

## CHAPTER 10

### General Offenses

- Article 1 Government and Public Officers**
- Sec. 10-1-10 Definitions
  - Sec. 10-1-20 Obstructing government operations
  - Sec. 10-1-30 Obstructing peace officer or firefighter
  - Sec. 10-1-40 Resisting arrest
  - Sec. 10-1-50 Eluding or attempting to elude police officer
  - Sec. 10-1-60 False reporting to authorities
  - Sec. 10-1-70 Duty of citizens to aid police officers
- Article 2 Streets and Public Places**
- Sec. 10-2-10 Unlawful conduct on public property
  - Sec. 10-2-20 Trespass or interference in public buildings
  - Sec. 10-2-30 Interfering with use of streets or sidewalks
  - Sec. 10-2-40 Damage or removal of street signs
- Article 3 Public, Private and Personal Property**
- Sec. 10-3-10 Criminal mischief
  - Sec. 10-3-20 Damaging or destroying public property
  - Sec. 10-3-30 Damaging or destroying private property
  - Sec. 10-3-40 Trespassing
  - Sec. 10-3-50 Littering
  - Sec. 10-3-60 Theft
  - Sec. 10-3-70 Theft of rental property
  - Sec. 10-3-80 Theft by receiving
  - Sec. 10-3-90 Concealment of goods
  - Sec. 10-3-100 Theft of cable television service
  - Sec. 10-3-110 Tampering and unauthorized connection
- Article 4 Public Peace, Order and Decency**
- Sec. 10-4-10 Disorderly conduct
  - Sec. 10-4-20 Disrupting lawful assembly
  - Sec. 10-4-30 Harassment
  - Sec. 10-4-40 Loitering
  - Sec. 10-4-50 Assault
  - Sec. 10-4-60 Battery
  - Sec. 10-4-70 Inciting riots
  - Sec. 10-4-80 False alarms
  - Sec. 10-4-90 Storage of flammable liquids
  - Sec. 10-4-100 Explosives
  - Sec. 10-4-110 Abandoned containers and appliances
  - Sec. 10-4-120 Throwing stones or missiles
  - Sec. 10-4-130 Fraud by check
  - Sec. 10-4-140 Public indecency
  - Sec. 10-4-150 Indecent exposure
  - Sec. 10-4-160 Aiding and abetting
- Article 5 Minors**
- Sec. 10-5-10 Curfew
  - Sec. 10-5-20 Parent or guardian aiding, abetting
  - Sec. 10-5-30 Encouraging delinquency

- Sec. 10-5-40 False statement; false credentials
- Sec. 10-5-50 Services of others
- Sec. 10-5-60 Loitering and other acts around schools
- Sec. 10-5-70 Possession of cigarettes or tobacco products by minors and furnishing or selling cigarettes or tobacco products to minors

**Article 6 Alcoholic Beverages and Drugs**

- Sec. 10-6-10 Definitions
- Sec. 10-6-20 Alcohol-related violations
- Sec. 10-6-30 Illegal possession or consumption of alcoholic beverages by underage person
- Sec. 10-6-40 Sales near schools
- Sec. 10-6-50 Alcoholic beverages in certain places
- Sec. 10-6-60 Open container
- Sec. 10-6-70 Unlawful possession or consumption
- Sec. 10-6-80 Limitations on consumption of alcoholic beverages on publicly owned property
- Sec. 10-6-90 Possession of drug paraphernalia
- Sec. 10-6-100 Possession of marijuana
- Sec. 10-6-110 Abusing toxic vapors

**Article 7 Weapons**

- Sec. 10-7-10 Definitions
- Sec. 10-7-20 Carrying concealed weapon; forfeiture
- Sec. 10-7-30 Firearms and other combustibles
- Sec. 10-7-40 Disposition of confiscated concealed weapons
- Sec. 10-7-50 Prohibited use of weapons
- Sec. 10-7-60 Selling weapons to intoxicated persons

**Article 8 Miscellaneous Offenses**

- Sec. 10-8-10 Unreasonable noise
- Sec. 10-8-20 Disturbances by animals
- Sec. 10-8-30 Sirens, whistles, gongs and red lights
- Sec. 10-8-40 Fireworks
- Sec. 10-8-50 Penalties; classification of offenses; jury trial

## ARTICLE 1

### Government and Public Officers

#### Sec. 10-1-10. Definitions.

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

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

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

*Public servant* means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses. (Ord. 774-06 §1)

#### Sec. 10-1-20. Obstructing government operations.

(a) It is unlawful to obstruct government operations.

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

(c) It is an affirmative defense that:

(1) The obstruction, impairment or hindrance was of unlawful action by a public servant;

(2) The obstruction, impairment or hindrance was of the making of an arrest; or

(3) The obstruction, impairment or hindrance was by lawful activities in connection with a labor dispute with the government. (Ord. 774-06 §1)

#### Sec. 10-1-30. Obstructing peace officer or firefighter.

(a) No person shall willfully fail or refuse to comply with any lawful order, signal or direction of a police officer made or given in the discharge of the police officer's duties.

(b) No person shall, in any way, interfere with or hinder any police officer who is discharging or apparently discharging the duties of the position.

(c) It is unlawful to obstruct a peace officer or firefighter.

(d) A person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, such person knowingly obstructs, impairs or hinders the enforcement of the law or the preservation of the peace by a peace officer, acting under

color of his or her official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his or her official authority.

(e) It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if the peace officer was acting under the color of his or her official authority as defined in Subsection 10-1-50(c) below.

(f) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Prior code §17-13.5; Ord. 774-06 §1)

**Sec. 10-1-40. Resisting arrest.**

(a) It is unlawful to resist arrest.

(b) 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 physical injury to the peace officer or another.

(c) It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if the peace officer was acting under color of his or her official authority, and in attempting to make the arrest, the peace officer 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, the peace officer is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by the peace officer.

(d) 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. (Prior code §17-11; Ord. 774-06 §1)

**Sec. 10-1-50. Eluding or attempting to elude police officer.**

No person who has received a visual or audible signal, such as a voice command, a red light or siren from a police officer who is in full uniform and identifies himself or herself as such or is driving a marked vehicle showing the same to be an official police car, said signal being reasonably understood to command the person to stop, shall run away or attempt to run away, or in any other manner intentionally attempt to elude such police officer. (Prior code §17-12)

**Sec. 10-1-60. False reporting to authorities.**

(a) No person shall give, either orally or in writing, information to a peace officer while in the performance of his or her duties when such person knows, or should know, that the information is false.

(b) It is unlawful for a person to falsely report 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 an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;

(2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur;

(3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false;

(4) Knowingly gives false information to any law enforcement officer with the purpose of implicating another; or

(5) Gives a false name or address to a law enforcement officer with the intent of concealing or hiding one's own real name, address and/or age. (Prior code §17-13.1; Ord. 774-06 §1)

**Sec. 10-1-70. Duty of citizens to aid police officers.**

It is the duty of all persons when called upon by a police officer or any other member of the Police Department to promptly aid and assist such officer or member in the discharge of his or her duties. (Prior code §17-13; Ord. 774-06 §1)

**ARTICLE 2**

**Streets and Public Places**

**Sec. 10-2-10. 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 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. 774-06 §1)

**Sec. 10-2-20. Trespass or interference in public buildings.**

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

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

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

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

(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. 774-06 §1)

**Sec. 10-2-30. Interfering with use of streets or sidewalks.**

It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the City shall obstruct, interfere with or prevent the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other person on that public highway, street, alley or sidewalk or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the City or other authorized peace officer. (Ord. 774-06 §1)

**Sec. 10-2-40. Damage or removal of street signs.**

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street. (Ord. 774-06 §1)

**ARTICLE 3**

**Public, Private and Personal Property**

**Sec. 10-3-10. Criminal mischief.**

It is unlawful for any person to knowingly damage the real or personal property of one (1) or more other persons in the course of a single criminal episode where the aggregate damage to the real or personal property is less than five hundred dollars (\$500.00). (Ord. 774-06 §1)

**Sec. 10-3-20. Damaging or destroying public property.**

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner deface, damage or destroy real property, improvements thereto or moveable or personal property belonging to the City. (Prior code §17-15; Ord. 774-06 §1)

**Sec. 10-3-30. Damaging or destroying private property.**

It is unlawful for any person to either willfully, maliciously or wantonly damage or destroy real property or improvements thereto, or moveable or personal property, belonging to any person. (Ord. 774-06 §1)

**Sec. 10-3-40. Trespassing.**

(a) A person commits the crime of trespass if such person:

(1) Unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced;

(2) Knowingly and unlawfully enters or remains upon the premises of a hotel, motel, condominium or apartment building;

(3) Enters or remains upon premises clearly and conspicuously posted with no trespassing signs;

(4) In the case of a solicitor, hawker, itinerant merchant or salesman, enters or remains upon premises and knocks on doors or rings doorbells of any entrance thereto upon which are clearly posted signs prohibiting solicitation or sale;

(5) Refuses or fails to leave the premises when asked to do so by the owner or person in charge of the premises, whether the premises are a private residence or a building or business open to the public; or

(6) Returns to any premises, public or private, from which he or she has been barred by the owner or person in charge of the premises after having been advised by the owner or person in charge that he or she shall no longer be permitted on the premises.

(b) As used in this Section, *premises* means real property, buildings and other improvements thereon. (Prior code §17-17; Ord. 774-06 §1)

**Sec. 10-3-50. Littering.**

(a) *Litter* means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form size, kind and description.

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

(c) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the City or upon private property. (Prior code §17-16; Ord. 774-06 §1)

**Sec. 10-3-60. Theft.**

(a) It is unlawful for a person to commit theft. A person commits theft when he or she knowingly obtains or exercises control over anything of 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.

(b) In every complaint charging a violation of this Section, it shall be sufficient to allege that, on or about a date certain, the defendant committed the crime of theft by unlawfully taking a thing of value of a person named in the complaint. (Prior code §17-21; Ord. 774-06 §1)

**Sec. 10-3-70. Theft of rental property.**

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if he or she:

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

(2) Having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his or her representative or to the person from whom he or she has received it within seventy-two (72) hours after the time at which he or she agreed to return it; and

(3) The value of the property involved is less than five hundred dollars (\$500.00). (Ord. 774-06 §1)

**Sec. 10-3-80. Theft by receiving.**

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of such thing is less than five hundred dollars (\$500.00). (Ord. 774-06 §1)

**Sec. 10-3-90. Concealment of goods.**

(a) If any person willfully conceals unpurchased goods, wares or merchandise valued at less than five hundred dollars (\$500.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft.

(b) 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 officer does not render the merchant, merchant's employee or peace officer civilly or criminally liable of slander, false arrest, false imprisonment, malicious prosecution or unlawful detention. (Prior code 17-21; Ord. 774-06 §1)

**Sec. 10-3-100. Theft of cable television service.**

(a) A person commits theft of cable television service if he or she knowingly:

(1) Obtains cable television service from a licensed or duly permitted cable television system without the authorization of the cable television system supplying said service; or

(2) Makes or maintains a connection, whether mechanically, electrically or acoustically, or attaches or maintains an attachment of a device to any cable, wire or other component of a licensed or duly permitted cable television system without the authorization of such system, or makes or maintains any modification or alteration to any device installed with the authorization of a licensed or duly permitted cable television system, but shall not include the attachment of a wire or cable to extend service he or she has paid for or which has been authorized.

(b) The provisions of this Section do not apply to satellite dishes.

(c) Upon conviction, the penalty for violation of this Section shall be a fine as set forth in Section 1-4-20 of this Code. (Prior code §17-23; Ord. 774-06 §1)

**Sec. 10-3-110. Tampering and unauthorized connection.**

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

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

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

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 774-06 §1)

## **ARTICLE 4**

### **Public Peace, Order and Decency**

#### **Sec. 10-4-10. 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) Abuses or threatens a person in a public place in an obviously offensive manner;

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

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

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

(6) Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under Paragraph (a)(2) above that the actor had significant provocation for his or her abusive or threatening conduct. (Prior code §17-8; Ord. 774-06 §1)

#### **Sec. 10-4-20. 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. 774-06 §1)

#### **Sec. 10-4-30. Harassment.**

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

(1) Strikes, shoves, kicks or otherwise touches 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, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone which is obscene;

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

(6) 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 Paragraph (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received. (Prior code §17-3; Ord. 774-06 §1)

**Sec. 10-4-40. 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 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 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 having been asked to leave by a school administrator or his or her representative or by a peace officer;

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Paragraph 10-6-10(2) of this Chapter;

(6) At any time pushes upon or turns the knobs of doors, pushes upon windows, apparently "trying" the locked status of either, upon private residences, in a systematic manner;

(7) After the hour of 5:00 p.m., pushes upon, turns knobs upon, or otherwise apparently "trying" the locked status of doors and windows of businesses in a systematic manner;

(8) Peers into parked and unattended motor vehicles in a systematic manner;

(9) Peers through the windows of residences in any systematic manner;

(10) Remains within two hundred (200) feet of the property line of a particular premises, whether private, public or business, after having been asked to leave by the owner or person in charge of said premises unless the person so remaining has the permission of the owner or person in charge of the premises upon which he or she remains;

(11) Returns to a spot within two hundred (200) feet of a premises, whether private or public, from which the person has been barred and so advised by the owner or person in charge of said premises, unless the person so remaining has the permission of the owner or person in charge of the premises upon which he or she remains;

(12) Annoys, harasses or otherwise interferes with the patrons of any particular business or with the conduct of said business;

(13) Interferes with the usual use and enjoyment of any private residence; or

(14) Annoys, harasses or otherwise interferes with the use and enjoyment by the general public of public ways and public places.

(c) It is an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights 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. (Prior code §17-10; Ord. 774-06 §1)

**Sec. 10-4-50. Assault.**

No person shall by any threat or physical action knowingly place another person or attempt to place another person in fear of imminent bodily injury. (Prior code §17-2)

**Sec. 10-4-60. Battery.**

No persons shall knowingly kick, strike, shove, beat, or in any other manner come into contact with the person of another in a manner likely to cause bodily injury to the person so contacted. (Prior code 17-1)

**Sec. 10-4-70. Inciting riots.**

(a) A person commits inciting a riot if he or she:

(1) Incites or urges a group of five (5) or more persons to engage in a current or impending riot; or

(2) Gives commands, instructions or signals to a group of five (5) or more persons in furtherance of a riot.

(b) As used herein, a *riot* means a public disturbance involving an assemblage of three (3) or more persons which, by tumultuous and violent conduct, creates a grave danger of damage or injury to property or persons, or substantially obstructs the performance of any governmental function, provided that no injury to a person or damage to property results therefrom. (Prior code 17-19; Ord. 774-06)

**Sec. 10-4-80. False alarms.**

Any person who intentionally makes or gives a false alarm of fire shall be deemed guilty of a misdemeanor. (Ord. 774-06 §1)

**Sec. 10-4-90. Storage of flammable liquids.**

It is unlawful to store or cause to be stored or parked, except for delivery, any tank vehicle carrying flammable liquids or gases upon any streets, ways or avenues of the City or in any other part of the City, except those areas zoned for such uses. (Ord. 774-06 §1)

**Sec. 10-4-100. Explosives.**

It is unlawful for any person to store within the City limits or within one (1) mile thereof any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high explosive in excess of one (1) fifty-pound box or in excess of five hundred (500) caps or other devices used for the detonation of such high explosives. (Ord. 774-06 §1)

**Sec. 10-4-110. 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, washer, dryer, freezer or other container or appliance which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device. (Ord. 774-06 §1)

**Sec. 10-4-120. Throwing stones or missiles.**

No person shall throw or shoot any stone or other missile at or upon any person, animal, public or private property, building, structure, tree or shrub. (Ord. 774-06 §1)

**Sec. 10-4-130. 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* mean negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

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

(b) Any person, knowing he or she has insufficient funds with the drawee who, with intent to defraud, issues a check for a sum less than four hundred dollars (\$400.00) 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:

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

(2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue. (Ord. 774-06 §1)

**Sec. 10-4-140. 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. 774-06 §1)

**Sec. 10-4-150. Indecent exposure.**

It is unlawful for a person to knowingly expose 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. (Prior code §17-9; Ord. 774-06 §1)

**Sec. 10-4-160. Aiding and abetting.**

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the City, whether individually or in connection with one (1) or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any ordinance of the City is likewise guilty of such offense. (Ord. 774-06 §1)

## ARTICLE 5

### Minors

#### **Sec. 10-5-10. Curfew.**

(a) It is unlawful for any parent, guardian or other person having care or custody of any person under the age of eighteen (18) years to allow or permit any such person to loiter or remain upon any street, alley or other public place, on foot or in or upon a vehicle, subsequent to the hour of 11:00 p.m., or prior to the hour of 5:00 a.m., except for lawful employment, or unless there exists a reasonable necessity thereof; or unless such person is accompanied by the parent, 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 person; provided that on Friday and Saturday nights, the curfew hours for persons between the ages of fifteen (15) and eighteen (18) years shall be extended to the hour of 1:00 a.m. with permission of parents.

(b) It is unlawful for any person under the age of eighteen (18) years to loiter or remain upon any street, alley or other public place, on foot or within or upon a vehicle, subsequent to the hour of 11:00 p.m. or prior to the hour of 5:00 a.m., except for lawful employment, or unless there exists a reasonable necessity thereof; or unless such person is accompanied by the parent, 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 person; provided that on Friday and Saturday nights, the curfew hours for persons between the ages of fifteen (15) and eighteen (18) years shall be extended to the hour of 1:00 a.m. by permission of parents. (Prior code §§17-6, 17-7; Ord. 774-06 §1)

#### **Sec. 10-5-20. Parent or guardian aiding, abetting.**

It is unlawful for any person to knowingly permit any minor child, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the City. (Ord. 774-06 §1)

#### **Sec. 10-5-30. Encouraging delinquency.**

It is unlawful for any person, by 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. 774-06 §1)

#### **Sec. 10-5-40. False statement; false credentials.**

It is unlawful for any person under twenty-one (21) years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Ord. 774-06 §1)

**Sec. 10-5-50. Services of others.**

It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase. (Ord. 774-06 §1)

**Sec. 10-5-60. Loitering and other acts around schools.**

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

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

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

(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. 774-06 §1)

**Sec. 10-5-70. Possession of cigarettes or tobacco products by minors and furnishing or selling cigarettes or tobacco products to minors.**

(a) Except as provided in Subsection (f) below, it is unlawful for any person to knowingly furnish to any person who is under eighteen (18) years of age, by gift, sale or any other means, any cigarette or tobacco product. Upon conviction, such person shall be punished by a fine of two hundred dollars (\$200.00). It shall be an affirmative defense to a prosecution under this Subsection that the person furnishing the cigarette or tobacco product was presented with and reasonably relied upon a document which identified the person receiving the cigarette or tobacco product as being eighteen (18) years of age or older.

(b) It is unlawful for any person who is under eighteen (18) years of age to possess, purchase or acquire, or attempt to purchase or acquire, any cigarette or tobacco product. Upon conviction, such person shall be punished by a fine of one hundred dollars (\$100.00), or the Municipal Court may allow such person to perform community service and be granted credit against the fine and court costs at the rate of five dollars (\$5.00) for each hour of work performed. It shall not be an offense under this Subsection if the person under eighteen (18) years of age was acting at the direction of an employee of a governmental agency authorized to enforce or ensure compliance with laws relating to the prohibition of the sale of cigarettes and tobacco products to minors.

(c) For purposes of this Section, the term *tobacco product* means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking, but does not include cigarettes.

(d) It is unlawful for any person to sell or offer to sell any cigarette or tobacco product by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in:

(1) Factories, businesses, offices or other places not open to the general public;

(2) Places to which persons under the age of eighteen (18) years are not permitted access; or

(3) Establishments where the vending machine dispenses cigarettes through the operation of a device that enables an adult employee of the establishment to prevent the dispensing of cigarettes to minors.

It shall be an affirmative defense to a prosecution under this Subsection that the person selling or offering to sell the cigarette or tobacco product was presented with and reasonably relied upon a document which identified the person purchasing the cigarette or tobacco product as being eighteen (18) years of age or older.

(e) Any person who sells or offers to sell any cigarette or tobacco product shall display a warning sign as specified in this Subsection. It is unlawful for any person to fail to display said warning sign. Said warning sign shall be displayed in a prominent place in the building and on such machine at all times and 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  
YEARS OF AGE TO PURCHASE CIGARETTES AND TOBACCO  
PRODUCTS AND, UPON CONVICTION,  
A FINE OF \$100.00 MAY BE IMPOSED.

Any violation of the provisions of this Subsection shall not constitute a violation of any other provisions of this Section.

(f) It is an affirmative defense to the offense described in Subsection (b) above that the cigarette or tobacco product was possessed or consumed by a person under eighteen (18) years of age 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 cigarette or tobacco product was possessed with the consent of his or her parent or legal guardian who was present during such possession. For purposes of this Subsection, *private property* shall mean 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:

(1) Any establishment which sells cigarettes or tobacco products, or any premises upon which cigarettes or tobacco products are sold; or

(2) Any establishment which leases, rents or provides accommodations to members of the public generally. (Prior code §17-25; Ord. 774-06 §1)

## ARTICLE 6

### Alcoholic Beverages and Drugs

#### Sec. 10-6-10. 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.

*Ethyl alcohol* means any substance which is or contains ethyl alcohol, referred to as *alcohol beverages* in the State Liquor Code, Articles 46, 47 and 48 of Title 12, C.R.S.

*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.

*Marihuana* or *marijuana* means all parts of the plant *cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include the mature stalks of the plant, the fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as *marijuana* herein.

*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.

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

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

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

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

*Vinous liquor* means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar

contents of fruits or other agricultural products containing sugar. (Prior code §17-22; Ord. 774-06 §1)

**Sec. 10-6-20. 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 City any fermented malt beverage or malt, vinous or spirituous liquors.

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

(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.

(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.

(g) It shall be an affirmative defense to the provisions of this Section that the underage person was participating in a religious ceremony or practice or in a supervised and bona fide investigation conducted by a law enforcement agency. (Prior code §§3-1, 3-2; Ord. 774-06 §1)

**Sec. 10-6-30. Illegal possession or consumption of alcoholic beverages by underage person.**

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

(b) It is an affirmative defense to the offense described in Subsection (a) above that 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 ethyl alcohol 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 ethyl alcohol by weight.

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

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

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

(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 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 were composed in whole or in part of ethyl alcohol.

(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 Paragraph (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.

(g) Upon the expiration of one (1) year from the date of a conviction for a violation of Subsection (a) above, any person convicted of such violation may petition the court in which the conviction was entered for an order sealing the record of such conviction. The court shall grant such petition if the petitioner has not been arrested for, charged with or convicted of any felony, misdemeanor, petty offense or municipal ordinance violation during the period of one (1) year following the date of such petitioner's conviction for a violation of Subsection (a) above.

(h) The qualitative result of an alcohol test shall be admissible at the trial of any person charged with a violation of Subsection (a) above upon a showing that the device or devices used to

conduct such test have been approved as accurate in detecting alcohol by the Executive Director of the Department of Health.

(i) Official records of the Department of Health relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions, and certification of laboratories shall be official records of the State. Copies of such records, attested by the Executive Director of the Department of Health or his or her deputy and accompanied by a certificate bearing the official seal for said Department, which state that the Executive Director of the Department has custody of such records, shall be admissible in all courts of record and shall constitute prima facie evidence of the information contained in such records. The official seal of the Department described in this Subsection may consist of a rubber stamp producing a facsimile of the seal stamped upon the document.

(j) In a judicial proceeding in the Municipal Court concerning a charge under Subsection (a) above, the Court shall take judicial notice of methods of testing a person's blood, breath, saliva or urine for the presence of alcohol and of the design and operation of devices certified by the Department of Health for testing a person's blood, breath, saliva or urine for the presence of alcohol. This Subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this Subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

(k) No law enforcement officer shall enter upon any private property to investigate any violation of this Section without probable cause.

(l) Nothing in this Section shall be construed to limit or preclude prosecution for any offense pursuant to Article 46, 47 or 48 of Title 12, C.R.S., except as provided in such Articles.

(m) Illegal possession or consumption of alcoholic beverages by an underage person is an offense and shall be punished by a fine of not more than three hundred dollars (\$300.00). The Court, upon sentencing a defendant pursuant to this Subsection, may, in addition to any fine, order that the defendant perform up to twenty-four (24) hours of useful public service, subject to the conditions and restrictions of Section 16-11-701, C.R.S., and may further order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program or an alcohol treatment program, at such defendant's own expense. A penalty assessment notice shall not be issued for any charge under this Section. (Prior code §17-22; Ord. 774-06 §1)

#### **Sec. 10-6-40. 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 three hundred (300) 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. 774-06 §1)

**Sec. 10-6-50. 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) Except as authorized by the City, 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. 774-06 §1)

**Sec. 10-6-60. Open container.**

It is unlawful for any person to possess or consume by open container any alcoholic beverage, whether such possession is actual or constructive, in any public place as defined in Section 10-6-10 above, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by the City; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license. (Prior code §3-3; Ord. 774-06 §1)

**Sec. 10-6-70. Unlawful possession or consumption.**

(a) It is unlawful to carry or have in one's possession or control any open container or alcoholic beverage or fermented malt beverage on any street, sidewalk, alley or other public place, except parks as provided in Subsection (b) below, in the City, in any motor vehicle in the City or on the grounds of any public or private school in the City. It is unlawful to drink any alcoholic beverage or fermented malt beverage on or in any of the above places in the City.

(b) It is unlawful to carry or to have in one's possession or control any open container of alcoholic beverage or fermented malt beverage or to consume any such beverages in or upon any park owned or controlled by the City, including public parks and adjacent parking lots and areas; provided however, that the Chief of Police may grant a permit to persons over twenty-one (21) years of age for the consumption of malt liquors and fermented malt beverages by persons over twenty-one (21) years in any such park (but not including any parking lot or area). With respect to the area known as the County Fairgrounds, the Board of County Commissioners, or their duly appointed delegate, shall have the right of approval of any permit to be granted under the authority of this Subsection permitting the consumption of malt liquors or fermented malt beverages, said approval or denial to be based upon policy, regulations or resolutions which may be adopted by the County Commissioners from time to time. Any permit issued under the authority of this Subsection shall be issued in accordance with regulations setting forth guidelines to be followed by the Chief of Police in determining whether such a permit should be granted. The City administration shall be and hereby is authorized and directed to promulgate such regulations and to submit them to the City Council for approval. Said regulations may be amended from time to time as shall be deemed necessary by the City administration, subject to approval of the City Council. The denial of a permit by the Chief of Police or the County Commissioners shall be deemed final. Any fee for a permit shall be set by the

City Council by resolution. In the absence of any such fee, there shall be no charge. Application for the permit shall be on such forms and provide such information as shall be required by the regulations authorized herein.

(c) Violation of this Section shall be punishable in accordance with the provisions of Section 1-4-20 of this Code. All questions of fact and law relating to this offense shall be heard and decided by the Municipal Judge and there shall be no trial by jury. (Prior code §3-3A; Ord. 774-06 §1)

**Sec. 10-6-80. Limitations on consumption of alcoholic beverages on publicly owned property.**

On all publicly owned property, any person holding any type of alcoholic beverage license shall be limited in the sale, serving, dispensing, disposing, exchange or delivery of any malt, vinous or spirituous liquor or fermented malt beverage on any licensed premises to only those persons attending a particular event arranged for in advance, it being the intent of this Article to prohibit the general operation of a tavern or similar establishment on all publicly owned property. (Prior code §3-3B)

**Sec. 10-6-90. Possession of drug paraphernalia.**

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia for the purpose of using 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. 774-06 §1)

**Sec. 10-6-100. Possession of marijuana.**

(a) Any person who knowingly possesses not more than one (1) ounce of marijuana commits a criminal offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00).

(b) Whenever a person is arrested or detained for a violation of Subsection (a) above, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained person, the date, time and place where such person shall appear and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One (1) copy of said notice or summons shall be given to the person arrested or detained, one (1) copy shall be sent to the Municipal Court and such other copies as may be required by the Police Department shall be sent to the places designated by the Police Department. The date specified in the notice or summons to appear shall be at least five (5) days after such arrest or detention unless the person arrested or detained demands an earlier hearing. The arrested or detained person, in order to secure release from arrest or detention, shall promise in writing to appear in court by signing the notice or summons prepared by the arresting or detaining officer.

(c) Any person who openly and publicly displays, consumes or uses not more than one (1) ounce of marijuana commits an offense and, upon conviction thereof, shall be punished, at a

minimum, by a fine of not less than one hundred dollars (\$100.00) or, at a maximum, by a fine of not more than one hundred dollars (\$100.00) and, notwithstanding the provisions of Section 18-1.3-503, C.R.S., by fifteen (15) days in jail.

(d) The provisions of this Section shall not apply to any person who possesses or uses marijuana pursuant to the Dangerous Drugs Therapeutic Research Act. (Ord. 774-06 §1)

**Sec. 10-6-110. Abusing toxic vapors.**

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

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

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

(d) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (a) above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 774-06 §1)

**ARTICLE 7**

**Weapons**

**Sec. 10-7-10. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) It is an affirmative defense to any provision of this Article, that the act was committed by a peace officer in the lawful discharge of his or her duties. (Ord. 774-06 §1)

**Sec. 10-7-20. Carrying concealed weapon; forfeiture.**

(a) It is unlawful for any person to wear under his or her clothes or concealed upon or about his or her person, or to display in a threatening manner any dangerous or deadly weapon, including but not limited to any pistol, revolver, explosive or incendiary device, metallic knuckles, knife, Bowie knife, dirk, dagger, switchblade knife, blackjack or knife resembling a Bowie knife, or any other deadly or potentially dangerous weapon.

(b) It is unlawful for any person to sell, offer to sell, display, use, possess or carry any knife or knives having the appearance of a pocket knife the blade or blades of which can be opened by a flick of a button, pressure on the handle or other mechanical contrivance. Any such knife is hereby declared to be a dangerous or deadly weapon within the meaning of Subsection (a) above, and shall be subject to forfeiture to the City as provided in Subsection (c) below.

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

(d) The provisions of this Section shall not apply to a person who, at the time of carrying the concealed weapon, held a valid written permit to carry a concealed weapon issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to its repeal; or, if the weapon involved was a handgun, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Part 2, Article 12, Title 18, C.R.S., except that it shall be an offense under this Subsection if the person was carrying a concealed handgun in violation of Section 18-12-214, C.R.S.

(e) Nothing in this Section shall be construed to forbid United States Marshals, sheriffs and their deputies and any regular, special or ex officio police officer or any other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties. (Prior code §17-5; Ord. 774-06 §1)

**Sec. 10-7-30. Firearms and other combustibles.**

(a) It is unlawful for any person to do any of the following acts:

(1) Discharge, shoot or cause to be discharged or shot any firearm, including BB guns, air guns, pellet guns or any such similar device.

(2) Ignite, cause to be ignited or set off any rocket, missile or other dangerously combustible material; provided, however, that this clause shall not apply to any activities duly sanctioned and authorized by the City taking place on or within three (3) days prior to the 4th of July of each year.

(3) Shoot, loose or cause to be shot any sling shot, arrow from a bow or projectile of any sort from any such similar devices.

(4) Aim a firearm, bow and arrow, BB gun or any other device capable of hurling dangerous projectiles at another person.

(b) This Section shall not be applicable to officers of the law lawfully discharging their duties as such, or to Paragraphs (a)(1) and (a)(3) above when taking place upon a lawful range designed for such purpose. (Prior code §17-18; Ord. 774-06 §1)

**Sec. 10-7-40. Disposition of confiscated concealed weapons.**

It is the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the same to the Municipal Judge, to be held by him or her until the final determination of the prosecution for said offense, and upon the finding of guilt, it shall then be the duty of the Municipal Judge to deliver said weapon forthwith to the Chief of Police, who shall make disposition of the weapon. (Ord. 774-06 §1)

**Sec. 10-7-50. Prohibited use of weapons.**

(a) A person commits a misdemeanor 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;

(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. Possession of a permit issued under Section 18-12-105.1, C.R.S., is no defense to a violation of this Section; or

(5) Knowingly aims, swings or throws a throwing star or nunchaku at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.

(b) Nothing contained in this Section shall prevent the use of any such instruments in shooting galleries under circumstances when such instrument can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery. In addition, nothing herein contained shall be construed to prevent the carrying of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.

(c) Nothing contained in this Article shall prevent the use of a firearm by a person under the age of eighteen (18) years when accompanied by a parent or legal guardian; and by a person under the age of eighteen (18) years when enrolled in a hunter education class sponsored by the Colorado Division of Wildlife.

(d) Nothing contained in this Section shall prevent the use of any such instruments by any peace officer as shall be necessary in the proper discharge of his or her duties. (Ord. 774-06 §1)

**Sec. 10-7-60. Selling weapons to intoxicated persons.**

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

(b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the City to such person. (Ord. 774-06 §1)

## **ARTICLE 8**

### **Miscellaneous Offenses**

**Sec. 10-8-10. Unreasonable noise.**

(a) No person shall shout, cry, blow a horn, ring a bell, beat a drum, use any sound-amplifying device or create any other loud or unusual noise in aid of drawing attention to his or her activity or cause or for any other purpose, except in the case of emergency or dire need, which shall be, by way of example, protection or preservation of life or property or prevention of injury thereto; provided, however, that the foregoing shall not apply to any public event held in an appropriate place such as the County Fairgrounds, football stadium, baseball park, etc., when said events are duly and properly sanctioned by the Chief of Police after consultation with the City Administrator in accordance with regulations as may be from time to time approved by the City Council.

(b) No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable. (Prior code 17-8; Ord. 774-06 §1)

**Sec. 10-8-20. Disturbances by animal.**

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 City animal shelter. (Ord. 774-06 §1)

**Sec. 10-8-30. Sirens, whistles, gongs and red lights.**

It is unlawful for any person to carry or use upon a vehicle, other than Police or Fire Department vehicles or emergency vehicles for public use, any gong, siren, whistle or red light similar to that used on ambulances or vehicles of the Police and Fire Departments. (Ord. 774-06 §1)

**Sec. 10-8-40. Fireworks.**

(a) The City Council shall be authorized, from time to time, based upon climatic conditions related to the danger of fire, and upon the recommendation of the Fire Chief, to prohibit by resolution the sale and use of all forms of fireworks, as defined in Section 12-28-101(3), C.R.S., including permissible fireworks as defined in Section 12-28-101(8), C.R.S., and all other explosive materials for pyrotechnic displays within the City, except for professional firework displays specifically approved by the Fire Chief in advance of any such display under the provisions of Section 12-28-103, C.R.S.

(b) Whenever such a ban has been declared by the City Council, the Chief of Police is authorized and directed to enforce the ban on any sale of fireworks within the City and to seize, take and remove, at the expense of the owner, all stocks of fireworks, including permissible fireworks, offered or exposed for sale, stored or held in violation of this Section, and to seize, take and remove all such fireworks from a person using them in violation of a ban declared by the City Council.

(c) It shall be an offense for any person to violate a ban adopted by the City Council by resolution pursuant to Subsection (a) above and, upon conviction, the court shall impose the following penalties:

- (1) No less than twenty-five dollars (\$25.00) for the first offense;
- (2) No less than one hundred dollars (\$100.00) for the second offense within sixty (60) days of the first offense; and
- (3) Three hundred dollars (\$300.00) for each additional offense within sixty (60) days of the first offense.

Each incident of banned use or sale shall constitute a separate offense. (Ord. 747-03 §1; Ord. 774-06)

**Sec. 10-8-50. Penalties; classification of offenses; jury trial.**

(a) Any person who violates any section or part of this Chapter shall be fined the sum of no more than three hundred dollars (\$300.00) for each such violation, except that any person convicted of an offense under Section 10-1-40, 10-4-60 or 10-4-70 of this Chapter may, in addition or as an alternative to the fine imposed, be sentenced to a term in jail not to exceed ninety (90) days.

(b) Any offense in this Code which is neither criminal nor punishable by imprisonment under any counterpart state statute shall not constitute a petty offense to which the right to a trial by jury inures, as *petty offense* is defined in Section 16-10-109, C.R.S.; and all questions of fact and law relating to any such offense shall be heard and decided by the Municipal Judge and there shall be no trial by jury. (Prior code §17-20; Ord. 774-06 §1)

