less than one thousand dollars (\$1,000.00) conditioned on compliance with the provisions of this Article; except that the Town shall not be required to file such bond. (Ord. 481 §1, 2003)

Sec. 10-10-50. Interpretation.

This Article shall not be construed to prohibit:

(1) Any person from using or exploding fireworks in accordance with the provisions of any display permit issued by the Town as provided in this Article or as part of a supervised public display at any county or district fair duly organized under the laws of the State;

(2) Any person from offering for sale, exposing for sale, selling, having in his or her possession with intent to offer for sale or sell, or using or firing toy pistols, toy guns, sparklers or other devices in which caps manufactured in accordance with this Article are used;

(3) Any person from offering for sale, exposing for sale, selling, having in his or her possession with intent to offer for sale or sell blank cartridges for a show or theater, or for a signal or ceremonial purposes in organized athletics or sports;

(4) Any resident manufacturer from manufacturing and selling, or any resident wholesaler, dealer or jobber from selling at wholesale, such fireworks as are not prohibited under this Article, provided that the proper licenses for export have been issued by the Secretary of State pursuant to the provisions of Section 12-28-106, C.R.S.;

(5) Any resident manufacturer from selling any kind of fireworks, provided that the same are to be shipped directly out of state in accordance with regulations of the United States Interstate Commerce Commission covering the transportation of explosives and other dangerous articles by motor, rail and water, and provided that such manufacturing activities have been licensed by the Secretary of State pursuant to the provisions of Section 12-28-106, C.R.S.;

(6) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(7) The importation, purchase, sale or possession of fireworks which are used or to be used solely to prevent damage to crops by animals or birds, by the Board of Trustees with the assistance of other appropriate state departments and in accordance with Article 4 of Title 24, C.R.S.; or

(8) The sale, delivery, consignment, gift or furnishing of fireworks among display retailers, wholesalers or exporters licensed under state law. (Ord. 481 §1, 2003)

Sec. 10-10-60. State licensing requirements.

(a) No person shall sell or offer to sell at retail any fireworks which are to be used for display purposes within the Town unless he or she first obtains a license to do so from the Secretary of State and from the Board of Trustees.

(b) No person shall manufacture or wholesale fireworks until he or she shall first obtain a license from the Secretary of State, pursuant to Section 12-28-104, C.R.S. The Secretary of State shall be the sole licensing authority for manufacturers' and wholesalers' licenses. (Ord. 481 §1, 2003)

Sec. 10-10-70. Seizure of fireworks.

The Police Department may, for preservation of evidence or for destruction, seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this Article. (Ord. 481 §1, 2003)

ARTICLE XI

Noise

Sec. 10-11-10. Noise.

No person shall make, continue or cause to be made any excessive or unusually loud noise; or knowingly permit or cause such excessive or unusually loud noise upon any premises; or make, cause or permit excessive or unusually loud noise to emanate from a vehicle owned or possessed by such person or under such person's control or operation. For the purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a reasonable person would determine that a noise is excessive or unusually loud. Factors to consider in making the determination of whether the noise is reasonable may include the source, such as construction or lawnmower; the time of the incident; the area or zoning where the noise is made and where it is heard; and the duration of the noise. (Ord. 444 §1, 2001; Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-11-20. Loudspeakers.

It is unlawful for any person to use any radio, loudspeaker, musical instrument or any noise-making group or device within the Town for the purpose of vending, advertising or soliciting the sale of any merchandise or tickets of admission to any show or event, or for the purpose of attracting attention to any signs or exhibits which are displayed in connection therewith. (Ord. 261 §5-11-103, 1989; Ord. 481 §1, 2003)

Sec. 10-11-30. Animals.

It is unlawful for any person to use, keep, have in his or her possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals licensed for the treatment of small animals or to premises occupied or used by the Town animal shelter. (Ord. 481 §1, 2003)

Sec. 10-11-40. Sirens, whistles, gongs and red lights.

It is unlawful for any person to carry or use upon a vehicle, other than Police or Fire Department vehicles or emergency vehicles for public use, any gong, siren, whistle or red, blue, clear or amber lights typically used individually or in combination as emergency lights on ambulances or vehicles of the Police and Fire Departments. (Ord. 481 §1, 2003)

ARTICLE XII

Miscellaneous Offenses

Sec. 10-12-10. Bottles, littering prohibited.

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

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

(c) It is unlawful for any person utilizing the facilities of any park or other public area in the Town to leave such area or facility without first having completely extinguished fires or placing in disposal receptacles, where provided, all trash in the nature of boxes, papers, cans or other containers, garbage and other refuse in the possession of such person. If no disposal receptacle is available, then such person shall carry away said refuse or trash in his or her possession from the area, to be disposed of in a proper and legal manner elsewhere. (Ord. 481 §1, 2003)

Sec. 10-12-20. Only authorized persons to handle solid waste placed for collection.

(a) It shall be unlawful for any person to scavenge in the solid waste of another; and no person, other than an authorized person, shall handle solid waste set out for collection, or the contents of any receptacle containing solid waste which has been put therein for removal by an authorized person.

(b) No person, other than an authorized person, may place solid waste in a collection vehicle. (Ord. 541 §1, 2006)

Sec. 10-12-30. Park closures.

(a) A curfew is established prohibiting anyone from being in Town parks for any purpose between thirty (30) minutes after sunset and thirty (30) minutes prior to sunrise.

(b) Upon application to and approval by the Board of Trustees, this Section may be waived for special events. (Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-12-40. Open fires.

It is unlawful for any person to make, cause to be made or allow to continue to burn or smolder any fire at any place, either on private or public property in the Town, except as permitted herein. (Ord. 102 §1, 1967; Ord. 481 §1, 2003; Ord. 486 §1, 2004; Ord. 494 §1, 2004)

Sec. 10-12-50. Barbed wire fences.

It is unlawful for any person to construct or maintain within the Town any fence, cellar or window guard containing barbs, barbed wire, sharpened nails or any other pointed or sharpened thing or metallic substance. (Ord. 481 §1, 2003)

Sec. 10-12-60. Motorbikes.

The operation anywhere within the Town, whether on private or public property, of any motorbike, minibike or other such motorized vehicle not designed and equipped for operation on a public street or highway is hereby declared and deemed a public nuisance, and it is unlawful for any person to cause or maintain such public nuisance. (Ord. 481 §1, 2003)

Sec. 10-12-70. Cruelty to animals.

(a) A person commits cruelty to animals if, except as authorized by law, he or she knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates or 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 or custody of any animal, fails to provide it with proper food, drink or protection from the weather, or abandons it.

(b) Any person who intentionally abandons a pet, as defined by Section 7-5-10 of this Code, commits the offense of cruelty to animals. (Ord. 177 §8-7, 1984; Ord. 481 §1, 2003; Ord. 541 §1, 2006)

Sec. 10-12-80. Tents and tent-like structures.

It shall be unlawful for the owner of any real property within the Town to allow a tent or tent-like structure to remain on his or her property for more than one (1) month.

Sec. 10-12-90. Safety equipment required at Hillsboro Skateboard Park.

Any person within the Hillsboro Skateboard Park, located at the northeast corner of Harriett Avenue and Elm Street, and riding a skateboard, bicycle, rollerblade or similar wheeled device, must wear, securely fastened on his or her head, a safety helmet, intended and certified for those types of activities. (Ord. 541 §1, 2006)