

CHAPTER 17

Miscellaneous Provisions and Offenses

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ARTICLE I

In General

Sec. 17-1. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Alcoholic beverages. Any fermented malt beverages (three and two-tenths [3.2] percent alcohol by weight or less), malt, vinous or spirituous liquors (more than three and two-tenths [3.2] percent alcohol by weight).

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

Cannabis includes all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds 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 made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of its mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

Cannabis concentrate. Hashish, tetrahydrocannabinols or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols.

Conceal. To place or attempt to place out of view in such manner and circumstances as to indicate an intent to prevent others from seeing or discovering the presence of the thing concealed.

Deadly weapon. Any firearm, whether loaded or unloaded, knife, bludgeon or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or intended to be used is capable of producing death or serious bodily injury.

Firearm. Any instrument used in the propulsion of shot, slug, shells, bullets or other objects or projectiles capable of inflicting pain, bodily injury or property damage, by the action of gunpowder exploded or burned within it, by the action of compressed air within it or by the power or action of springs, and including what are commonly known as air rifles, air pistols and BB guns.

Gain. The direct realization of winnings.

Gambling. Risking any money, credit, deposit or other thing of value for a gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event over which the person taking a risk has no control, but not including:

- (1) Bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries.
- (2) Bona fide business transactions which are valid under the law of contracts.
- (3) Other acts or transactions now or hereafter expressly authorized by law.
- (4) Any game, wager or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only and in which no person is participating, directly or indirectly, in professional gambling.
- (5) Any use of or transaction involving a crane game, as defined in Section 12-47.1-103(5.5), C.R.S., as amended.

Gambling device. Any device, machine, antique, paraphernalia or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. *Gambling device* does not include a crane game, as defined in Section 12-47.1-103(5.5), C.R.S., as amended.

Gambling premises. Any building, house, room, enclosure, vehicle, vessel or other place, whether open or enclosed, used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found shall be presumed to be intended to be used for professional gambling.

Gambling proceeds. All money or other things of value at stake or displayed in or in connection with professional gambling.

Lewd and indecent displays. Performing or simulating performance of any of the following acts:

- (1) Sexual intercourse, flagellation or any sexual acts which are prohibited by law;
- (2) The touching, caressing or fondling of the breast, buttocks, anus or genitals;
- (3) The displaying of pubic hair, anus, vulva or genitals;
- (4) The displaying of the postpubertal human female breast below a point immediately above the top of the areola, or the displaying of the postpubertal human female breast where the nipple only or the nipple and areola only are covered; or
- (5) The open display of urinary or excretory functions.

Licensee. Any person duly licensed by state and local licensing authorities to sell malt, vinous or spirituous liquors or fermented malt beverages or to operate a place of amusement or recreation within the City, or any agent, servant or employee of such licensee.

Loiter. To be dilatory, to stand idly around, to linger, delay or wander about or to remain, abide or tarry in a public place. *Loiter* includes:

- (1) Loitering with intent to interfere with or disrupt the school program or with intent to interfere with or endanger school children, in a school building, 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; or
- (2) Loitering with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 12-22-303(7), C.R.S., as amended.

It shall be an affirmative defense to a charge of loitering 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.

Nudity. Uncovered, or less than translucently covered, postpubertal human genitals, pubic areas or the postpubertal female breast below a point immediately above the top of the areola. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

Premises. All or any part of the physical boundaries of any establishment duly licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages or any place of amusement or recreation in the City. The term *premises* shall include not only the building wherein the business is conducted but also the outdoor area within the property boundaries of the real property upon which the building sits.

Professional gambling:

- (1) Aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom; or
- (2) Participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one (1) or more of the other participants.

Profit. Any realized or unrealized benefit, other than the direct realization of winnings, whether direct or indirect, including benefits from proprietorship, management or unequal advantage in a series of transactions.

Serious bodily injury. Bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, serious permanent disfigurement, protracted loss or impairment of the function of any part of the body, or breaks, fractures or burns of the second or third degree.

Sexual intercourse. Contact between the genitals, anus or female breast of one (1) person and any part of another person for purposes of immediate sexual gratification of any person; and contact between the genitals, anus or female breast of one (1) person and any part of any animal for purposes of sexual gratification of any person.

Tamper. To change the condition of anything so that its operation or tendency to perform its intended function will be altered.

Vehicle. A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or the like, to transport persons or property or pull machinery, and including, without limitation, an automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy and wagon.
(Ord. 8 §1, 2006)

Sec. 17-2—17-10. Reserved.

ARTICLE II

Offenses Against the Person

Sec. 17-11. Assault.

(A) Intentionally; without deadly weapon. It is unlawful for any person to intentionally cause bodily injury to another person; provided, however, 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) Recklessly. It is unlawful for any person to recklessly cause bodily injury to another person; provided, however, that this Subsection shall not apply in the event of serious bodily injury caused by means of a deadly weapon.

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

(D) Criminal negligence; deadly weapon. It is unlawful for any person with criminal negligence to cause bodily injury to another person by means of a deadly weapon.
(Ord. 8 §1, 2006)

Sec. 17-12. Menacing.

It is unlawful for any person to intentionally place or attempt to place another person in fear of imminent bodily injury by any threat or physical action; provided, however, that if such is accomplished by means of a deadly weapon, then this Section shall not apply.
(Ord. 8 §1, 2006)

Sec. 17-13. Reckless endangerment.

It is unlawful for any person to recklessly engage in conduct which creates substantial risk of bodily injury to another person.
(Ord. 8 §1, 2006)

Sec. 17-14. Harassment.

(A) It is unlawful to commit harassment. 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 about in a public place;

- (4) Initiates communication with a person, anonymously or otherwise, by telephone, computer, computer network or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone, computer, computer network or computer system which is obscene;
- (5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
- (6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or
- (7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

(B) As used in this Section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate 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) hereof may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received. (Ord. 8 §1, 2006)

Sec. 17-15—17-20. Reserved.

ARTICLE III

Offenses Against Property

Division 1 Generally

Sec. 17-21. Theft.

(A) It is unlawful 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 and:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value; or
- (2) Knowingly uses, conceals or abandons the thing of value in such a manner as to deprive the other person permanently of its use or benefits; or
- (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 benefits; 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; and
- (5) Where the thing of value involved is less than two thousand dollars (\$2,000.00).

(B) For purposes of this Section, *anything of value of another* means if anyone other than the defendant has a possessory or proprietary interest therein.

(Ord. 8 §1, 2006; Ord. 13 §1, 2007; Ord. 8 §1, 2013)

Sec. 17-22. Shoplifting.

(A) Prohibited. It is unlawful to commit the crime of shoplifting. A person commits the crime of shoplifting when he or she knowingly takes possession of any unpurchased goods, wares or merchandise of a value of less than one thousand dollars (\$1,000.00), owned or held by and offered or displayed for sale by any store or mercantile

establishment, with the intention of converting such goods, wares or merchandise to his or her own use, without paying the purchase price thereof.

(B) Concealment of goods. If any person willfully conceals unpurchased goods, wares or merchandise of a value of less than one thousand dollars (\$1,000.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, such concealment constitutes prima facie evidence that the person intended to convert the same to his or her own use without paying the purchase price therefor within the meaning of Subsection (A) above.

(C) Questions of person suspected of shoplifting without liability. If a 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 police officer, acting in good faith and upon probable cause based upon reasonable grounds, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person has committed shoplifting. Such questioning of a person by a merchant, merchant's employee or police officer does not render the merchant, merchant's employee or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention.
(Ord. 8 §1, 2006; Ord. 13 §2, 2007)

Sec. 17-23. Price switching.

It is unlawful for any person to willfully alter, remove or switch the indicated price of any unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment; provided, however, that this Section shall not apply to goods, wares or merchandise of a value of one thousand dollars (\$1,000.00) or more.
(Ord. 8 §1, 2006; Ord. 13 §3, 2007)

Sec. 17-24. False pretense.

It is unlawful for any person to obtain any food, drink, goods, wares or merchandise under false pretenses, to enter a public place and call for refreshments or other articles and receive and refuse to pay for the same, or to depart without paying for or satisfying the person from whom he or she received the food, goods, wares and merchandise. This Section shall not apply if the value of the food, goods, wares or merchandise is one thousand dollars (\$1,000.00) or more.
(Ord. 8 §1, 2006; Ord. 13 §4, 2007)

Sec. 17-25. Fraudulently avoiding payment of admission fees.

It is unlawful for any person fraudulently or without lawful authorization to enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert, ski area or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.
(Ord. 8 §1, 2006)

Sec. 17-26. Fraud by check.

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

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

Drawee. 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. 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. 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 outstand-

ing at the time of issuance; and a check dishonored for *no account* shall also be deemed to be dishonored for *insufficient funds*.

Issue. When a person issues a check, *issue* means that such person makes, draws, delivers or passes the check or causes it to be made, drawn, delivered or passed.

Negotiable order of withdrawal and share draft. 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. An account in a bank, savings and loan association or industrial bank.

Share draft account. 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 the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check.

(C) Fraud by check is a misdemeanor.

(D) 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.

(E) 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 a misdemeanor.

(F) 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.

(G) 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.

(H) 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.

(I) This Section does not apply if:

(1) The fraudulent check was for the sum of one thousand dollars (\$1,000.00) or more; or

(2) The fraudulent check was drawn on an account which did not exist or which has been closed for a period of thirty (30) days or more prior to the issuance of the check.

(Ord. 8 §1, 2006; Ord. 13 §5, 2007)

Sec. 17-27. Joyriding.

(A) Any person who drives or takes any motor vehicle without the consent of the owner or lawful possessor thereof, with the intent of temporarily making use thereof, commits joyriding, which is unlawful.

(B) If the person who in the course of so driving or taking the motor vehicle does one (1) or more of the following, joyriding has not occurred:

- (1) Retains possession or control of the motor vehicle for more than seventy-two (72) hours;
- (2) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle;
- (3) Attempts to alter or remove or alters or removes the vehicle identification number;
- (4) Uses the motor vehicle in the commission of a crime other than a traffic offense;
- (5) Causes five hundred dollars (\$500.00) or more property damage in the exercise of control of the motor vehicle;
- (6) Causes bodily injury to another person while in the exercise of control of the vehicle;
- (7) Removes the motor vehicle from the State for a period of time in excess of forty-eight (48) hours; or
- (8) Unlawfully attaches or otherwise displays in or upon the motor vehicle license plates other than those officially issued for the motor vehicle.

(Ord. 8 §1, 2006)

Sec. 17-28—17-30. Reserved.

*Division 2
Financial Transaction Devices*

Sec. 17-31. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Account holder. The person or business entity named on the face of a financial transaction device to whom or for whose benefit the financial transaction device is issued by an issuer.

Automated banking device. Any machine which, when properly activated by a financial transaction device or a personal identification code, may be used for any of the purposes for which a financial transaction device may be used.

Financial transaction device or credit device. Any instrument or device, whether known as a credit card, banking card, debit card, electronic fund transfer card or guaranteed check card, or account number representing a financial account or affecting the financial interest, standing or obligation of or to the account holder, that can be used to obtain cash, goods, property or services or to make financial payments, but not including a "check," a "negotiable order of withdrawal" and a "share draft" as defined in Section 18-5-205, C.R.S., as amended.

Issuer. Any person or banking, financial or business institution, corporation or other business entity that assigns financial rights by acquiring, distributing, controlling or canceling a financial transaction device.

Personal identification code. Any grouping of letters, numbers or symbols assigned to the account holder of a financial transaction device by the issuer to permit authorized electronic use of that financial transaction device.

Sales form. Any written record of a financial transaction involving use of a financial transaction device.
(Ord. 8 §1, 2006)

Sec. 17-32. Unauthorized use of financial transaction device.

(A) A person commits unauthorized use of a financial transaction device if he or she uses such device for the purpose of obtaining cash, credit, property or services or for making financial payment, with intent to defraud, and with notice that either:

- (1) The financial transaction device has expired, has been revoked or has been cancelled; or
- (2) For any reason, his or her use of the financial transaction device is unauthorized either by the issuer thereof or by the account holder.

(B) For purposes of Subsection (A) above, *notice* includes either notice given in person or notice given in writing to the account holder. The sending of a notice in writing by certified mail, return receipt requested, duly stamped and addressed to such account holder at his or her last address known to the issuer, evidenced by a signed returned receipt signed by the account holder, is prima facie evidence that the notice was received.

(C) Unauthorized use of a financial transaction device is a misdemeanor.

(D) This Section does not apply if the value of the cash, credit, property or services obtained or of the financial payments made is less than one thousand dollars (\$1,000.00). The value of the cash, credit, property or services obtained and the financial payments made shall be the total value of the cash, credit, property or services obtained or financial payments made by unauthorized use of a single financial transaction device within a six-month period from the date of the first unauthorized use.

(Ord. 8 §1, 2006; Ord. 13 §6, 2007)

Sec. 17-33. Criminal possession of credit device.

A person commits an unlawful act if he or she has in his or her possession or under his or her control, or receives from another person, with intent to use, deliver, circulate or sell it or with intent to cause the use, delivery, circulation or sale of it, one (1) financial transaction device which he or she knows or reasonably should know to be forged, altered, counterfeited, spurious, stolen or delivered under a mistake as to the identity or address of the account holder.

(Ord. 8 §1, 2006)

Sec. 17-34. Theft of credit device.

A person commits an unlawful act if he or she steals, takes or removes a financial transaction device from the person or possession of the person to whom it is issued, with intent to use, deliver, circulate or sell it without the consent of the person to whom it is issued, or with intent to cause it to be so used, delivered, circulated or sold.

(Ord. 8 §1, 2006)

Sec. 17-35—17-40. Reserved.

Division 3

Trespass, Tampering and Criminal Mischief

Sec. 17-41. Trespassing.

(A) It is unlawful for any person without legal privilege to enter or to remain upon the premises of another, or 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.

(B) This Section does not apply to trespass on premises classified by the County Assessor as agricultural land, pursuant to Section 39-1-102(1.6), C.R.S., as amended, with intent to commit a felony thereon.

(Ord. 8 §1, 2006)

Sec. 17-42. Unlawful use of property of another.

It is unlawful for any person intentionally to use or cause to be used, in any manner, the real or personal property of another, or in lawful possession of another, for any purpose, including advertising, storage, grazing or recreation, without the permission of the owner or person in possession thereof.
(Ord. 8 §1, 2006)

Sec. 17-43. Criminal tampering.

A person commits the misdemeanor of criminal tampering if he or she tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another or if he or she makes unauthorized connections with the property of a utility.
(Ord. 8 §1, 2006)

Sec. 17-44. Damage to private property.

It is unlawful for any person intentionally, knowingly or recklessly to injure, deface, destroy or sever in any manner any real or personal property, or improvements thereto, of any other person in this City where the aggregate damage is less than five hundred dollars (\$500.00).
(Ord. 8 §1, 2006)

Sec. 17-45. Damage to City property.

It is unlawful for any person intentionally, knowingly or recklessly to injure, deface, destroy or sever in any manner any real or personal property, or improvements thereto, belonging to the City where aggregate damage is less than five hundred dollars (\$500.00).
(Ord. 8 §1, 2006)

Sec. 17-46. Use of City property.

It is unlawful for any person to utilize City property for any use other than its designated use, unless a permit is first obtained from the City Council.
(Ord. 8 §1, 2006)

Sec. 17-47—17-50. Reserved.

ARTICLE IV

Offenses Against Public Safety

*Division 1
Generally*

Sec. 17-51. Unlawful to sell or use certain types of fireworks.

Except as provided in Sections 12-28-103 and 12-28-106, C.R.S., as amended, it is unlawful in the City for any person to offer for sale, expose for sale, sell or have in his or her possession with intent to offer for sale, sell, use or explode any fireworks.
(Ord. 8 §1, 2006)

Sec. 17-52. Leaving cellar doors and other openings uncovered or unsafe.

It is unlawful for any person to leave open, uncovered, unguarded or in unsafe condition any cellar door, hatchway, pit, vault or excavation upon any sidewalk, street, alley or public place or so near thereto as to constitute a hazard to any passerby.
(Ord. 8 §1, 2006)

Sec. 17-53. Discarded or abandoned iceboxes, motor vehicles and similar items.

Any person who abandons or discards, in any public place accessible to children, any chest, closet, piece of furniture, refrigerator, icebox, motor vehicle or other article, having a compartment of a capacity of one and one-half (1½) cubic feet or more and having a door or lid which, when closed, cannot be opened from the inside, or who, being the owner, lessee or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition, commits an offense.
(Ord. 8 §1, 2006)

Sec. 17-54—17-60. Reserved.

Division 2

Weapons

Sec. 17-61. Exceptions.

Nothing in this Article shall be construed to forbid any enforcement officer of the various law enforcement agencies of the United States government or the State, any sheriff or his or her deputies, or any regular, special or ex officio peace officer from carrying, wearing or using a weapon as shall be necessary in the proper discharge of his or her duties, so long as such weapons have been issued or approved by his or her supervisor or superior officer.
(Ord. 8 §1, 2006)

Sec. 17-62. Forfeiture.

Any dangerous or deadly weapon used or possessed in violation of Sections 17-139 and 17-131 through 17-133, inclusive, of this Article, is hereby declared to be contraband and shall be forfeited to the City upon a conviction resulting from such use or possession.
(Ord. 8 §1, 2006)

Sec. 17-63. Disposition of confiscated weapons.

It shall be the duty of every peace officer, upon making an arrest and taking such a weapon, thing or substance from the person of the offender, to deliver or cause to be delivered the same to the Chief of Police, to be held in his or her custody until the final determination of the prosecution of such offense. The Chief of Police, or his or her authorized agent, shall dispose of weapons forfeited pursuant to ordinance by destruction, sale or retention for department use in accordance with procedures and regulations of the Police Department. Any proceeds received from such sale shall, after deducting costs or other expenses of sale, be paid into the general fund or such other fund as the City Council may direct.
(Ord. 8 §1, 2006)

Sec. 17-64. Discharge of firearms, deadly weapons and destructive devices.

It is unlawful for any person to discharge firearms, deadly weapons or explosive devices of any kind or description within the limits of the City; provided, however, that this Section shall not apply to:

- (1) Police officers in the discharge of their duties;
- (2) Persons while exercising their right of self-defense, defense of others or defense of property;
- (3) Members of the armed forces of the United States or the National Guard while engaged in official duties.

(Ord. 8 §1, 2006)

Sec. 17-65. Exceptions; permits.

The City Council may at any time, upon receipt of proper applications, grant permits to shooting galleries, gun clubs, rifle ranges and other establishments for shooting in fixed localities and under specified rules. Such permits shall be in writing attested by the City Clerk, conforming to such requirement as the City Council shall demand, and the permit thus issued shall be subject to revocation at any time by action of the City Council.
(Ord. 8 §1, 2006)

Sec. 17-66. Unlawful concealment of deadly weapons.

(A) It is unlawful for any person to wear under his or her clothes, or conceal about his or her person, any dangerous or deadly weapon.

(B) For purposes of this Section only, *conceal* means placement of the dangerous or deadly weapon in question about the person, or within his or her immediate reach, in such a manner as to be either completely hidden from view or partially hidden to such an extent that another person making normal contact with that person cannot ascertain the true nature of the weapon.

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

- (1) A person in his or her own dwelling or place of business or on property owned or under his or her control at the time of the act of carrying;
- (2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his, her or another's person or property while traveling;
- (3) A person who, at the time of carrying a 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;
- (4) If the weapon involved was a handgun, the person carrying held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Title 18, Article 12, Part 2, C.R.S., as amended;
- (5) A peace officer, as described in Section 16-2.5-101, C.R.S., as amended, when carrying a weapon in conformance with the policy of the employing agency, as provided in Section 16-2.5-101(2), C.R.S., as amended; or
- (6) A United States probation officer or a United States pretrial services officer while on duty and serving in the State under the authority of rules and regulations promulgated by the judicial conference of the United States.

(Ord. 8 §1, 2006)

Sec. 17-67. Possession within licensed premises.

(A) It is unlawful for any person as a patron of an establishment where alcoholic beverages are sold for consumption on the premises to possess, carry or display any dangerous or deadly weapon, whether concealed or not, while on the premises of such establishment.

(B) It shall be an affirmative defense to a charge of possession or carrying a dangerous or deadly weapon under this Section that such weapon was a folding-type knife with a blade not exceeding three and one-half (3½) inches, and the weapon was not carried in a concealed fashion. This defense does not apply to a charge of displaying such a weapon.

(Ord. 8 §1, 2006)

Sec. 17-68. Selling weapons to intoxicated persons.

It is unlawful for any person to purchase, sell, loan or furnish any dangerous or deadly weapon to any person intoxicated or under the influence of alcohol, any narcotic or dangerous drug or glue substance.

(Ord. 8 §1, 2006)

Sec. 17-69. Concealment, use and sale of injurious substances.

(A) It is unlawful for any person to wear under his or her clothes or conceal about his or her person, with intent to use as a weapon, any substance, or article containing any substance whatsoever, which is capable of inflicting bodily harm to any person or animal, or may be the cause of illness to any person or animal; provided, however, that, where such a substance is used by a person as a deadly weapon and causes bodily injury to another person, this Section does not apply.

(B) It is unlawful for any person to have in his or her possession, to sell, to offer for sale, to give away, to lend, to furnish, to use or to threaten to use any device for dispensing mace, paralyzing gas, any similar chemicals or combination of chemicals or other ingredients designed to injure, maim, paralyze, immobilize or cause the illness of a person or animal, whether or not such substance is packaged in a container under pressure; provided, however, that

any such device designed to be carried in a handbag or pocket and which does not contain more than one (1) ounce of chemical may be possessed by and sold to persons eighteen (18) years of age and older and may be used by such persons in self-defense.

(C) Nothing in this Section shall be construed to prohibit the use of such devices by peace officers and mail carriers in the discharge of their duties, nor by City employees who have obtained the approval of the Police Chief to use such devices in the discharge of their duties.
(Ord. 8 §1, 2006)

Sec. 17-70—17-80. Reserved.

ARTICLE V

Offenses Against Public Peace and Order

Sec. 17-81. Disorderly conduct.

(A) It is unlawful to commit disorderly conduct. A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

- (1) Threatens physical harm to any person in a public place;
- (2) Makes, causes or controls unreasonable noise in a public place or that is audible upon a private premises that he or she has no right to occupy;
- (3) Fights with another in a public place, except in an amateur or professional contest of athletic skill;
- (4) Makes statements or gestures calculated to cause embarrassment or provoke anger in any person in a public place when such statements or gestures cause any person to inflict bodily injury upon any person or tend to invite an immediate breach of the peace; or
- (5) Urinates or defecates upon any public or private place other than in a toilet facility provided for such purpose.

(B) It is an affirmative defense under Paragraph (A)(1) above that the actor had significant provocation for his or her threatening conduct.

(C) A prima facie showing that a violation of Paragraph (A)(2) above has occurred shall consist of evidence that the defendant caused or controlled such noise between the hours of 10:00 p.m. and 7:00 a.m., and that the noise was audible at a distance of one hundred (100) feet from its source, was distinguishable from any other source of sound in the vicinity and was of a greater volume than any other single source of sound in the vicinity.

(D) It shall be an affirmative defense in a prosecution under Paragraph (A)(2) that such sound made by the defendant was reasonable at the time and under the circumstances surrounding the making of the sound, or was pursuant to a City permit.

(Ord. 8 §1, 2006)

Sec. 17-82. Dangerous missiles; stones.

(A) It is unlawful for any person to willfully, maliciously or recklessly throw, shoot or project any stone, arrow, pellet, dart, ball bearing, snowballs, ice or other dangerous missile at or against the person, animal, building, structure, personal property or fixture or vehicle of another.

(B) It shall be an affirmative defense to a prosecution under this Section that the defendant was engaged in throwing, projecting or shooting any such dangerous missile in one (1) of the following instances:

- (1) At any animal in order to protect his or her person or property, or the person or property of another from physical injury; or

(2) For recreational purposes in such a manner that no unreasonable risk of harm was presented to any person or to the real or personal property of any person.
(Ord. 8 §1, 2006)

Sec. 17-83. Posting bills prohibited.

It is unlawful for any person to post any placard, handbill or advertisement, within the limits of any street or public grounds, without the prior consent of the City Council or the Chief of Police. The Chief of Police shall grant his or her permission, unless otherwise instructed by the City Council, if the proposed activity will not endanger the public peace and safety.
(Ord. 8 §1, 2006)

Sec. 17-84. Injury or removal of signs.

It is unlawful for any unauthorized person to willfully remove, deface, injure, damage or destroy any street sign, traffic control or warning sign, barricade or device erected or placed in or adjacent to any street. This Section shall not apply where the aggregate damage to such street sign, traffic control or warning sign or barricade is five hundred dollars (\$500.00) or more.
(Ord. 8 §1, 2006)

Sec. 17-85. 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 the same, in violation of any order, rule or regulation concerning any matter prescribed in this Subsection, limiting or prohibiting the use or 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, statutes, 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) Necessary sanitation, health and safety measures, consistent with Section 25-13-113, C.R.S., as amended;
- (5) 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;
- (6) Use of all vehicles as to place, time and manner of use;
- (7) 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 limitations or prohibitions is prominently posted at all public entrances to such building or property or unless such notice is actually first given to the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this Section.
(Ord. 8 §1, 2006)

Sec. 17-86. Disrupting lawful assembly.

(A) 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 others.

(B) Disrupting lawful assembly is a misdemeanor.
(Ord. 8 §1, 2006)

Sec. 17-87. Interference with staff, faculty or students of educational institutions.

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

- (1) Lawful freedom of movement on the premises;
- (2) Lawful use of the property or facilities of the institution; or
- (3) The right of lawful ingress and egress to the institution's physical facilities.

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

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

(D) It shall be an affirmative defense that the defendant was exercising his or her right to lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor or any employee thereof.

(Ord. 8 §1, 2006)

Sec. 17-88. Camping restrictions.

(A) Outdoor sleeping or camping shall be prohibited on public property in the City except for sleeping and camping in legally constituted tourist courts and tourist camps or travel trailer parks, as defined in Chapter 21, Article II of this Code.

(B) It is unlawful for any person to camp or to remain in a travel trailer park, whether in a travel trailer (camper) or otherwise, for more than fourteen (14) days in any consecutive sixty-day period. For the purposes of this Subsection, the terms *travel trailer (camper)* and *travel trailer park* shall have the meanings set forth for them in Chapter 21, Article II of this Code.

(Ord. 8 §1, 2006)

Sec. 17-89. Climbing waterfall.

(A) It is unlawful for any person to climb or be present on the Charlie Tayler water wheel or the cliff face or waterfall located immediately to the south of said water wheel, except as provided in Subsection (B) below.

(B) Authorized visitors or guests of a City-approved ice climbing park or recreational facility and employees of the City performing their official duties at said location are exempt from the provisions of Subsection (A) above.

(Ord. 8 §1, 2006)

Sec. 17-90—17-100. Reserved.

ARTICLE VI

Offenses Against Public Decency and Public Morals

Division 1 Generally

Sec. 17-101. Public indecency.

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

(B) Public indecency is a misdemeanor.
(Ord. 8 §1, 2006)

Sec. 17-102. Indecent exposure.

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

(B) Indecent exposure is a misdemeanor.
(Ord. 8 §1, 2006)

Sec. 17-103. Invasion of privacy.

It is unlawful for any person to look into the windows of anyone's domicile or residence without the permission of the person being observed, the owner or possessor of the domicile or residence or his or her agent, either from within the real property surrounding the domicile or residence, or from without, with the use of magnifying devices such as binoculars, monoculars, telescopes, spy glasses and other devices.

(Ord. 8 §1, 2006)

Sec. 17-104. Possession of cannabis.

(A) Any person who knowingly possesses, transfers, cultivates, grows, produces, processes, manufactures or knowingly allows to be cultivated, grown, produced, processed or manufactured on land or real property owned, occupied or controlled by him or her, not more than one (1) ounce of cannabis or cannabis concentrate or derivative, is guilty of the offense of possession of cannabis.

(B) The penalty for violation of this Section shall be by fine only. The fine shall be a maximum of one hundred dollars (\$100.00) for each offense.

(Ord. 8 §1, 2006)

Sec. 17-105. Desecration of venerated objects.

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

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

(Ord. 8 §1, 2006)

Sec. 17-106—17-110. Reserved.

*Division 2
Prostitution*

Sec. 17-111. Prostitute defined.

In this Division, *prostitute* means a person who engages in prostitution.
(Ord. 8 §1, 2006)

Sec. 17-112. Prostitution prohibited; defined.

It is unlawful for any person to engage in prostitution. A person engages in prostitution when he or she performs, offers or agrees to perform any act of sexual intercourse, with any person not his or her spouse, in exchange for money or other thing of value.
(Ord. 8 §1, 2006)

Sec. 17-113. Soliciting.

It is unlawful for any person to solicit for prostitution. A person solicits for prostitution if he or she:

- (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 that such direction is for the purpose of prostitution.
- (Ord. 8 §1, 2006)

Sec. 17-114. Pandering.

It is unlawful for any person to pander. A person panders when, for money or other thing of value, he or she knowingly arranges or knowingly offers to aid, abet or advise another so that any person may engage in prostitution.
(Ord. 8 §1, 2006)

Sec. 17-115. Keeping a place of prostitution.

It is unlawful for any person to keep a place of prostitution. Any person who has or exercises control over the use of any premises which offers seclusion or shelter for the practice of prostitution keeps a place for prostitution if he or she:

- (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.
- (Ord. 8 §1, 2006)

Sec. 17-116. Patronizing a prostitute.

It is unlawful for any person to patronize a prostitute. Any person who performs any of the following patronizes a prostitute:

- (1) Knowingly engages in an act of sexual intercourse with a prostitute; or
 - (2) Enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse with a prostitute.
- (Ord. 8 §1, 2006)

Sec. 17-117. Prostitute making a display.

Any person who, by word, gesture or action, endeavors to further the practice of prostitution in any public place or within public view commits an unlawful act.
(Ord. 8 §1, 2006)

Sec. 17-118—17-120. Reserved.

*Division 3
Gambling*

Sec. 17-121. Prohibited.

It is unlawful for any person to engage in gambling or professional gambling.
(Ord. 8 §1, 2006)

Sec. 17-122. Possession of a gambling device.

It is unlawful for any person to own, manufacture, sell, transport, possess or engage in any transaction designed to affect the ownership, custody or use of a gambling device or gambling record, knowing that it is to be used in professional gambling.
(Ord. 8 §1, 2006)

Sec. 17-123. Premises.

It is unlawful for any person, as owner, lessee, agent, employee, operator or occupant, knowingly to maintain, aid or permit the maintaining of gambling premises.
(Ord. 8 §1, 2006)

Sec. 17-124—17-130. Reserved.

ARTICLE VII

Offenses Relating to Governmental Operations

Sec. 17-131. Obstructing government operations.

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

(B) It shall be an affirmative defense of this Section 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 of a governmental function was by lawful activities in connection with a labor dispute with the government.

(C) Obstructing government operations is a misdemeanor.
(Ord. 8 §1, 2006)

Sec. 17-132. Resisting arrest.

(A) It is unlawful for any person to knowingly prevent or attempt to prevent any police officer acting under color of official authority from effecting an arrest of the actor or another by:

- (1) Using or threatening to use physical force or violence against the police officer or another;
- (2) Using any other means which creates a substantial risk of causing physical injury to the police officer or another;
- (3) Running from, eluding or hiding from a police officer attempting to effect an arrest;

- (4) While ambulatory, knowingly refusing to stand, walk or move in a manner as reasonably directed by a police officer; or
- (5) Attaching one's self to, holding onto, allowing one's self to be held onto or clinging onto another person or object.

(B) It is no defense to a prosecution under this Section that the police officer was attempting to make an arrest which in fact was unlawful, if he or she was acting under color of his or her official authority and was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts *under color of his or her official authority* when, in the regular course of assigned duties, he or she is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her.
(Ord. 8 §1, 2006)

Sec. 17-133. Obstructing a police officer.

It is unlawful for any person, by using or threatening to use violence, force or physical interference or obstacle, to knowingly obstruct, impair or hinder the enforcement of the penal law or the preservation of the peace by a police officer or any person duly empowered with police authority.
(Ord. 8 §1, 2006)

Sec. 17-134. Officers' power to stop and frisk.

(A) A peace officer may stop any person whom he or she reasonably suspects is committing, has committed or is about to commit a crime and may require the person to give his or her name, address, date of birth and an explanation of his or her actions. The stopping shall not constitute an arrest. It is unlawful to knowingly refuse to provide the information required by this Subsection.

(B) When a peace officer has stopped a person for questioning pursuant to this Section and reasonably suspects that personal safety requires it, such peace officer may conduct a pat-down search of that person for weapons.
(Ord. 8 §1, 2006)

Sec. 17-135. Refusal to permit inspections.

(A) A person commits an offense if, knowing or having been given notice that a public servant is legally authorized to inspect property:

- (1) He or she refuses to produce or make available the property for inspection at a reasonable hour; or
- (2) If the property is available for inspection, he or she refuses to permit the inspection at a reasonable hour.

(B) For purposes of this Section, *property* means any real or personal property, including books, records and documents which are owned, possessed or otherwise subject to the control of the defendant. A *legally authorized inspection* means any lawful search, sampling, testing or other examination of property, in connection with the regulation of a business or occupation that is authorized by statute or lawful regulatory provision.
(Ord. 8 §1, 2006)

Sec. 17-136. Interference.

It is unlawful for any person to interfere with or hinder any peace officer, a member of the Police Department or a person duly empowered with police authority, while in the discharge or apparent discharge of his or her duty.
(Ord. 8 §1, 2006)

Sec. 17-137. Assisting escape.

It is unlawful for any person to offer or endeavor to assist any person who, because of a misdemeanor or civil matter, is in the custody of a peace officer, a member of the Police Department or a person duly empowered with police authority, to escape or to attempt to escape from custody.
(Ord. 8 §1, 2006)

Sec. 17-138. Rescuing persons in custody.

It is unlawful for any person to rescue or to attempt to rescue any person who, because of a misdemeanor or civil matter, is in the custody of a peace officer, a member of the Police Department or a person duly empowered with police authority.

(Ord. 8 §1, 2006)

Sec. 17-139. Threatening officers of the City.

It is unlawful for any person to threaten by words or gestures or use obscenity toward any officer of the City when such officer is performing the duties required of him or her.

(Ord. 8 §1, 2006)

Sec. 17-140. Disobeying a police officer or firefighter.

It is unlawful for any person to willfully disobey the lawful or reasonable order or direction of any police officer, firefighter, emergency personnel or military personnel given incident to the discharge of the official duties of such police officer or firefighter, or incident to the duties of emergency personnel or military personnel when coping with an emergency, explosion or other disaster within his or her official concern.

(Ord. 8 §1, 2006)

Sec. 17-141. Public buildings; trespass, interference.

(A) No person shall so conduct himself at or in any public building owned, operated or controlled by the State or any of the political subdivisions of the State, or at any building owned, operated or controlled by the federal government, as to willfully deny to 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 such public building, willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation or by force and violence or threat thereof.

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

(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.

(Ord. 8 §1, 2006)

Sec. 17-142. Impersonating City officers and employees.

(A) It is unlawful for any person other than a City officer or City employee to willfully or fraudulently represent himself or herself to be a City officer or an employee of the City.

(B) It is unlawful for any person to purport to perform the duties of any City officer or employee when that person is not an authorized officer or employee of the City.

(Ord. 8 §1, 2006)

Sec. 17-143. False reporting to authorities.

(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 of persons or property, when such person knows the report to be false. For purposes of this Subsection, *Fire Department* means any fire protection district or firefighting agency of the State, County or City, whether the employees or officers of such agency are volunteers, receive compensation for their services as firefighters 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 be within the official concern of such agency, when:

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

(C) 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. 8 §1, 2006)

Sec. 17-144. Compounding.

(A) A person commits compounding if that person accepts or agrees to accept any pecuniary benefit as consideration for:

- (1) Refraining from seeking prosecution of an offender; or
- (2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to a crime.

(B) It is an affirmative defense to prosecution under this Section that the benefit received by the defendant did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the crime.
(Ord. 8 §1, 2006)

Sec. 17-145—17-150. Reserved.

ARTICLE VIII

Miscellaneous Offenses

*Division 1
Generally*

Sec. 17-151. Curfew; parental responsibility.

(A) For the purposes of this Section, the words and phrases used herein, unless the context otherwise indicates, shall have the following meanings:

Juvenile means any person under the age of eighteen (18) years.

Permit or allow means to consent, to tolerate, to give permission, to authorize or to give opportunity.

(B) It is and shall be unlawful for any juvenile to be present, whether on foot or on, in or about any mode of transportation, on the public streets, highways, alleys or other public grounds, public places or vacant lots, or to remain in or around any establishment open to the public between the hours of 11:00 p.m. and 6:00 a.m.; provided, however that, on any Friday or Saturday, the effective hours of this prohibition are between midnight and 6:00 a.m. of the following day.

(C) No violation of this Section will have occurred if:

- (1) The juvenile is engaged in or traveling to or from lawful employment.
- (2) The juvenile is accompanied by a parent, guardian or other adult over the age of twenty-one (21) years who has in his or her possession the written consent of the parent, guardian or other person having legal care or custody of the juvenile.
- (3) There is a verifiable emergency which justifies the presence of the juvenile.

(D) It is and shall be unlawful for the parent, guardian or other adult person having the care and custody of a juvenile to knowingly permit or allow such juvenile to violate the provisions of Subsection (B) above. The term *knowingly* includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's or guardian's custody.

(E) It shall not be an affirmative defense to a charge of violating the provisions of Subsection (D) above that the parent, guardian or other person having the care and custody of the juvenile was indifferent to the activities, conduct or whereabouts of such juvenile. No violation of this provision will have occurred, however, if the responsible adult made a missing person notification to a law enforcement agency having jurisdiction prior to the juvenile's violation of Subsection (B) above.

(F) Nothing in this Section shall be construed to render inapplicable within the City any regulations of the State regarding the hours between which juveniles may operate motor vehicles as set forth in Section 42-4-116, C.R.S., as amended.

(Ord. 8 §1, 2006)

Sec. 17-152. Panhandling.

Panhandling shall be unlawful anywhere within the City limits. A person commits panhandling when he or she approaches a person unknown to him or her, either physically, vocally or by use of a sign, and asks for money, food or any other thing of value.

(Ord. 8 §1, 2006)

Sec. 17-153—17-160. Reserved.

*Division 2
Alcoholic Beverage Establishments, Amusement Establishments and
Miscellaneous Restrictions on Minors*

Sec. 17-161. Absence of licensee not a defense; exception.

It shall not be a defense to a prosecution under this Division that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be responsible hereunder when absent from the premises and not on duty.

(Ord. 8 §1, 2006)

Sec. 17-162. Licensee's liability.

(A) It is unlawful for a licensee, in any manner, to encourage or participate in any assault, harassment or disorderly conduct, as those offenses are defined in this Division, upon premises selling malt, vinous or spirituous liquors or fermented malt beverages, or any premises licensed as a place of amusement or recreation; provided, however, that such licensee may use such reasonably necessary and lawful means as may be proper to protect himself or herself, the person of another or property from damage or injury.

(B) Each licensee shall conduct his or her establishment in such a manner that no provision of this Chapter is violated, nor shall such licensee knowingly permit within or upon the licensed premises any of the following:

- (1) The loitering of habitual drunkards or obviously intoxicated persons.
- (2) Lewd or indecent displays.

- (3) Any disturbance or activity constituting conduct in violation of this Division or any criminal provision of state law.

(C) It is unlawful for any person licensed to sell alcohol beverages at retail within the City, or for any person employed by such licensee while upon the licensed premises for the purpose of serving alcohol beverages, to fail to report any assault, menacing, reckless endangerment, harassment, unlawful discharge of a firearm, disorderly conduct or public indecency, all as defined in this Chapter, which occurs on the licensed premises, to the Clear Creek County law enforcement dispatch center immediately upon the occurrence of the same.

(D) It is unlawful for any person licensed to sell alcohol beverages at retail within the City, or for any person employed by such licensee while upon the licensed premises for the purpose of serving alcohol beverages, to fail to report any unlawful concealment of a firearm, prostitution or the solicitation, pandering or patronizing of the same, all as defined in this Chapter, which occurs on the licensed premises, to the Clear Creek County law enforcement dispatch center immediately upon the occurrence of the same. It shall be an affirmative defense to any charge under this Subsection that such licensee or employee was not aware of the occurrence of such act notwithstanding the exercise of reasonable diligence and care.

(E) Each person licensed to sell alcohol beverages at retail within the City shall post and keep at all times visible to the public in a conspicuous place on the licensed premises a sign to be provided by the City Clerk's office, which shall be in the following form and content:

WARNING

LAW ENFORCEMENT AUTHORITIES MUST BE NOTIFIED OF ALL DISTURBANCES, INCLUDING DISORDERLY CONDUCT AND ASSAULT, WHICH OCCUR IN THIS LICENSED ESTABLISHMENT.

(F) A violation of this Section shall be a criminal offense under this Code and, in addition, shall be an independent and freestanding cause for suspension, revocation or nonrenewal of the license to sell alcohol beverages at the licensed premises.

(Ord. 8 §1, 2006)

Sec. 17-163. Age restrictions.

(A) Providing to minors. It is unlawful for any person to sell, serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any malt, vinous or spirituous liquor, or fermented malt beverages (beer containing not more than three and two-tenths percent [3.2%] alcohol), to or for any person under the age of twenty-one (21) years.

(B) Minors obtaining. It is unlawful for any person under twenty-one (21) years of age to obtain or attempt to obtain malt, vinous or spirituous liquor or fermented malt beverages (beer containing not more than three and two-tenths percent [3.2%] alcohol) by misrepresentation of age or by any other method in any place where malt, vinous or spirituous liquor or fermented malt beverages are sold.

(C) Minors possessing or consuming.

(1) It is unlawful for any person under twenty-one (21) years of age to possess or consume any malt, vinous or spirituous liquor ("alcohol beverage") or fermented malt beverage. It shall be an affirmative defense to the charge of possession or consumption that the alcohol beverage or fermented malt beverage was possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

(a) While such person was legally upon private property with knowledge and consent of the owner or legal possessor of such private property and the beverage was possessed or consumed with the consent of such person's parent or legal guardian who was present during such possession or consumption; or

(b) When the existence of alcohol or fermented malt beverage in a person's body was due solely to the ingestion of a confectionery which contained alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., as amended; the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than human ingestion; the ingestion of any substance which was manufactured, designed or intended solely for medical or hygienic purposes; or solely from the ingestion of a beverage which contained less than one-half of one (0.5) percent of ethyl alcohol by weight.

- (2) Any liquid found in any container which, in the sensory perception of the investigating officer, either looks or smells of alcohol shall constitute in evidence a prima facie presumption that the liquid is an alcohol beverage or a fermented malt beverage.
- (3) Any information on a label which identifies the contents of any bottle, can or other container as beer, ale, malt beverage, gin, vodka, tequila, schnapps, brandy, cognac, liqueur, cordial, alcohol or liquor shall be admissible into evidence, shall not constitute hearsay and shall constitute prima facie evidence that the bottle, can or other container contained, in whole or in part, an alcohol beverage or fermented malt beverage.

(D) Parent's responsibility. It is unlawful for any parent or guardian, knowingly or under conditions a reasonable parent or guardian should have knowledge of, to suffer or permit any minor of whom he or she may be a parent or guardian to violate the provisions of this Section. It shall be no defense that a parent, guardian or other person having the care and custody of the juvenile was indifferent to the activities, conduct or whereabouts of such juvenile. No violation of this provision will have occurred if the responsible adult has made a missing person notification to a law enforcement agency having jurisdiction prior to the juvenile's violation of this Section.
(Ord. 8 §1, 2006)

Sec. 17-164. Minors' illegal attainment of goods and services.

(A) Parent's responsibility. It is unlawful for any parent or guardian, knowingly or under conditions a reasonable parent or guardian should have knowledge of, to suffer or permit any minor of whom he or she may be a parent or guardian to violate the provisions of this Section. It shall be no defense that a parent, guardian or other person having the care and custody of the juvenile was indifferent to the activities, conduct or whereabouts of such juvenile. No violation of this provision will have occurred if the responsible adult has made a missing person notification to a law enforcement agency having jurisdiction prior to the juvenile's violation of this Section.

(B) False identification cards.

- (1) It is unlawful for any minor under the age of twenty-one (21) years to make false statements or to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document issued to a person other than the one presenting the same, for the purpose of gaining admission to any place which established a minimum age for entrance, or for the purpose of procuring the sale, gift or delivery of articles for which a minimum age to possess, purchase or receive is established, including beer, liquor, wine, cigarettes and tobacco.
- (2) It is unlawful for any person to furnish to any person under twenty-one (21) years of age any fictitious or false registration card, identification card, note or other document issued to a person other than such person under twenty-one (21) years of age, for the purpose of assisting the minor in procuring admission to any place which established a minimum age for entrance, or for the purpose of assisting such person under twenty-one (21) years of age in procuring the sale, gift or delivery of articles for which a minimum age to possess, purchase or receive is established, including beer, liquor, wine, cigarettes and tobacco.

(C) Services of others prohibited. 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 for such person under the age of twenty-one (21) years any article which the minor is forbidden by law to purchase or possess.

(D) Unlawful purchasing prohibited. It is unlawful for any person, whether for remuneration or not, knowingly to procure for any person under the age of twenty-one (21) years any article which such person under the age of twenty-one (21) years is forbidden by law to purchase or possess.
(Ord. 8 §1, 2006)

Sec. 17-165. Gambling devices, etc.

No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine or apparatus which is kept or used for the purpose of gambling, either directly or indirectly. This Section shall not be construed to prohibit the use of bona fide amusement devices which do not and cannot be adjusted to pay anything of value, and which may not be used for

gambling, directly or indirectly, and the use or operation thereof results in no prize, reward or thing of value being offered or paid by any person.

(Ord. 8 §1, 2006)

Sec. 17-166. Serving restrictions.

No licensee shall knowingly permit the consumption of malt, vinous or spirituous liquors or fermented malt beverages on the licensed premises at any time when the sale of such beverages is prohibited by municipal, state or federal law.

(Ord. 8 §1, 2006)

Sec. 17-167. Removal of beverages prohibited; exceptions.

(A) No licensee, manager or agent shall permit the removal of any malt, vinous or spirituous liquors or fermented malt beverages from the licensed premises.

(B) It is unlawful for any person to remove any malt, vinous or spirituous liquors or fermented malt beverages from a licensed premises.

(C) This Section shall not apply to a duly licensed package liquor store or vendor.

(D) This Section shall not apply to removal of one (1) resealed container of partially consumed vinous liquor as provided in Section 12-47-421, C.R.S., as amended.

(Ord. 8 §1, 2006)

Sec. 17-168. Solicitation, etc., of beverages restricted.

(A) No licensee, manager or agent shall employ or permit upon any premises licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises any employee, waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg, procure or solicit the purchase or sale of drinks or beverages for the use of consumption by the one begging, procuring or soliciting or for the use or consumption by any other employee, waiter, waitress, entertainer, host or hostess.

(B) No licensee, manager or agent shall permit upon any premises licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises anyone to loiter in or about the premises for the purpose of begging or soliciting any patron, customer or visitor in such premises to purchase any drinks or beverages of any nature whatsoever for the one soliciting or begging.

(Ord. 8 §1, 2006)

Sec. 17-169. Nudity and other indecent displays.

(A) No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall knowingly permit any person to appear in a state of nudity within or upon the premises.

(B) No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall permit the showing of film, still pictures, electronic reproductions or other visual reproductions depicting any lewd or indecent displays or persons in any state of nudity.

(Ord. 8 §1, 2006)

Sec. 17-170. Open containers.

(A) It is unlawful for any person to possess or to have in his or her control, on any street, alley, sidewalk, park, ballfield, fieldhouse or any public property within the City any malt beverages, beer, malt, vinous or spirituous liquors in any containers of any kind which are not sealed or upon which the seal is broken.

(B) The word *container* includes any decanter, glass, bottle, jar, thermos bottle, can, jug or keg.

(C) The word *seal* means the regular and ordinary seal applied by order of the United States government over the cap of each and every container of intoxicating beverage, or the cover of any container so as to permit consumption.

(D) Nothing in this Section shall prohibit the drinking of or having open containers of malt beverages, malt, beer, vinous or spirituous liquors in public places where the City Council shall have issued a permit therefor, provided that:

- (1) Such permits shall be issued only for designated areas;
- (2) It shall be for a period to be determined by the City Council; and
- (3) The City Council has determined that the permit shall be necessary for conducting a public event or celebration and that adequate provision has been made for police supervision and area maintenance.

(E) This Section shall not apply to one (1) resealed container of partially consumed vinous liquor as provided in Section 12-47-421, C.R.S., as amended, provided that the container was resealed at the establishment where purchased.

(Ord. 8 §1, 2006)

Sec. 17-171—17-180. Reserved.