

TITLE 8

Criminal Code

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CHAPTER 8.01

In General

8.01.010 Definitions generally.

(a) Unless more specifically defined otherwise, the terms used in this Title shall be as defined in the Colorado Criminal Code, or as used in their ordinary, usual and accepted sense and meaning.

(b) In this Title, *public place* shall be taken to include any place commonly or usually open to the general public or any resort accessible to members of the general public. By way of illustration, 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. (Ord. 5.06.4 §2(1), 1989)

8.01.020 Legislative intent.

It is the intent and purpose of this Title not to cover and include those offenses which are felonies under Colorado Revised Statutes, as amended, and this Title shall be so construed, notwithstanding any language contained in this Title which might otherwise be construed to the contrary. (Ord. 5.06.4 §2(3-12), 1989)

8.01.030 Affirmative defenses.

The affirmative defenses available in Sections 18-1-701 to 18-1-710 and 18-2-101, C.R.S., shall be available as affirmative defenses to prosecutions in the Municipal Court under those provisions covered by this Title. (Ord. 5.06.4 §2(3-13), 1989)

8.01.040 Violations.

It is unlawful for any person to violate any of the provisions of this Title, and except as otherwise specifically provided in the Sections of this Title, any such violation shall be punished as provided below:

(1) Every person who, at the time of commission of this offense, was at least eighteen (18) years of age, and who is subsequently convicted of, or pleads guilty or nolo contendere to, a violation of any provision of this Title, shall be punished by a fine of not less than twenty-five dollars (\$25.00) but not exceeding nine hundred ninety-nine dollars (\$999.00) per violation or count, or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment; provided, however, that nothing contained herein shall empower the court to subject any person under the age of eighteen (18) to any imprisonment as a portion of a penalty for violation of any provision of this Title.

(2) Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of, or pleads guilty or nolo contendere to, a violation of any provision of this Title shall be punished by a fine of not less than

twenty-five dollars (\$25.00) but not exceeding four hundred ninety-nine dollars (\$499.00) per violation or count. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Chapter. Any such person arrested or convicted of a violation of any provision of this Chapter, or found in contempt of court in connection with a violation under this Chapter, or in violation of a municipal court-ordered probation, shall not be confined in a jail, lockup or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the Department of Human Services or a temporary holding facility operated by or under contract with the Town which shall receive and provide care for such persons. Any such person who violates conditions of probation or is held in contempt in connection with an alleged violation may be confined for up to forty-eight (48) hours in said detention facility. Any such person may not be confined, pursuant to this Paragraph, for any period in excess of ten (10) days.

(3) Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Any restitution ordered by the court shall be in addition to any such fine. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Title.

(4) Authority is expressly granted to the judges of the Municipal Court to award, as restitution to any victim of any action specified as unlawful in this Title an amount equal to the actual damages suffered by such victim, and to order a person found, or pleading, guilty to any such violation to pay such restitution as ordered by the court. Such restitution shall be determined by the submission of a bill of costs by the victim to the court on a form approved by the court, but the court shall be limited to awarding as such restitution only actual costs incurred by the victim. Authority is expressly granted to the court to order such restitution for any and all costs incurred by public safety and/or emergency response agencies of the Town or other governmental or quasi-governmental entities in connection with the initial response to and all subsequent follow-up investigations of violations of this Title. Any restitution ordered by the court shall be in addition to any fine and/or imprisonment authorized by this Title, and shall likewise be applicable to any situation in which deferred judgment or deferred sentence is accepted and/or imposed by the court.

(5) Authority is expressly granted to the judges of the Municipal Court to order any person found or pleading guilty to any violation of this Title to perform useful public service not exceeding one hundred (100) hours. Any useful public service ordered by the Municipal Court may be in addition to any other penalty imposed by the Municipal Court. (Ord. 5.44 §1, 1995; Ord. 5.41 §1, 1993; Ord. 5.30.1 §3, 1993; Ord. 5.06.4 §2(3-14), 1989)

8.01.050 Parental responsibility for acts of minor children.

(a) It is made the duty of parents, guardians or persons having the charge, custody or control of minor children to actively prevent all minor children lawfully under their direction, control or custody from violating any section of this Title.

(b) Any parent, guardian or person issued a citation under Section 8.08.010 or 8.08.020 of this Title shall not be issued a citation under this Section for the same offense. (Ord. 5.06.4 §2(3-15), 1989)

8.01.060 Attempts; aiding, abetting or advising.

(a) It is unlawful for any person to knowingly engage in conduct constituting a substantial step toward the commission of an offense which would constitute a violation of any section of this Title. 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.

(b) It is unlawful for any person to knowingly aid another in a commission of an offense which would constitute a violation of this Title. A person who engages in conduct intending to aid another to commit an offense commits criminal attempt, if the person aids, abets or advises the other person in planning or committing the offense, even if the other person is not guilty of committing or attempting the offense. (Ord. 5.06.4 §2(3-16), 1989)

8.01.070 Accessory to crime.

It is unlawful for any person to knowingly hinder, delay or prevent the discovery, detention, apprehension, prosecution, conviction or punishment of another for the commission of a violation of any section of this Title by:

- (1) Harboring or concealing the other;
- (2) Warning 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) Providing such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;
- (4) Using force, intimidation or deception, obstructing anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person; or
- (5) Concealing, destroying or altering any physical evidence that might aid in discovery, detection, apprehension, prosecution, conviction or punishment of such person. (Ord. 5.06.4 §2(3-17), 1989)

CHAPTER 8.02

Offenses Against Property

8.02.010 Trespass.

It is unlawful for any person without legal privilege to enter or to remain upon the premises of another or to fail or refuse to remove himself or herself from such premises when requested to leave by the owner, occupant or person having lawful control thereof. (Ord. 5.06.4 §2(3-21), 1989)

8.02.020 Obstructing street and sidewalks.

It is unlawful for any person to willfully, maliciously, negligently or recklessly place in any doorway or driveway not owned by him or her or under his or her lawful control or on any sidewalk, public highway, street or alley in the Town, any subject which causes or tends to cause the obstruction thereof or of any part thereof. (Ord. 5.06.4 §2(3-22), 1989)

8.02.030 Parking on private premises.

It is unlawful for any person to park or stand a vehicle, whether or not such vehicle is occupied, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading the vehicle, in a private driveway or on private property without the express or implied consent of the owner or person in lawful control of such driveway or property. (Ord. 5.06.4 §2(3-23), 1989)

8.02.040 Defacing property.

(a) It is unlawful for any person to deface by graffiti or gang graffiti any public or private property within the Town.

(b) For purposes of this Section, the following terms shall have the following meanings:

Gang means a group of three (3) or more individuals with a common interest, bond or activity characterized by criminal or delinquent conduct.

Gang graffiti means the defacing of public or private property by members of gangs by means of painting, drawing, writing, etching or carving with paint, spray paint, ink, knife or any similar method without written permission of the owner/property owner.

Graffiti means the defacing of public or private property by means of painting, drawing, writing, etching or carving with paint, spray paint, ink, knife or any similar method without written permission of the owner/property owner. (Ord. 5.68 §2, 2008)

CHAPTER 8.03

Damage or Destruction

8.03.010 Public property generally.

(a) It is unlawful for any person to willfully, maliciously, wantonly or negligently destroy public real property or improvements thereto, or movable or personal public property or property which the law requires the Town to maintain, or which by contract the Town is required to maintain.

(b) It is unlawful for any unauthorized person to willfully remove, deface, injure, damage or destroy any street sign or traffic control or warning sign or device erected or placed in or adjacent to any street.

(c) It is unlawful for any vehicles equipped with treads or lug wheels which are injurious to pavement to be operated or caused to be operated by any person upon public streets; unless the

operator of such vehicle first planks and protects such streets from damage. Nothing in this Section shall be construed to prohibit the use of studded snow tires.

(d) This Section shall not apply when the aggregate value of the property damaged in any one (1) criminal episode is valued at five hundred dollars (\$500.00) or more. (Ord. 5.06.22 §1, 1998; Ord. 5.06.10 §1, 1993; Ord. 5.06.4 §2(3-31), 1989)

8.03.020 Private property generally.

(a) It is unlawful for any person to willfully, maliciously, wantonly or negligently injure, damage or destroy the real or personal property of another; provided that this Section shall not apply to any person showing a legal right or authority to injure, damage or destroy such property. It is further provided that this Section shall not apply where the damage is effected by means of fire or explosives or with the intent to defraud.

(b) This Section shall not apply when the aggregate value of the property damaged in any one (1) criminal episode is valued at more than one thousand dollars (\$1,000.00). (Ord. 5.06.22.1 §1, 2007; Ord. 5.06.22 §1, 1998; Ord. 5.06.10 §2, 1993; Ord. 5.06.4 §2(3-32), 1989)

8.03.030 Posters.

It is unlawful for any person willfully, maliciously, wantonly or negligently to tear down, deface or cover up any lawfully posted advertisement or bill of any person; provided that this Section shall not apply to any person showing the lawful right to tear down, deface or cover up any such advertisement or bill. (Ord. 5.06.4 §2(3-33), 1989)

8.03.040 Criminal tampering.

It is unlawful for any person to tamper with the property of another with the intent to cause injury, inconvenience or annoyance to that person or to another. (Ord. 5.49 §1, 1997)

8.03.050 Arson.

It is unlawful for any person to knowingly or recklessly set fire to, burn, cause to be burned, or by the use of an explosive damage or destroy, or cause to be damaged or destroyed, any property of another without his or her consent, where the value of the property involved is less than one hundred dollars (\$100.00). (Ord. 5.49 §1, 1997)

CHAPTER 8.04

Theft and Related Offenses

8.04.010 Theft generally.

(a) It is unlawful for any person knowingly to obtain or exercise possession of or control over anything of value of another without authorization, or by threat or deception; and if such person:

- (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 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.

(b) This Section shall not apply when the aggregate value of the item taken in any one (1) criminal episode is valued at more than one thousand dollars (\$1,000.00), nor where the item taken is a motor vehicle, trade secret or credit device. (Ord. 5.06.22.1 §2, 2007; Ord. 5.06.22 §1, 1998; Ord. 5.06.10 §3, 1993; Ord. 5.06.4 §2(3-41), 1989)

8.04.020 Theft by check.

(a) It is unlawful for any person to issue, pass or negotiate a check as payment of any goods, service or other thing of value, or obligation, or in exchange for cash when that person knew that, at the time of the issuance of the check, insufficient funds existed in the account being drawn upon to cover this and all other checks outstanding at the time of issuance.

(b) It is unlawful for any person to issue or pass a check as payment for any goods, services or other thing of value, or obligation, or in exchange for cash when that person, having been notified either by the drawee upon which the check was drawn, or by the person or firm to which the check was originally issued, that the check has been twice refused for insufficiency of funds, and fails to make good the check within fourteen (14) days of that notification. It shall constitute a prima facie violation of this Subsection that the person to which the check was originally issued:

(1) Obtained at least two (2) forms of nonphoto identification or one (1) form of identification bearing a photograph from the drawer, at the time of acceptance of the check;

(2) Obtained an address of the drawer of the check, at the time of acceptance of the check;

(3) Presented the check to the drawee for acceptance or refusal for the first time within thirty (30) days of the date of issuance of the check;

(4) Upon twice presenting the check to the drawee and having twice received the check returned for insufficiency of funds, the person or firm to whom the check was originally issued shall send a letter notifying the drawer of the refusal of the drawee to accept the check, and requiring restitution within fourteen (14) days. Such letter shall be sent to the address listed in Paragraph (2) above by way of the U.S. Postal Service, certified mail, return receipt requested. Said return receipt, or the letter, envelope or return receipt marked "unclaimed," shall be conclusive proof of compliance with the notice requirements of this Section; and

(5) Fifteen (15) days following the date of delivery, or attempted delivery, of such letter of notification, the drawer has failed to respond and make payment in full for the amount owed on the check and all reasonable charges incurred as a result of the return of the check.

(c) It is unlawful for any person to stop payment or cause payment to be stopped on any check issued or passed as payment for any goods, service or other thing of value, or obligation, or in exchange for cash, when that person does so with the intent to defraud.

(d) It is unlawful for any person to open a checking account, negotiable order of withdrawal account or share account using false identification or an assumed name, for the purpose of and with the intent of committing theft by check.

(e) Nothing in this Section shall apply where the value of the check is less than fifty dollars (\$50.00) or greater than one thousand dollars (\$1,000.00), or where the offender is under accusation of formal criminal filings involving the issuance of two (2) or more checks within any sixty-day period in the State with an aggregate value of more than one thousand dollars (\$1,000.00); nor shall this Section apply where the offender has been previously convicted under this Section, or under any existing or former statute of the State involving the issuance of bad checks or theft or fraud by check.

(f) A bank, a savings and loan association, an industrial bank or a credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to any police authority or officer of the court of the Town, the release of which is for the purpose of investigating or prosecuting a violation of this Section.

(g) In imposing a penalty for violation of this Section, the Municipal Court is specifically authorized and empowered to require restitution in full to the person or entity to whom any such check described herein was issued as a portion of, and/or in addition to, any other penalty deemed appropriate by the court. (Ord. 5.06.22.1 §3, 2007; Ord. 5.06.22 §1, 1998; Ord. 5.06.16 §1, 1995; Ord. 5.06.10 §4, 1993; Ord. 5.06.4 §2(3-42), 1989)

8.04.030 Theft of rental property.

It is unlawful for any person knowingly to obtain or exercise control over the personal property of another, which is available only for hire, by means of threat or deception, or knowing that such use is without consent of the person providing the personal property or having obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his or her representatives or to the person from whom he or she received it within seventy-two (72) hours after the time at which he or she agreed to return it. This Section shall not apply where the aggregate value of the items taken in any one (1) criminal episode is valued at more than one thousand dollars (\$1,000.00). (Ord. 5.06.22.1 §4, 2007; Ord. 5.06.22 §1, 1998; Ord. 5.06.10 §5, 1993; Ord. 5.06.4 §2(3-43), 1989)

8.04.040 Joyriding.

It is unlawful for any person knowingly to obtain or exercise control over the motor vehicle of another without authorization or by threat or deception for the purpose of temporarily depriving that person of possession or control of the motor vehicle. (Ord. 5.06.4 §2(3-44), 1989)

8.04.050 Shoplifting.

It is unlawful for any person knowingly to obtain or exercise control over any goods, wares or merchandise having a total value of less than one thousand dollars (\$1,000.00) held for sale by a store

with the intention of depriving the store permanently of the use or benefit of such goods, wares or merchandise. (Ord. 5.06.22.1 §5, 2007; Ord. 5.06.22 §1, 1998; Ord. 5.06.10 §6, 1993; Ord. 5.06.4 §2(3-45), 1989)

8.04.060 Concealment.

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 be on his or her person or otherwise and whether on or off the premises of such store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 5.06.4 §2(3-46), 1989)

8.04.070 Questioning of person suspected of theft without liability.

If any person conceals upon his or her person or otherwise carries away any unpurchased goods, wares or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any peace officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of theft. Such questioning of a person by a merchant, merchant's employee or peace or police officer does not render the merchant, merchant's employee or peace officer civilly liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention. (Ord. 5.06.4 §2(3-47), 1989)

8.04.080 Price switching.

It is unlawful for any person willfully to alter, remove or switch the indicated price of any purchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment; provided, however, that this Section shall not apply to goods, wares or merchandise valued at more than one thousand dollars (\$1,000.00). (Ord. 5.06.22.1 §6, 2007; Ord. 5.06.22 §1, 1998; Ord. 5.06.10 §7, 1993; Ord. 5.06.4 §2(3-48), 1989)

8.04.090 Theft by receiving.

It is unlawful for any person knowingly to receive, retain or loan money by pawn or pledge on, or dispose of anything having a value of less than one thousand dollars (\$1,000.00) belonging to another, knowing or believing that such 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. 5.06.22.1 §7, 2007; Ord. 5.06.22 §1, 1998; Ord. 5.06.10 §8, 1993; Ord. 5.06.4 §2(3-49), 1989)

CHAPTER 8.05

Offenses Against Public Health and Safety

8.05.010 Abandoned iceboxes and other self-latching containers.

(a) It is unlawful for any person to discard, abandon or leave in any place accessible to children any refrigerator, icebox, deep-freeze locker, stove, oven, trunk or any self-latching container having a capacity of one and one-half (1½) cubic feet or more, which is no longer in use, and which has not

had the door removed or the hinges and such portion of the latch mechanism removed so as to prevent latching or locking of the door; or for any owner, lessee or manager knowingly to permit such a refrigerator, icebox, deep-freeze locker, stove, oven, trunk or self-latching container to remain on premises under his or her control without having the door removed or the hinges and such portion of the latch mechanism removed so as to prevent latching or locking of the door.

(b) The provisions of this Section shall not apply to any vendor or seller of refrigerators, iceboxes, deep-freeze lockers, stoves, ovens, trunks or self-latching containers, who keeps or stores them for sale purposes in a showroom or saleroom ordinarily watched or attended by sales personnel during business hours and locked to prevent entry when not open for business; or if such vendor or seller takes reasonable precaution to effectively secure the door of any such refrigerator, icebox, deep-freeze locker, stove, oven, trunk or self-latching container so as to prevent entrance by children small enough to fit therein. (Ord. 5.06.4 §2(3-51), 1989)

8.05.020 Storage of flammable liquids in vehicles.

It is unlawful to store or cause to be stored or parked, except for unloading, any vehicle used for the purpose of storing of flammable liquids, gases, explosives or toxicants, upon any streets or ways or avenues of the Town or any other part of the Town, except those areas zoned for such uses. (Ord. 5.06.4 §2(3-52), 1989)

8.05.030 Storage of construction materials.

No person shall keep or store any construction materials unless such materials are covered or secured or in some manner protected so as to prevent such materials from being blown, scattered about or otherwise moved by wind, water or other natural causes. (Ord. 5.06.4 §2(3-53), 1989)

8.05.040 Depositing snow or ice.

No person shall deposit or cause any snow or ice to be deposited on or against any fire hydrant or traffic signal-control device or appurtenance; nor shall any person deposit or cause to be deposited accumulations of snow or ice upon or adjacent to any sidewalk street or roadway or loading and unloading area of a public transportation system or any designated emergency access lane, such as may retard or in any way interfere with the safe and orderly flow of pedestrian or vehicular traffic by obstructing the view of such traffic on intersection streets or drives or by any other means, or in any way obstruct or impede street or roadway drainage. (Ord. 5.06.4 §2(3-54), 1989)

8.05.050 Contamination of water.

It is unlawful for any person to throw or deposit or cause or permit to be thrown or deposited in any stream, storm or sanitary sewer, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near thereto as to be liable to pollute the water thereof, any offal composed of animal or vegetable substance or both, any dead animal, sewage, excrement or garbage, trash or debris, any water, fuel, oil or other petroleum based product, paint, chemical, whether liquid or solid, scrap construction material or any other materials that may cause the water to become contaminated. (Ord. 5.06.4 §2(3-55), 1989)

8.05.060 Poisonous substances.

(a) It is unlawful for any person to put out, spread or distribute poison, or any poisonous substance or material of any kind or nature whatsoever, for any purpose whatsoever, at any place or places within the Town, except as provided in Subsection (b) below.

(b) Upon application made in writing and signed by the applicant setting out the reason for such application and the purpose thereof, the Town Council may grant to any person who is the owner, lessee or tenant of real estate in the Town a permit to put out, spread or distribute poison on such real estate of which he or she is the owner, tenant or lessee, for such purposes as may be necessary for the preservation of health or other necessary purposes, including the poisoning of grasshoppers, prairie dogs and other destructive animals, insects, birds and pests, but such purposes shall not be deemed to include any domestic bird, fowl, beast, animal, swine or dog.

(c) Such permit shall state the name of the person to whom granted, the purpose of same, the reason given for the necessity of the same, the description of the premises covered by the permit, and the land and nature of the poison to be spread and the manner of spreading and distributing the same, together with the period of the permit in which to do so. (Ord. 5.06.4 §2(3-56), 1989)

8.05.070 Shooting or harassing animals.

(a) It is unlawful for any person willfully and unnecessarily to shoot, capture, harass, injure or destroy any wild bird or animal or attempt to shoot, capture, harass, injure or destroy any such wild bird or animal anywhere within the Town.

(b) No person shall willfully destroy, rob or disturb the nest, nesting place, burrow, eggs or young of any wild bird or animal anywhere within this Town.

(c) *Wild bird* includes all undomesticated bird native to North America and undomesticated game birds implanted in North America by governmental agencies, and any domestic duck or goose released by any private person or recreational authority upon any recreational area within this Town.

(d) *Wild animal* includes any animal native to the State, but does not include rattlesnakes, fish or any species of amphibians, Norway rats or common house mice.

(e) The provisions of this Section do not apply to the personnel of any police, fire or animal control agency or to the State Division of Wildlife or Department of Health or other state or federal agency, when such persons are acting within the scope of their official duties as employees of such agencies.

(f) The provisions of this Section are not intended to allow the destruction of any bird or animal protected by state or federal law. (Ord. 5.06.4 §2(3-57), 1989)

CHAPTER 8.06

Offenses Relating to Morals

8.06.010 Prostitution prohibited.

(a) Any person who performs or offers or agrees to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with any person not his or her spouse in exchange for money or other thing of value commits prostitution.

(b) As used in this Section:

Anal intercourse means contact between human beings of the genital organs of one and the anus of another.

Cunnilingus means any act of oral stimulation of the vulva or clitoris.

Fellatio means any act of oral stimulation of the penis.

Masturbation means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

(c) Prostitution is unlawful. (Ord. 5.06.4 §2(3-61), 1989)

8.06.020 Soliciting for prostitution.

(a) A person commits soliciting for prostitution if the person:

- (1) Solicits another for the purpose of prostitution;
- (2) Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- (3) Directs another to a place knowing such direction is for the purpose of prostitution.

(b) Soliciting for prostitution is unlawful. (Ord. 5.06.4 §2(3-62), 1989)

8.06.030 Keeping a place of prostitution.

(a) Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one (1) or more of the following commits keeping a place of prostitution if such person:

- (1) Knowingly grants or permits the use of such place for the purpose of prostitution; or
- (2) Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he or she should reasonably know that the place is being used for purposes of prostitution.

(b) Keeping a place of prostitution is unlawful. (Ord. 5.06.4 §2(3-63), 1989)

8.06.040 Patronizing a prostitute.

(a) Any person who performs any of the following with a person not his or her spouse commits patronizing a prostitute:

- (1) Engages in an act of sexual intercourse or of deviate sexual conduct with a prostitute; or
- (2) Enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse or deviate sexual conduct.

(b) Patronizing a prostitute is unlawful. (Ord. 5.06.4 §2(3-64), 1989)

8.06.050 Promoting sexual immorality.

(a) Any person who, for pecuniary gain, furnishes or makes available to another person any facility, knowing that the same is to be used for or in aid of sexual intercourse between persons who are not husband and wife, or for or in aid of deviate sexual intercourse, or who advertises in any manner that he or she furnishes or is willing to furnish or make available any such facility for such purposes, commits promoting sexual immorality.

(b) *Facility*, as used in this Section, means any place or thing which provides seclusion, privacy, opportunity, protection, comfort or assistance to or for a person or persons engaging or intending to engage in sexual intercourse or deviate sexual intercourse.

(c) Promoting sexual immorality is unlawful. (Ord. 5.06.4 §2(3-65), 1989)

8.06.060 Public indecency.

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

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

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

(c) For purposes of this Section, *public place* includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls,

party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied. (Ord. 5.06.32 §1, 2005; Ord. 5.06.4 §2(3-66), 1989)

8.06.070 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 unlawful. (Ord. 5.06.4 §2(3-67), 1989)

8.06.080 Sexual assault.

It is unlawful for any person knowingly to subject another to any sexual contact where:

- (1) The person knows that the victim does not consent;
- (2) The person knows that the victim is incapable of appraising the nature of the victim's conduct;
- (3) The victim is physically helpless and the person knows that the victim is physically helpless and the victim has not consented;
- (4) The person has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant or other means for the purpose of causing submission;
- (5) At the time of the commission of the act the victim is less than eighteen (18) years of age and the person is the victim's guardian or is otherwise responsible for the general supervision of the victim's welfare;
- (6) The victim is in custody of law or detained in a hospital or other institution and the person has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit to any sexual contact; or
- (7) The person engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with responsible medical practices. (Ord. 5.06.4 §2(3-68), 1989)

CHAPTER 8.07

Offenses Against Public Peace

8.07.010 Disturbing the peace.

Any person who disturbs the peace of others by violent, tumultuous or offensive conduct (and the conduct by its very nature tends to incite an immediate breach of the peace), or by loud or unusual noises, or by unseemly, profane, obscene or offensive language (and the language by its very

utterance tends to incite an immediate breach of the peace) or by assaulting, striking, fighting or challenging another to fight, shall be deemed guilty of a misdemeanor. (Ord. 5.06.17 §1, 1995; Ord. 5.06.4 §2(3-71), 1989)

8.07.020 Disrupting lawful assembly.

It is unlawful for any person to disrupt a lawful assembly if, with the intent 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 utterances or by any other means. (Ord. 5.06.4 §2(3-72), 1989)

8.07.030 Loitering.

(a) In this Section, the following words and phrases shall have the meanings respectively ascribed to them:

Loiter means to be dilatory, to stand idly, to linger, to lie or wander about, to remain, abide or tarry in a public place.

Public place means any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose; but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also any public areas as defined in Subsection 8.01.010(b) of this Title.

(b) It is unlawful for any person to loiter, loaf, wander, stand or remain idle, either alone or in concert with others, in a public place in such manner as to:

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

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

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

(c) It is unlawful for any person to loiter, loaf, wander, stand or remain idle, either alone or in concert with others, in a school building or on the 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 reason or relationship involving custody of or responsibility for a pupil, or other specific, legitimate reason for being there and not having written permission from a school administrator.

(d) Lawful acts in the course of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes, or otherwise, shall not be held to be in violation of this Section.

(e) When any person causes any of the conditions, or commits any of the acts specified in this Section, a police officer or other law enforcement officer shall order that person to stop causing such conditions, or committing such acts, and to move on or to disperse. Any person who fails or refuses to obey such order shall be guilty of a violation of this Section. (Ord. 5.06.4 §2(3-73), 1989)

8.07.040 Unlawful assembly.

It is unlawful for any two (2) or more persons to assemble together with an intent to do an unlawful act; or, being assembled, mutually to agree to act in concert, or to do an unlawful act with force or violence against the property of the Town, or the person or property of another or against the peace and to the terror of others; or to make any move or preparation therefor. (Ord. 5.06.4 §2(3-74), 1989)

8.07.050 Unlawful interference; education institutions.

(a) It is unlawful for any person on or near the premises or facilities of any educational institution to 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 such institution; or
- (3) The right of lawful ingress and egress to the institution's physical facilities.

(b) It is unlawful for any person on the premises of any educational institution or at or in any building or other facility being used by any educational institution to willfully impede the staff or faculty of such institution in the lawful performance of their duties or to willfully impede a student of such institution in the lawful pursuit of his or her educational activities through the use or restraint, coercion or intimidation or when force and violence are present or threatened.

(c) It is unlawful for any person to 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 designees 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) Nothing in this Section shall be construed to prevent 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 of any employee thereof. (Ord. 5.06.4 §2(3-75), 1989)

8.07.060 Unlawful interference; public buildings and proceedings.

It is unlawful for any person to so conduct himself or herself at or in any public building owned, operated or controlled by the Town, the State or any of its political subdivisions, as to willfully in such a manner to deny to any public official, public employee or any invitee on such premises, the lawful rights of such official, employee or invitee to enter, use or leave the facilities of any such public building. (Ord. 5.06.4 §2(3-76), 1989)

8.07.070 Harassment.

It is unlawful for any person, with intent to harass, annoy or alarm another person, to:

- (1) Strike, shove, kick or otherwise touch a person or subject him or her to physical contact;
- (2) In a public place, direct obscene language or make an obscene gesture to or at another person where such language or gesture causes injury or tends to invite an immediate breach of the peace;
- (3) Follow a person in or about a public place or places;
- (4) Initiate communication with another, anonymously or otherwise, either in person or by telephone, in a manner intended to harass or threaten bodily injury or property damage, or which includes any comment, request, suggestion or proposal which is obscene;
- (5) Make a telephone call or cause a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
- (6) Repeatedly insult, taunt or challenge another in a manner likely to provoke a violent or disorderly response; or
- (7) Commit any one (1) or more of the acts specified in this Section against the same person. (Ord. 5.06.14 §1, 1994; Ord. 5.06.4 §2(3-77), 1989)

8.07.080 Urination and defecation in public.

(a) It is unlawful for any person to urinate or defecate in a public place, or at any other location where such conduct is observed by another person who has a legal right to be present at the location from which the conduct was observed.

(b) Nothing in this Section shall be construed to prohibit the normal use of public facilities specifically designed and intended for the use of voiding human bodily wastes. (Ord. 5.06.4 §2(3-78), 1989)

8.07.090 Fighting by agreement.

(a) It is unlawful for two (2) or more persons to fight by agreement in a public place, except in a sporting event authorized by law.

(b) This Section shall not apply to persons who by agreement engage in a fight with deadly weapons, whether public or private. (Ord. 5.06.4 §2(3-79), 1989)

CHAPTER 8.08

Offenses Related to Alcohol and Drugs

8.08.010 Possession of alcohol in public places.

(a) It is unlawful for any person to possess or consume any fermented malt beverage, or any malt, vinous or spirituous liquor, whether such possession is actual or constructive, in any public place as defined in Subsection 8.01.010(b) of this Title, 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: (1) store or consume any fermented malt beverage, or any malt, vinous or spirituous liquor in conformance with, and pursuant to the terms of, any validly issued permit or license; or (2) be in possession of a partially consumed bottle of vinous liquor (not to exceed seven hundred fifty [750] milliliters) that was originally sold for on-premises consumption and resealed pursuant to Section 12-47-411(3.5), C.R.S.

(b) It is unlawful for any person under the age of twenty-one (21) years to possess, attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or any malt, vinous or spirituous liquor by misrepresentation of age or by any other means. (Ord. 5.06.30 §1, 2004; Ord. 5.06.4 §2(3-81), 1989)

8.08.020 Solicitation of alcohol beverages.

It is unlawful, in any place of business where alcohol beverages are sold to be 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 alcohol beverage for the one begging or soliciting. (Ord. 5.06.4 §2(3-82), 1989)

8.08.030 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 or tetrahydrocannabinols.

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

(c) It is unlawful openly and publicly to display or consume one (1) ounce or less of cannabis or cannabis concentrate; and upon conviction thereof, or a plea of guilty or no contest thereto,

punishment shall be by a fine of one hundred dollars (\$100.00), and by imprisonment not exceeding fifteen (15) days.

(d) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act. (Ord. 5.06.4 §2(3-83), 1989)

8.08.040 Toxic vapors.

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

(b) Use or possession. It shall be unlawful for any person intentionally to smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction, dulled senses or dulled nervous system, or to possess, buy or use any such substance for the purpose of violating or aiding another to violate this Section.

(c) Under the influence. It shall be unlawful for any person to be under the influence of any toxic vapors.

(d) Sale.

(1) It shall be unlawful for any person to sell, give, deliver or furnish any substance releasing toxic vapors to any minor without the personal or written consent of a parent, guardian or other person having legal care or custody of such minor, except when the sale of one (1) tube of glue is made simultaneously with the sale, purchase and delivery of a hobby or model kit. As used in this Section, a *minor* is any person under the age of eighteen (18) years.

(2) It shall be unlawful for any person, except a person who is at the time of such sale actually employed by or engaged in operating a bona fide commercial establishment at a fixed location, to sell to any other person any substance releasing toxic vapors, and all sales of such substance not made in or from such an establishment shall be unlawful.

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

(e) Exception. This Section shall not apply to the inhalation of anesthesia for medical or dental purposes. (Ord. 5.34 §1, 1991)

8.08.050 Illegal possession of drug paraphernalia.

(a) As used in this Section, the term *drug paraphernalia* means all equipment, products, and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the laws of the State. *Drug paraphernalia* includes, but is not limited to:

(1) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under the circumstances in violation of the laws of the State;

(2) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

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

(4) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

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

(6) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; or

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

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

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

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

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs; or
- m. Ice pipes or chillers.

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

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) The proximity of an object to controlled substances;
- (3) The existence of any residue of controlled substances on the object;
- (4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he or she knows or reasonably should know, could use the object to facilitate a violation of this Section or Section 8.08.030 above;
- (5) Instructions, oral or written, provided with the object concerning its use;
- (6) Descriptive materials accompanying the object which explain or depict its use;
- (7) National or local advertising concerning its use;
- (8) The manner in which the object is displayed for sale;
- (9) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;
- (10) The existence and scope of legal uses for the object in the community; and/or
- (11) Expert testimony concerning its use.

(c) In the event a case brought pursuant to this Section is tried before a jury, the court shall hold an evidentiary hearing on issues raised pursuant to Subsection (b) above. Such hearing shall be conducted *in camera*.

(d) A person commits a violation of this Section if the person possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the State.

(e) Upon conviction of this Section, or a plea of guilty or no contest thereto, punishment shall be by a fine of not more than one hundred dollars (\$100.00). (Ord. 5.49 §3, 1997)

CHAPTER 8.09

Weapons

8.09.010 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Blackjack means any billy, sandclub, sandbag, sap or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the hand end, a strap or spring shaft which increases the force of impact; or any device or article consisting of two (2) or more separate portions, linked together by a chain, strap or other fastener, which configuration is designed to increase the striking force or impact of the device or article.

Concealment means the deliberate hiding of a weapon upon or near the person with the intent to avoid the lawful detection thereof. It shall be evidence of concealment that the weapon is hidden so as to make it immediately available for use in the fashion in which the weapon is designed to be used.

Crossbow means any device resembling a rifle or handgun in configuration, having a bow or similar device mounted perpendicularly to a stock, grip or frame, and usually equipped with a winch or similar device which draws back the bowstring and cocks the weapon and which fires an arrow, bolt, quarrel, stone or similar shaft from a groove or depression in the stock, grip or frame by the manipulation of a trigger or similar mechanism.

Firearm means any pistol, revolver, self-loading pistol, rifle, shotgun or any other device designed to shoot, project, throw or hurl a projectile or projectiles by means of the explosion of gun powder or other explosive substance. *Firearm* also includes any BB gun, mechanical gun, pellet gun, air gun, paint pellet gun or other device designed to shoot, project, throw or hurl a projectile or projectiles made of steel, lead or other hard substances by means of compressed gas or air or other mechanical means.

Gravity knife means any knife the blade of which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which blade, upon release, becomes locked in place by means of a button, spring, plate, lever or other device.

Knife means any dagger, knife, bayonet, straight-razor, dirk, machete, stiletto, sword or swordcane with a blade over three and one-half (3½) inches in length, or any other dangerous instrument designed to inflict cutting, stabbing or tearing wounds; but, as used in this Section, does not include a knife or hatchet of the type customarily used in hunting, fishing or camping when such is being carried for sporting use; and does not include any instruments being used in pursuance of a lawful home use, trade, occupation or profession or otherwise being lawful under

federal or state statutes, or being used as an item of display or a collector's item in any home or place of business.

Switchblade knife means any knife the blade of which opens automatically by manual pressure applied to a button, spring or other device in its handle. (Ord. 5.06.23 §1, 1999; Ord. 5.06.4 §2(3-91), 1989)

8.09.020 Carrying weapons.

(a) It is unlawful for any person knowingly to carry a knife or firearm concealed on or about his or her person; provided that this Section shall not apply to persons in their own domiciles or places of business or on property owned by or under their control at the time of the act of carrying, or to persons in private automobiles or other private means of conveyance who are carrying such a weapon for the lawful protection of their or another's or other's person or property or for any other legal purposes.

(1) Nothing in this Subsection shall apply to peace officers or members of the armed forces of the United States or Colorado National Guard acting in the lawful discharge of their duties.

(2) Nothing in this Subsection shall apply to persons who possess a valid permit or license to conceal such weapon or weapons, which license or permit was duly issued pursuant to applicable state or federal law.

(3) Nothing in this Subsection shall apply to persons who possess a valid permit or license to conceal such weapon or weapons, which license or permit was duly issued pursuant to applicable state or federal law.

(b) It is unlawful for any person to knowingly carry, conceal or cause to be concealed in any vehicle or to use any blackjack, gravity knife, multi-fixed bladed stellate throwing knife, switchblade knife or brass or metallic knuckles. Nothing in this Section shall apply to peace officers or to members of the armed forces of the United States or the Colorado National Guard acting in the lawful discharge of their duties. (Ord. 5.06.4 §2(3-92), 1989)

8.09.030 Discharging firearms.

(a) Except as provided in Subsection (b) below, it is unlawful for any person other than a peace officer or a member of the armed forces of the United States or the Colorado National Guard, acting in lawful discharge of his or her duties, to discharge or cause to be discharged any firearm within or into the limits of the Town; provided that this Section shall not apply to persons discharging firearms in shooting galleries or at shooting ranges, where such firearms may be discharged so as not to endanger persons or property and the projectile or projectiles from such firearms are prevented from traversing any grounds or space outside the limits of such gallery or range; or to the discharge of a firearm in lawful defense of persons or property.

(b) The Chief of Police may grant written permission to persons within the Town to permit the discharge of weapons at a certain locality within the Town at a fixed time or times.

(c) Except as provided in Subsection (b) above, it is unlawful for any parent, guardian or other person having the care and custody of any minor child under the age of eighteen (18) years to allow or permit any such minor to fire or discharge any cannon, anvil, gun, pistol, rifle, shotgun or other firearm of any kind or nature, or to fire, explode or set off any other such device manufactured or contrived for the purpose of throwing or propelling lead, pellets or other hard substances, powered by compressed air, springs or otherwise, or to fire, set off or explode anything containing powder, gasoline or other combustible or explosive material within the Town. (Ord. 5.06.4 §2(3-93), 1989)

8.09.040 Furnishing to certain persons prohibited.

It is unlawful for any person to purchase, sell, loan or furnish any gun, pistol, rifle, shotgun 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, or to any person in a condition of agitation and excitability, or to any minor person under the age of eighteen (18) years. (Ord. 5.06.4 §2(3-94), 1989)

8.09.050 Brandishing deadly weapons.

(a) It is unlawful for any person to display, brandish or flourish a deadly weapon in a public place in a manner calculated to alarm or for any person to intentionally and without lawful excuse, justification or purpose, aim or point a firearm at another person; provided that the provisions of this Section shall not apply to any situation that constitutes a felony under State law.

(b) As used in this Section, *deadly weapon* includes but is not necessarily limited to firearms, knives, hatchets and dangerous clubs.

(c) Nothing herein shall apply to peace officers or members of the Colorado National Guard or armed forces of the United States acting in lawful discharge of their duties. (Ord. 5.06.4 §2(3-95), 1989)

8.09.060 Confiscation and disposition.

It shall be the duty of every police officer or agent upon making any arrest and seizing a weapon carried or used in violation of any section of this Chapter, to keep and place such weapon in such place of safekeeping as may be directed by the Chief of Police, until the final determination of the prosecution for any offense in the prosecution of which such weapon may be evidence. Upon entry of a final plea of guilty or nolo contendere or judgment of guilt, the person so pleading or found guilty shall forfeit to the Town any weapon carried or used in violation of any section of this Chapter. Upon entry of a final plea of guilty or nolo contendere or judgment of guilt, it shall then be the duty of the Municipal Judge to deliver such weapon forthwith to the Chief of Police, who shall make disposition of the weapon. (Ord. 5.06.4 §2(3-96), 1989)

8.09.070 Weapons in proximity to intoxicants.

(a) It is unlawful for any person to carry, conceal or display any dangerous or deadly weapon while such person is on the premises of any establishment where malt, vinous or spirituous liquors are sold for consumption on the premises.

(b) No person shall have or carry any deadly or dangerous weapons on or about his or her person when drunk or in a state of intoxication or under the influence of drugs.

(c) The provisions of Subsections (a) and (b) above shall not apply to peace officers or any other person duly licensed or authorized under applicable state or federal law to carry such weapon concealed. (Ord. 5.06.28 §1, 2004; Ord. 5.06.4 §2(3-98), 1989)

8.09.080 Reserved.

8.09.090 Missiles.

It is unlawful for any person willfully, maliciously or recklessly to throw, shoot or project any stone, arrow, pellet, dart, ball bearing or other dangerous missile at or against the person, animal, building, structure, personal property, fixture or vehicle of another; except that the provisions of this Section shall not apply to a person throwing, projecting or shooting any such dangerous missile at any animal in order to protect his or her person or property or the person or property of another from physical injury. (Ord. 5.06.4 §2(3-99), 1989)

CHAPTER 8.10

Offenses Against the Person

8.10.010 Assault.

(a) It is unlawful for any person intentionally to cause bodily injury to another person; provided that this Subsection shall not apply to injury caused by means of a deadly weapon, nor shall it apply in the event of serious bodily injury.

(b) It is unlawful for any person recklessly to cause bodily injury to another person; provided that this Subsection shall not apply in the event of serious bodily injury caused by means of a deadly weapon.

(c) It is unlawful for any person with criminal negligence to cause bodily injury to another person by means of a deadly weapon. (Ord. 5.06.4 §2(3-101), 1989)

8.10.020 Menacing.

It is unlawful for any person intentionally to place or attempt to place another person in fear of imminent serious bodily injury by any threat or physical action; provided that if such menacing is with the use of a deadly weapon, this Section shall not apply. (Ord. 5.06.4 §2(3-102), 1989)

8.10.030 Reckless endangerment.

It is unlawful for any person recklessly to engage in conduct which creates substantial risk of serious bodily injury to another person. (Ord. 5.06.4 §2(3-103), 1989)

CHAPTER 8.11

Minors

8.11.010 Harboring prohibited; exceptions.

(a) It is unlawful for any person knowingly to harbor, keep secreted, cohabit with or provide shelter for any unmarried minor without the consent of the parent, legal guardian or other person having legal custody of such minor.

(b) It is unlawful for any person to harbor, keep secreted, cohabit with or provide shelter for any unmarried minor when such person knows the minor to be a parole violator or a fugitive from legal process.

(c) The provisions of this Section shall not apply to persons working in their official capacities as employees or members of the staffs of agencies licensed by the State and financed by the United States of America to harbor minors, nor shall said provisions apply to such agencies; provided that such agencies shall at all times provide specific information concerning minors so harbored and shall release such minors to their parents, legal guardians or other persons having legal custody of such minors, or to any law enforcement agency, upon request; and provided further that such agencies harboring minors shall, within twenty-four (24) hours after the arrival of a minor, notify the Police Department, and within seventy-two hours, if possible, shall notify the parents, legal guardians or other persons having legal custody of such minors. (Ord. 5.06.4 §2(3-111), 1989)

8.11.020 Curfew.

(a) It is unlawful for any parent, guardian or other person having legal care or custody of any minor who has not reached his or her eighteenth birthday to allow or permit any such minor to loiter upon any street, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground or yard, whether public or private, or any establishment open to the public generally, after the hour of 12:00 midnight or before the hour of 5:00 a.m. on any day except:

- (1) When accompanied by a parent, guardian or other person having legal care or custody of such minor;
- (2) For lawful employment;
- (3) When such minor has the general permission of such parent, guardian or other person having legal care or custody of such minor; or
- (4) When such minor is engaged in religious or civic activities.

(b) It is unlawful for any minor who has not reached his or her eighteenth birthday to loiter upon any street, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground or yard, whether public or private, or any establishment open to the public generally, after the hour of 12:00 midnight or before the hour of 5:00 a.m. on any day, except as approved in Paragraphs (a)(1), (2), (3) or (4) above.

(c) For the purposes of this Section, *loitering* or *loiter* shall mean remaining idle in essentially one (1) location, to be dilatory, to tarry, to dawdle and shall include but not be limited to standing around, hanging out, sitting, kneeling, sauntering or prowling. (Ord. 5.06.31 §1, 2004; Ord. 5.06.12 §1, 1993; Ord. 5.06.4 §2(3-112), 1989)

8.11.030 Illegal possession or consumption of ethyl alcohol by an underage person.

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

Ethyl alcohol means any substance which is or contains ethyl alcohol.

Possession of ethyl alcohol means that a person has or holds any amount of ethyl alcohol anywhere on his or her person, or that a person owns or has custody of ethyl alcohol, or has ethyl alcohol within his or her immediate presence and control.

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

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

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

(1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed ethyl alcohol anywhere in the Town; or

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

(e) During any trial for a violation of Subsection (b) above, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A judge may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of ethyl alcohol. (Ord. 5.06.9 §1, 1993; Ord. 5.06.4 §2(3-113), 1989)

8.11.040 Distribution of cigarettes and tobacco products to minors.

(a) It is unlawful for any person eighteen (18) years of age or older to furnish to any person who is under eighteen (18) years of age, by gift, sale or other means any cigarettes or tobacco products as defined by Section 39-28.5-101(5), C.R.S.

(b) It is unlawful for any person under the age of eighteen (18) years of age to consume, possess or to purchase or attempt to purchase, either directly or through an intermediary, or in any other manner obtain any cigarette, tobacco product or smokeless tobacco product as defined by Sections 39-28.5-101(5) and 18-13-121(4)(a), C.R.S., as amended.

(c) It is unlawful for any person to sell or offer to sell any smokeless tobacco product as defined by Section 18-13-121(4)(a), C.R.S., by use of a vending machine or other coin-operated machine.

(d) It is unlawful for any person to sell or offer to sell any cigarette or tobacco products as defined by Section 39-28.5-101(5), C.R.S., other than a smokeless tobacco product as defined by Section 18-13-121(4)(a), C.R.S., by use of a vending machine or any coin-operated machine that does not display a warning sign placed in a prominent place on such machine. The warning sign shall have a minimum height of three (3) inches and a width of six (6) inches and shall read as follows:

WARNING

It Is Illegal For Any Person Under Eighteen (18) Years Of Age To Purchase Cigarettes And Tobacco Products And, Upon Conviction, A Three Hundred Dollar (\$300.00) Fine May Be Imposed.

(e) Any person who is convicted of, or pleads guilty or no contest to, a violation of Subsections (a) through (d) above shall be punished by a fine of three hundred dollars (\$300.00) per violation or count. (Ord. 5.06.20 §1, 1996; Ord 5.06.13 §2, 1993; Ord. 5.06.4 §2(3-114), 1989)

8.11.050 Beer, wine and liquor – procuring for a minor; sales to a minor.

It is unlawful for any person to purchase for consumption or possession by, to otherwise provide for consumption or possession by, or to sell to, any person under the age of twenty-one (21) years, any fermented malt beverage, malt, vinous or spirituous liquor. (Ord. 5.28.6 §9, 2002)

CHAPTER 8.12

Offenses Against the Government

8.12.010 False reports; generally.

(a) It is unlawful for any person to report the existence of a fire or other emergency to the police, fire department or any other agency empowered to deal with an emergency involving risk or injury to persons or property, when such person knows the report to be false. For the purposes of this Subsection, *fire department* means any fire protection district or firefighting agency of the State, County or municipality, whether the employees or officers of such agency are volunteers or receive compensation for their services as firemen, or both.

(b) It is unlawful for any person to report or cause to be reported to any police agency any information concerning the commission of any offense or other incident which would require police action, when:

- (1) Such person knows that no such offense or other incident has occurred; or
- (2) Such person knows that the information is false or that he or she has no such information.

(c) It is unlawful for any person to make telephone calls to the Town's police, fire or emergency telephone numbers, including 911, when such person makes the call knowingly but for no legitimate purpose. This Subsection shall apply regardless of whether the person who makes the call speaks or in any way communicates to the person answering the call.

(d) This Section does not apply to reports of the existence or placement of a bomb or other explosive in any public or private place or vehicle designed for transportation of persons or property. (Ord. 5.06.4 §2(3-121), 1989)

8.12.015 False alarms to agencies of public safety by alarm devices.

(a) An alarm device is a device which is designed to cause police, fire or other emergency response, investigation and safeguarding of property at the location of an event reported:

(1) By a signal transmitted, telephoned, radioed or otherwise relayed to any organization, official or volunteer, for dealing with emergencies involving danger to life or property, by an alarm device or by any person acting in response to a signal activated by such device; or

(2) By an audible or visible signal designed to notify a person within audible or visible range of the signal.

(b) A false alarm is any alarm signal which causes the police to respond and results from:

(1) False activation of an alarm where there is no evidence to substantiate a reasonable belief that criminal activity was occurring or was to occur.

(2) Alarm malfunction, including mechanical failure or electrical failure, except when activated by telephone short circuits or by weather conditions where activation could not have been prevented by reasonable precautions.

(3) Alarm triggered by a subscriber's negligence, including overly sensitive settings.

(c) It shall be an unlawful false alarm when the Police or Fire Department, or any other Town organization or agency responsible for emergency responses, responds to a signal activated by an alarm device, as defined above, and it appears after proper investigation that a false alarm did occur as described above; the owner or occupant of the premises to which the response is made shall then be subject to a false alarm service warning or penalty as described below:

(1) False alarms during the first thirty (30) days after the installation of a new alarm device shall result in a warning.

(2) The first three (3) false alarms at a particular location in each calendar year shall result in a warning. The owner, occupant, person or company found responsible for said premises shall each be subject to a service fee of fifty dollars (\$50.00) for the fourth, fifth, sixth, seventh and eighth occurrence thereafter, and a fee of one hundred dollars (\$100.00) for each occurrence thereafter.

(d) It shall be unlawful for a person knowingly to cause a false alarm of fire or other emergency to be transmitted to or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property. (Ord. 5.06.18 §1, 1995)

8.12.020 False reports to law enforcement authorities.

(a) Falsely incriminating another. It is unlawful for a person knowingly to give false information to any law enforcement officer with purpose to implicate another.

(b) Fictitious reports. It is unlawful for a person to:

(1) Report to law enforcement authorities an offense or other incident within their concern knowing that it did not occur; or

(2) Pretend to furnish such authorities with information relating to an offense or incident when he or she knows he or she has no information relating to such offense or incident.

(c) Fictitious names and addresses. It is unlawful for a person to give a false name or address to a law enforcement officer with the intent of concealing or hiding one's own real name and/or address and/or age. (Ord. 5.06.4 §2(3-123), 1989)

8.12.030 Impersonation of police officer.

(a) It is unlawful for any person other than a police officer of the Town to wear the insignia of office of a police officer of the Town or any other insignia of office similar to or a colorable imitation of that adopted and worn by the police officers of the Town.

(b) It is unlawful for any person other than a police officer of the Town to in any manner represent himself or herself to another as a police officer of the Town.

(c) It is unlawful for any person not a Town officer or Town employee to willfully or fraudulently represent himself or herself to be a Town officer or an employee of the Town.

(d) It is unlawful for any person to purport to perform the duties of any Town officer or employee if he or she is not an authorized officer or employee of the Town.

(e) It is unlawful for any person to counterfeit, imitate or cause to be counterfeited, or colorably imitate, the badge or insignia of office used by the Police Department of the Town. (Ord. 5.06.4 §2(3-124), 1989)

8.12.040 Interfering with public officers or employees.

(a) It is unlawful for any person to willfully and without authority interfere with any officer of the Town in the discharge of his or her duty, or to fail or refuse to comply with the order of any officer having police power within the Town.

(b) It is unlawful for any person to drive a vehicle to or close by the scene of a fire, explosion, traffic accident, riot or impending riot, other disaster or investigation so as to obstruct or impede the arrival, departure or operation of any fire truck, police vehicle, ambulance or any other emergency vehicle, or to fail to move a vehicle from the scene of such disaster when ordered to do so by police officers, firemen, emergency personnel or military personnel in the performance of their duties in coping with such fire, explosion, traffic accident, riot or impending riot, other disaster or investigation.

(c) It is unlawful for any person to knowingly resist, interfere with, impede or obstruct any police officer, firefighter, emergency medical services provider, rescue specialist, volunteer, Town employee or other public official who is attempting to discharge or is in the course of discharging an official duty.

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

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

Volunteer means a person acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.

(d) It is unlawful for any person to threaten violence, reprisal or any other injurious act to any police officer, fireman, Town employee or other public official who is engaged in the performance of his or her official duties, or to make such a threat by reason of such officer's performance or attempted performance of his or her official duties. (Ord. 5.06.19 §1, 1996; Ord. 5.06.4 §2(3-125), 1989)

8.12.050 Resisting arrest; escaping custody; rescuing prisoner.

(a) It is unlawful for any person to prevent or attempt to prevent a police officer, acting under color of his or her official authority, from effecting the arrest of any person, by the use or threatened use of force or physical violence or any other means which creates a substantial risk of causing physical injury to such police officer.

(b) *Police officer*, as used in this Section, means any person defined as a peace officer by Section 18-1-901, C.R.S., who is in uniform or who has displayed his or her credentials to the person whose arrest is attempted.

(c) A police officer is *acting under color of his or her official authority* when, in the course of his or her duties, he or she is called upon to make or does in fact make a good-faith judgment, based on

surrounding facts and circumstances, that an arrest should be made. It is no defense to a prosecution under this Section that the arrest was unlawful if the police officer was acting under color of his or her authority and did not use unreasonable or excessive force in effecting the arrest.

(d) It is unlawful for any person to escape or attempt to escape, or in any manner aid another to escape, or attempt to rescue or rescue a person, from the custody of a police agent or from the custody of any person aiding such police agent after being commanded by such police agent to so take such person into custody; provided that the provisions of this Section shall not apply when the escapee is being held for a felony or charged with any felony. (Ord. 5.06.4 §2(3-126), 1989)

8.12.060 Disobeying; refusing to aid.

(a) It is unlawful for any person knowingly to disobey the lawful or reasonable order of police officers, firemen, emergency personnel or military personnel, given incident to the discharge of the official duties of such police officers or firemen or incident to the duties of emergency personnel or military personnel when coping with an emergency explosion or other disaster.

(b) A person commits an unlawful act when, upon command by a person known to him or her as a police officer, he or she unreasonably refuses to aid such police in coping with an emergency situation. (Ord. 5.06.4 §2(3-127), 1989)

8.12.070 Interference with K-9 unit.

It is unlawful for any person willfully, maliciously or wantonly to torture, torment, beat, kick, strike, tease, disable or injure any dog used by the Police Department in the performance of the functions or duties of such department or to interfere with any such dog while being directed, controlled or used by said department or any officer or member thereof in the performance by such officer or member of any of the duties or functions of the department. (Ord. 5.06.4 §2(3-128), 1989)

CHAPTER 8.13

Reserved

CHAPTER 8.14

Disposition of Lost, Abandoned or Recovered Stolen Personal Property

8.14.010 Custody of property.

The Chief of Police shall have custody of all lost, abandoned and recovered stolen personal property coming into the possession of the Town and property ordered confiscated by the Municipal Court. (Ord. 5.06.4 §2(4-16), 1989)

8.14.020 Storage of abandoned vehicles and other property.

Whenever a motor vehicle or other personal property is found abandoned upon the streets or the public places of the Town or whenever personal property shall for any reason come into the

possession of the Police Department without a claimant, the Chief of Police shall, pending the disposal of said property, cause such property to be stored on Town property or with a private person engaged in the business of storing personal property. (Ord. 5.06.4 §2(4-17), 1989)

8.14.030 Investigation regarding ownership.

Upon coming into possession of lost, abandoned and stolen personal property, the Chief of Police shall cause an investigation to be made into the ownership of such property. (Ord. 5.06.4 §2(4-18), 1989)

8.14.040 Disposition of motor vehicles.

The Chief of Police shall dispose of lost, abandoned or recovered stolen motor vehicles coming into his or her possession in accordance with the provisions of this Chapter, except that no motor vehicle may be disposed of until it has been in the custody of the Police Department for a period of six (6) months, and the identity or location of the owner cannot be ascertained. Disposition of motor vehicles shall be done in a manner consistent with regulations promulgated by the department or agency of the State responsible for the issuance of certificates of title for motor vehicles. (Ord. 5.56 §1, 2001; Ord. 5.06.4 §2(4-19), 1989)

8.14.050 Notification of owner of other property if known.

If the owner of lost, abandoned or recovered stolen personal property, motor vehicles and property ordered confiscated by the Municipal Court excepted, is determined by the Chief of Police, he or she shall give notice in writing to such owner that his or her property is in the possession of the Police Department and that it will be sold or otherwise disposed of by the Town unless such owner reclaims the property in the manner provided for by law within twenty (20) days after the effective date of the notice. The notice shall be sent to the owner at his or her last known address by regular first class United States mail, postage prepaid, and the notice shall be effective when mailed. (Ord. 5.06.4 §2(4-20), 1989)

8.14.060 Advertising for owner if not known.

(a) If the owner of such lost, abandoned or recovered stolen personal property, including motor vehicles, cannot be determined by the Chief of Police, he or she shall periodically, and not less than once each year, cause notice to be published in a newspaper of general circulation in the Town, which notice shall be published on three (3) different days, which may be consecutive days, and shall contain the following information:

(1) A description by category of the lost, abandoned or recovered stolen personal property then in the possession of the Chief of Police.

(2) A statement that such property will be disposed of by the Town unless the owner thereof reclaims such property in the manner provided for by law within ten (10) days after the publication of the notice.

(b) If, at any time prior to the Town's disposition of such lost, abandoned or recovered stolen personal property, a person claims such property as the owner thereof, the Chief of Police shall return

the property to such claimant, provided that the claimant submits evidence of his or her ownership which is sufficient to satisfy the Chief of Police that the claim is rightful, and provided that the claimant tenders to the Chief of Police the cost incurred by the Town in obtaining possession of such property, in the storage of such property and in the publication of notice or mailing of notice relating to such property.

(c) In the event that such lost, abandoned or recovered stolen personal property, motor vehicles excepted, has been in the possession and custody of the Chief of Police for at least thirty (30) days, and in the event that such property remains unclaimed after the giving of notice and the expiration of time following the notice as provided for in this Section and Section 8.14.050 above, the Chief of Police shall make recommendations to the Town Administrator as to the disposition of such property, and the Town Administrator shall determine how to dispose of such property. In the case of motor vehicles, if such vehicles have been in the possession and custody of the Chief of Police for at least six (6) months, and in the event that such property remains unclaimed after the giving of notice and the expiration of time following the notice as provided for in this Section and Section 8.14.050 above, the Chief of Police shall make recommendations to the Town Administrator as to the disposition of such motor vehicles, and the Town Administrator shall determine how to dispose of such motor vehicles. (Ord. 5.56 §2, 2001; Ord. 5.06.4 §2(4-21), 1989)

8.14.070 Procedure for sale.

In the event that the Town Council directs that the property be disposed of by sale, the following sale procedure shall be followed:

(1) The Town Clerk shall cause a notice of the sale to be published in a newspaper of general circulation in the Town. Such notice shall be published on three (3) different days, which days may be consecutive days, and shall set forth the date, time and place of the sale (which date, time and place shall be at least ten (10) days after the last publication of notice of sale), a description of the property to be sold, and a statement that the property will be sold at public auction to the highest bidder for cash.

(2) At the date, time and place designated for the sale of the lost, abandoned or recovered stolen personal property or property ordered confiscated by the Municipal Court as set forth and provided for in the notice of sale, the Chief of Police shall cause such property to be sold at public auction to the highest bidder for cash. No money or negotiable instruments shall be sold at the sale, but shall become the property of the Town if unclaimed by the owner thereof. In the event that a bid is not made for an article of personal property offered at the sale, such article of personal property shall become the property of the Town.

(3) Upon consummation of the sale of the property, the Town Clerk shall issue a receipt to the successful bidder, which receipt shall indicate thereon the article of personal property sold and the amount paid therefor. Upon exhibiting the receipt to the Chief of Police, the purchaser shall be entitled to possession of the article so purchased.

(4) The proceeds of the sale of such property shall be first applied upon storage bills, towing bills, publication fees and other costs of the keeping and sale of such property, and the balance of such proceeds shall be placed in the general fund of the Town.

(5) The sale and conveyance of the property shall be without redemption.

(6) No license shall be required of the person or persons conducting the auction provided for herein. (Ord. 5.06.4 §2(4-22), 1989)

8.14.080 Holding as evidence.

In the event that the Town Attorney or other person charged with the duty of prosecuting violations of Town, state or federal laws requests that any of the lost, abandoned or recovered stolen property be held, the Chief of Police shall retain custody of such property and shall not sell the same until such property is no longer needed in the prosecution noted. (Ord. 5.06.4 §2(4-23), 1989)