

ORDINANCE NO. 13, Series 2014
INTRODUCED BY: COUNCILOR STACI LUPBERGER

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, REPEALING IN ITS ENTIRETY AND REENACTING ARTICLES I, II, IV, V, VI AND VII OF CHAPTER 75, OFFENSES MISCELLANEOUS OF THE CODE OF ORDINANCES OF LAFAYETTE, COLORADO, AS ARTICLES I THRU X OF CHAPTER 75 OF THE CODE OF ORDINANCES OF LAFAYETTE, COLORADO, AND RETITLING AND RE-NUMBERING ARTICLE III OF CHAPTER 75, ABANDONED PERSONAL PROPERTY OTHER THAN MOTOR VEHICLES, OF THE CODE OF ORDINANCES OF LAFAYETTE, COLORADO AS ARTICLE I OF CHAPTER 76 OF THE CODE OF ORDINANCES OF LAFAYETTE, COLORADO, AND DELETING IN ITS ENTIRETY ARTICLE II OF CHAPTER 10 OF THE CODE OF ORDINANCES OF LAFAYETTE, COLORADO REGARDING ALCOHOL OFFENSES PERTAINING TO MINORS

WHEREAS, the City's miscellaneous offenses set forth in Chapter 75 of the Municipal Code, to staff's knowledge, have never been comprehensively reviewed and amended as necessary and, thus, are in need of update to ensure compliance with current case law and statutes and address issues of concern within the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. Articles I, II, IV, V, VI and VII of Chapter 75, "Offenses Miscellaneous" of the Code of Ordinances of Lafayette, Colorado, are repealed in their entirety and reenacted as Articles I thru X of Chapter 75 of the Code of Ordinances of Lafayette, Colorado, to provide:

CHAPTER 75

OFFENSES – MISCELLANEOUS

ARTICLE 1 GENERAL

Sec. 75-100 Definitions

(a) Except where such is otherwise defined within this chapter the words, terms and phrases used in this chapter shall have the meanings ascribed to them in the Colorado Criminal Code C.R.S. §§18-1-101 et seq., as same may be amended from time:

(1) "Bodily injury" means physical pain, illness, or any impairment of physical or mental condition.

(2) "Conceal" means to place or attempt to place out of view in such manner and circumstances as to indicate intent to prevent others from seeing or discovering the presence of the thing concealed.

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

(4) "Deadly weapon" means 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.

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

(6) "Intentionally or with Intent". All offenses defined in this chapter in which the mental culpability requirement is expressed as "intentionally" or "with intent" are declared to be specific intent offenses. A person acts "intentionally" or "with intent" when a person's conscious objective is to cause the specific result proscribed by the ordinance defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

(7) "Knowingly or Willfully". All offenses defined in this chapter in which the mental culpability requirement is expressed as "knowingly" or "willfully" are declared to be general intent crimes. A person acts "knowingly" or "willfully" with respect to conduct or to a circumstance described by an ordinance defining an offense when the person is aware that such person's conduct is of such nature or that such circumstance exists. A person acts "knowingly" or "willfully", with respect to a result of such person's conduct, when the person is aware that the person's conduct is practically certain to cause the result.

(8) "Loiter" means to be dilatory, to stand idly around, to linger, delay, or wander about, to remain, abide, or tarry in public places.

(9) "Peace officer, police officer or law enforcement officer" means as defined in Sections 16-2.5-101 and or 16-2.5-105, C.R.S., as amended.

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

(11) "Recklessly" means when a person consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

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

(13) "Vehicle" means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or like, to transport persons or property or pull machinery and shall include, without limitation, automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy and wagon.

ARTICLE II OFFENSES – GENERAL

Sec. 75-101 Intent

It is the intent and purpose of this chapter not to define as unlawful any conduct which is defined as a felony under the Colorado Criminal Code, as amended, or any succeeding enactment of state law, and this chapter will be so construed, notwithstanding any language contained herein which might otherwise be construed to the contrary.

Sec. 75-102 Affirmative Defenses

The affirmative defenses as set forth in the Colorado Criminal Code C.R.S. §§ 18-1-710 et seq., as amended, shall be available as affirmative defenses to prosecutions in the municipal court.

Sec. 75-103 Attempts to commit crime

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

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish the person's complicity under Section 75-230 were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a prosecution under this chapter that defendant abandoned the effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of criminal intent. The renunciation shall not be deemed voluntary where motivated by fear of imminent discovery of or apprehension for the defendant's criminal conduct.

Sec. 75-104 Complicity

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

(b) It is not a defense to a prosecution under this chapter that the other person whose behavior constitutes a criminal offense was not or could not be prosecuted for the offense.

(c) It is an affirmative defense to a prosecution under this chapter that the defendant prevented or attempted to prevent the commission of the underlying offense, under circumstances manifesting the complete and voluntary renunciation of such person's criminal intent. The

renunciation shall not be deemed voluntary where motivated by fear of imminent discovery of or apprehension for the defendant's criminal conduct.

Sec. 75-105 Charging inchoate offenses

It shall be sufficient notice of the charging of an inchoate offense where the complaint states the name and section number of the underlying offense. A defendant shall not be acquitted or a complaint dismissed solely on the ground that the prosecution's theory of the defendant's guilt relies upon an inchoate offense which has not been expressly charged.

ARTICLE III OFFENSES AGAINST PERSONS

Sec. 75-106 Assault

(a) It shall be unlawful to commit assault. A person commits assault by:

(1) Knowingly or recklessly causing bodily injury to another person or with criminal negligence causing bodily injury to another person by means of a deadly weapon; or

(2) With intent to infect, injure, harm, harass, annoy, threaten, or alarm another person whom the actor knows or reasonably should know to be a peace officer, a firefighter, an emergency medical care provider, or an emergency medical service provider, causes such person to come into contact with blood, seminal fluid, urine, feces, saliva, mucus, vomit, or toxic, caustic, or hazardous material by any means, including throwing, tossing, or expelling the fluid or material.

(b) "Emergency medical care provider" means a doctor, intern, nurse, nurse's aide, physician's assistant, ambulance attendant or operator, air ambulance pilot, paramedic, or any other member of a hospital or health care facility staff or security force who is involved in providing emergency medical care at a hospital or health care facility, or in an air ambulance or ambulance as defined in C.R.S. § 23-3.5-103 (1) and (1.5).

Sec. 75-107 Menacing; without deadly weapon

It shall be unlawful for any person to knowingly place or attempt to place another person in fear of imminent serious bodily injury by any threat or physical action; provided, however, that if such is with the use of a deadly weapon, then this section shall not apply.

Sec. 75-108 Reckless endangerment

It shall be unlawful for any person to recklessly engage in conduct that creates substantial risk of serious bodily injury to another person.

Sec. 75-109 Harassment

(a) It shall be 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 or subjects a person 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, telephone network, data network, text message, instant message, 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, or computer, computer network, or computer system that is obscene;

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

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

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

(b) Any act prohibited by subsections (4) and (5) of this section 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.

(c) As used in this section, unless the context otherwise requires, the term "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.

Sec. 75-110 False Imprisonment

It shall be unlawful for any person to knowingly confine or detain another without the other's consent and without proper legal authority. This section shall not apply to a peace officer acting in good faith within the scope of his or her duties or where the person uses force or threat of force to confine or detain a person or where a person confines or detains a person for twelve (12) hours or longer.

ARTICLE IV OFFENSES AGAINST PROPERTY

Sec. 75-111 Theft

(a) It shall be unlawful to commit theft. A person commits theft when such person knowingly obtains, retains or exercises control over anything of value of another without authorization or by threat or deception; or receives, loans money by pawn or pledge on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen, 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 a manner as to deprive the other person permanently of its use or benefits;
- (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 or 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; or
- (5) Knowingly retains the thing of value more than seventy-two hours after the agreed-upon time for return in any lease or hire agreement.

(b) This section shall not apply when the aggregate value of the items taken in any one criminal episode exceeds the maximum dollar amount for a class 1 misdemeanor as set forth in Section 18-4-401 (2)(e) C.R.S. as amended, nor where the item taken is a motor vehicle, trade secret or credit device. Further, this section shall not apply where the theft is committed by fraudulent use of a credit device.

Sec. 75-112 Shoplifting

(a) It shall be unlawful to commit the crime of shoplifting. A person commits the crime of shoplifting when such person knowingly takes possession of any un-purchased goods, wares, or merchandise 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) If any person willfully conceals un-purchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or any other mercantile establishment, whether the concealment is on his or her self or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of shoplifting.

(c) If any person triggers an alarm or a theft detection device as defined in C.R.S. § 18-4-417(2), as amended, or conceals upon his or her person or otherwise carries away any un-purchased 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 has committed theft. Such questioning of a person by a merchant, merchant's employee, or peace or police officer does not render the merchant, merchant's employee, or peace officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(d) This section shall not apply where the value of the un-purchased goods, wares or merchandise exceeds the maximum dollar amount for a class 1 misdemeanor as set forth in C.R.S. § 18-4-401(2)(e), as amended.

Sec. 75-113 Criminal mischief

(a) It shall be unlawful for any person to knowingly damage the real or personal property of one or more other persons, including property owned by the person jointly with another person, or property owned by the person in which another person has a possessory or proprietary interest.

(b) This section shall not apply where the aggregate damage to the real or personal property exceeds the maximum dollar amount for a class 1 misdemeanor, as set forth in Section 18-4-501, C.R.S., as amended.

Sec 75-114 Tampering

(a) It shall be unlawful for any person to tamper with the property of another with the intent to cause injury, inconvenience, or annoyance to that person or to another or for any person to knowingly make an unauthorized connection with property of a utility.

(b) For the purposes of this section "tamper" means to interfere with something improperly, to meddle with, or to make unwarranted alterations in its condition.

Sec. 75-115 Joyriding

(a) It shall be unlawful and constitute joyriding for any person to drive or take any motor vehicle without the consent of the owner or lawful possessor thereof, with the intent of temporarily depriving the owner or possessor of the use of the same, or temporarily making use thereof.

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

- (1) Retains possession or control of the motor vehicle for more than twenty four (24) 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 \$500.00 or more property damage in the exercise or control of the motor vehicle;

- (6) Causes bodily injury to another person while he is in the exercise or control of the motor vehicle;
- (7) Removes the motor vehicle from this state for a period of time in excess of 12 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.

Sec. 75-116 Trespass

It shall be unlawful for any person without legal authority to enter or remain in or upon any premises.

Sec. 75-117 Fires prohibited

(a) It shall be unlawful for any person to knowingly or recklessly start or maintain a fire or cause an explosion on his or her own property or that of another, including any property owned, leased or controlled by the city, such as any park, trail, golf course, athletic field, recreation area, open space, or streets or rights-of-way where such fire places another in danger of death or serious bodily injury or places any building or occupied structure in danger of damage or destruction.

(b) It shall be unlawful for any person to place, erect, build or construct a fireplace, stove or other fire container on any property owned, leased or controlled by the city, including but not limited to any park, trail, golf course, athletic field, recreation area, open space, or streets or rights-of-way except as authorized by the city.

(c) For the purposes of this section:

1) "Building" means any structure which has the capacity to contain and is designed for the shelter of persons, animals, or property, and includes a trailer or other vehicle or place adapted for overnight accommodations of persons or animals, or for carrying on of business therein, whether or not a person or animal is actually present:

2) "Occupied Structure" means any area, place, facility or enclosure which, for particular purposes, may be used by persons or animals upon occasion, whether or not included within the definition of building set forth in this section, and which in fact is occupied by a person or animal and known by the defendant to be occupied at the time of the offense.

Sec. 75-118 Graffiti prohibited

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings as ascribed to them in this subsection, except where the context clearly indicates a different meaning.

"Graffiti" shall mean any marking, symbol, slogan, logo, wording, phrase, name or other extraneous painting, drawing, scratching, etching, inscribing or writing by use of paint, spray, markers, ink, glass cutting or etching tool or cream, or other method applied to public or private property without the consent of the owner, and which is not commercial or political advertising.

“Minor” shall mean any person less than eighteen (18) years of age.

“Prohibited graffiti material” shall mean any can of spray paint, spray paint nozzle, broad-tipped marker pen, paint pen, glass-cutting tool, or glass-etching tool or cream which goods are further defined herein as:

(1) “Broad-tipped marker pen” means a felt-tip marker, or similar implement containing a fluid which is not water-soluble with a tip that exceeds one-quarter inch in width.

(2) “Paint pens” means a tube, marker, or other pen-like instrument with a tip of one-quarter (1/4) inch in diameter or less that contains paint or a similar fluid and an internal paint agitator.

(3) “Spray paint” means any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.

(4) “Spray paint nozzle” means a nozzle designed to deliver a spray of paint of a particular width or flow from a can of spray paint.

(b) Unlawful placement upon property. It shall be unlawful for any person to place any graffiti upon any public or private property.

(c) Possession prohibited.

(1) It shall be unlawful for any minor, except a minor under the direct supervision of the minor's parent, legal guardian, school teacher, or a law enforcement officer in the performance of such person's duty, to purchase, procure, or possess, or attempt to purchase, procure, or possess, any prohibited graffiti material.

(2) It shall be an affirmative defense to charges under this subsection that the minor possessing the material was:

- a. Within the minor's home;
- b. In the course of the minor's employment; or
- c. Upon real property with permission from the owner, occupant, or person having lawful control of such property, which person may also lawfully possess such materials.

(d) Sale prohibited to minor.

(1) It shall be unlawful for any person, other than a parent, legal guardian, school teacher, or law enforcement officer in the performance of such person's duty, to sell, exchange, give, deliver, loan, or otherwise furnish or cause to permit to be sold, exchanged, given, delivered, loaned or otherwise furnished any prohibited graffiti material to any minor unless the minor is accompanied by the minor's parent or legal guardian.

(2) It shall be an affirmative defense to prosecution under this section that the employer has adopted and enforces a written policy against selling prohibited graffiti materials to minors, has informed its employees of the applicable laws regarding the sale of prohibited graffiti materials to minors, requires that employees verify the age of customers who desire to purchase prohibited graffiti materials and has established and imposes sanctions upon its employees for noncompliance.

(e) Signs required. It shall be unlawful for any person who sells or offers to sell any prohibited graffiti material to fail to display a warning sign. Such warning sign shall be displayed in a prominent place within the premises at all times and shall have a minimum height of fourteen (14) inches and a width of eleven (11) inches, with lettering of at least one-half (1/2) inch in height and shall read as follows:

WARNING

IT IS ILLEGAL TO SELL TO ANY PERSON UNDER EIGHTEEN YEARS OF AGE ANY SPRAY PAINT, SPRAY PAINT NOZZLE, BROAD-TIPPED MARKER PEN, PAINT PEN, GLASS-CUTTING TOOL, OR GLASS-ETCHING TOOL OR INSTRUMENT UNLESS SUCH PERSON IS ACCOMPANIED BY THEIR PARENT OR LEGAL GUARDIAN.

(f) Display and storage. It shall be unlawful for any person who owns, conducts, operates, or manages a business where prohibited graffiti materials are sold or who sells or offers for sale any prohibited graffiti material to store or display, or cause to be stored or displayed prohibited graffiti material in an area that is accessible to the public without employee assistance. This subsection shall not be construed to preclude or prohibit the storage or display of prohibited graffiti material in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

(g) Contributing to unlawful possession.

(1) It shall be unlawful for any person, except a law enforcement officer in the performance of his/her duty, to knowingly allow a minor to possess prohibited graffiti materials upon any public or private real property.

(2) It shall be an affirmative defense to charges under this subsection that the minor possessing the material was:

- a. Within the minor's home;
- b. In the course of the minor's employment; or
- c. Upon real property with permission from the owner, occupant, or person having lawful control of such property, which person may also lawfully possess such materials.

(h) It shall be unlawful for the owner and/or any person having lawful possession of any property to fail to remove or eradicate graffiti from such property within fourteen (14) days of defacement of such property by graffiti.

ARTICLE V OFFENSES AGAINST THE PUBLIC PEACE AND SAFETY AND DISRUPTION OF COMMUNICATIONS

Sec. 75-119 Disorderly conduct

(a) It shall be unlawful for any person to commit disorderly conduct. A person commits disorderly conduct when a person intentionally, knowingly, or recklessly:

- (1) Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace;
- (2) Makes unreasonable noise in a public place or near a private residence that the person has no right to occupy;
- (3) Fights with another in a public place except in an amateur or professional contest of athletic skill;
- (4) Not being a peace officer, discharges a firearm in a public place except when engaged in lawful target practice or hunting; or
- (5) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the object is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under subsection (a)(1) of this section that the person had significant provocation for his or her abusive or threatening conduct.

Sec. 75-120 Obstructing highway or other passageway

(a) It shall be unlawful to obstruct a highway or other passageway. A person commits the crime of obstruction of a highway or other passageway, when any person:

- (1) If without legal privilege, to intentionally, knowingly, or recklessly: obstruct a highway, street, roadway, sidewalk, railway, transit way, waterway, building entrance, elevator, escalator, aisle, stairway, or hallway to which the public or a substantial group of the public has access or any other place used for the passage or conveyance of persons or vehicles, whether the obstruction arises from defendant's acts alone or from his or her acts and the acts of others: or
- (2) Disobeys a reasonable request or order to move issued by a person the individual knows to be a peace officer, firefighter or person with authority to control the use of the premises to prevent obstruction of a highway or passageway.

(b) For purposes of this section, "obstruct" or "obstruction" means to render impassable, or to render passage unreasonably inconvenient or hazardous.

Sec. 75-121 Camping prohibited

(a) It shall be unlawful and constitute a nuisance for any person to camp upon public property without the express written consent of an authorized official of the entity having ownership, management, or control of such property.

(b) It shall be unlawful and constitute a nuisance for any person to camp upon private property without the consent of the property owner or authorized agent.

(c) For the purposes of this section "camp" means to reside or dwell temporarily with shelter. The term shelter includes, but is not limited to, a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets or any other form of protection from the elements other than clothing. The term "reside or dwell" includes, but is not limited to, activities such as eating, sleeping or the storage of personal property.

Sec. 75-122 Loitering

(a) Prohibited acts.

(1) It shall be unlawful for any person to loiter with the intent to violate any provision of this chapter, or the Colorado Criminal Code.

(2) It shall be unlawful for any person to loiter with intent to interfere with or disrupt a school program or with intent to interfere with or endanger school children in a school building or on school grounds or within 100 feet of school grounds when persons under the age of 18 years are present in the building or on the grounds, where such person does not have any reason or relationship involving custody for, or responsibility for any student or any other specific, legitimate reason for being present at such location, and has been asked to leave by a school administrator or his or her representative or by a peace officer.

(b) Reasonable grounds; duty of peace officer.

(1) Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that such person is loitering is the fact that such person:

- a. Takes flight upon appearance of a peace officer;
- b. Refuses to identify him or herself;
- c. Manifestly endeavors to conceal him or herself or any object;
- d. Not being duly authorized security personnel or a peace officer, systematically checks the means to access to buildings or vehicles in the immediate area; or
- e. Maintains a continuous presence in close proximity to a place where a reasonable peace officer would conclude that such person's activity manifests a high probability of activity or intention to engage in activity in

violation of this chapter, or any criminal provision of the Colorado Criminal Code.

(2) Unless flight by the person or other circumstances make it impractical, a peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm otherwise warranted, or explain any circumstances giving rise to reasonable grounds for belief that such person is loitering by requesting him or her to:

- a. Identify him or herself; and
- b. Explain his or her presence and conduct.

(c) Standard for conviction. No person shall be convicted of an offense under subsection (a) of this section if the peace officer did not comply with subsections (b)(1) and (2) of this section, or if at trial, that the explanation of presence and conduct given by the defendant was determined truthful by the trier of fact, and, under the circumstances, would have dispelled the reasonableness of the peace officer's belief that the defendant was engaging in unlawful activity or would have disclosed a lawful purpose.

Sec. 75-123 Curfew

(a) It shall be unlawful for any minor (person under the age of 18 years) to loiter or remain upon any public street, alley or other public place after the time of 11:00 p.m. or prior to the time of 5:00 a.m.; provided, however, that on Friday and Saturday the prohibited hours shall be from 12:00 midnight to 5:00 a.m.

(b) It shall be unlawful for any parent, legal guardian or other person 21 years of age or older having care and custody of such minor to allow such minor to loiter or remain upon any public street, alley or other public place after the time of 11:00 p.m. or prior to the time of 5:00 a.m.; provided, however, that on Friday and Saturday the prohibited hours shall be from 12:00 midnight to 5:00 a.m.

(c) It shall be an affirmative defense to the offenses described in subsections (a) and (b) of this section that the minor is:

- (1) Accompanied by a parent or legal guardian;
- (2) Is traveling to or from a place of employment or engaged in lawful employment without a detour or otherwise stopping;
- (3) Is attending or traveling to or from a supervised activity sponsored by a school, civic, religious or other recognized public organization;
- (4) Involved in the exercise of First Amendment rights protected by the United States and/or state constitutions;
- (5) Engaged in interstate travel;

- (6) On the sidewalk abutting the minor's parents' or legal guardian's residence;
- (7) Involved in an emergency situation. For the purposes of this section, the term "emergency" shall mean those situations where life or property is in imminent danger and the prompt summoning of aid or escape is essential; or
- (8) Married or had the disabilities of being a minor lawfully removed.

Sec. 75-124 Hindering transportation

It shall be unlawful for any person to hinder transportation. A person commits the offense of hindering transportation when such person knowingly and without lawful authority forcibly stops and hinders the operation of any vehicle used in providing transportation services of any kind to the public or to any person or entity.

Sec. 75-125 Throwing dangerous missiles

It shall be unlawful for any person to willfully, maliciously, or recklessly throw, shoot or project any stone, arrow, pellet, dart, ball bearing, or other object at or against any person, animal, building, structure, personal property or fixture or vehicle of another, except that the provisions of this section shall not apply to persons throwing, projecting, or shooting any other object at any animal in order to protect his or her person or property or the person or property of another from physical injury, or for recreational purposes in such a manner that no unreasonable risk of harm is presented to any person, or to the real or personal property of any person.

Sec. 75-126 Obstruction of telephone service

It shall be unlawful for any person to obstruct telephone service. A person commits obstruction of telephone service if the person knowingly prevents, obstructs, or delays, by any means whatsoever, the sending, transmission, conveyance, or delivery in this state of any message, communication, or report by or through any telephone line, wire, cable, or cellular service or other facility or any cordless, wireless, electronic, mechanical or other device.

Sec. 75-127 Computer offenses

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

- (1) "Authorization" means the express consent of a person which may include an employee's job description to use said person's computer, computer network, computer program, computer software, computer system, property, or services as those terms are defined in this section.
- (2) "Computer" means an electronic, magnetic, optical, electromagnetic, or other data processing device which performs logical, arithmetic, memory, or storage functions by the manipulations of electronic, magnetic, radio wave, or light wave impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to or operating in conjunction with such a device.

(3) "Computer network" means the interconnection of communication lines (including microwave or other means of electronic communication) with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

(4) "Computer program" means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(5) "Computer software" means computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(6) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, and software.

(6.3) "Damage" includes, but is not limited to, any impairment to the integrity or availability of information, data, computer program, computer software, or services on or via a computer, computer network, or computer system or part thereof.

(6.7) "Exceed authorized access" means to access a computer with authorization and to use such access to obtain or alter information, data, computer program, or computer software that the person is not entitled to so obtain or alter.

(7) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card, or marketable security.

(8) "Property" includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value.

(9) "Services" includes, but is not limited to, computer time, data processing, and storage functions.

(10) To "use" means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

(b) It shall be unlawful for any person to commit computer crime. A person commits computer crime if the person knowingly:

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

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

(3) Accesses any computer, computer network, or computer system, or any part thereof to obtain, by means of false or fraudulent pretenses, representations, or promises, money;

property; services; passwords or similar information through which a computer, computer network, or computer system or any part thereof may be accessed; or other thing of value; or

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

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

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

(7) Uses or causes to be used a software application that runs automated tasks over the internet to access a computer, computer network, or computer system, or any part thereof, that circumvents or disables any electronic queues, waiting periods, or other technological measure intended by the seller to limit the number of event tickets that may be purchased by any single person in an on-line event ticket sale as defined in C.R.S. 6-1-720.

(c) This section shall not apply where the loss, damage, value of services, or thing of value taken or cost of restoration or repair in any one criminal episode exceeds the maximum dollar amount for a class one misdemeanor as set forth in Section 18-4-401 (2) (e), C.R.S., as amended.

(1) If computer crime is committed to obtain event tickets, each ticket purchased shall constitute a separate offense.

(2) Paragraph (g) of subsection (1) of this section shall not prohibit the resale of tickets in a secondary market by a person other than the event sponsor or promoter.

ARTICLE VI OFFENSES RELATED TO GOVERNMENTAL OPERATIONS

Sec. 75-128 Resisting arrest

(a) It shall be unlawful for any person to knowingly prevent or attempt to prevent any police 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 police officer or another;

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

(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 the officer 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.

Sec. 75-129 Obstruction of peace officer, code enforcement officer, animal control officer, firefighter, emergency medical services provider, rescue specialist or volunteer

(a) It shall be unlawful for any person to obstruct a peace officer, firefighter, emergency medical services provider, rescue specialist, code enforcement officer, animal control officer or volunteer when, by using or threatening to use violence, force, physical interference, or an obstacle, such person knowingly obstructs, impairs or hinders the enforcement of any penal law or the preservation of the peace by a peace officer, acting under color of his or her official authority; knowingly obstructs, impairs, or hinders the prevention, control, or abatement of fire by a firefighter, acting under color of his or her official authority; knowingly obstructs, impairs, or hinders the administration of medical treatment or emergency assistance by an emergency medical service provider or rescue specialist, acting under color of his or her official authority; or knowingly obstructs, impairs, or hinders the administration of emergency care or emergency assistance by a volunteer, acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.

(b) To assure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force, physical interference, or an obstacle, he or she knowingly obstructs, impairs or hinders any such animal.

(c) It is not a defense to a prosecution under this section that the peace officer was acting in an illegal manner, if the peace officer was acting under color of his or her official authority. A peace officer acts "under color of his or her official authority" if, in the regular course of assigned duties, he or she makes a judgment in good faith based on surrounding facts and circumstances that he or she must act to enforce the law or preserve the peace.

(d) For purposes of this section, unless the context otherwise requires:

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

Sec. 75-130 False reporting to authorities

(a) It shall be unlawful for any person to knowingly:

- (1) Cause by any means, including but not limited to activation, a false alarm of fire or other emergency or a false emergency exit alarm to sound or to be transmitted to or within a fire department, ambulance service, law enforcement agency, or any other government agency responsible for emergencies involving danger to life or property; or
 - (2) Prevent by any means, including but not limited to deactivation, a legitimate fire alarm, emergency exit alarm, or other emergency alarm from sounding or from being transmitted to or within a fire department, ambulance service, law enforcement agency, or any other government agency responsible for emergencies involving danger to life or property; or
 - (3) Make a report or knowingly cause the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur; or
 - (4) Make a report or knowingly cause the transmission of a report to law enforcement authorities 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; or
 - (5) Knowingly provide false identifying information to law enforcement authorities.
- (b) For purposes of this section, "identifying information" means a person's name, address, birth date, social security number or driver's license or Colorado identification number.

Sec. 75-131 Refusing to aid a police officer

It shall be unlawful for any person 18 years of age or older, upon command by a person known to him or her to be a police officer to unreasonably refuse or fail to aid the police officer in effecting an arrest, securing the custody of an arrestee, or preventing the commission by another of any offense.

Sec. 75-132 Impersonation of police officer or firefighter

(a) It shall be unlawful, except upon the authorization of the city administrator or administrators designee for any person other than a police officer or firefighter of the city to wear the uniform, or any insignia of a police officer or firefighter of the city or any colorable imitation of such as adopted and worn by police officers or firefighters of the city.

(b) It shall be unlawful for any person other than a police officer or firefighter of the city, to, in any manner, represent him or herself to another as a police officer or firefighter of the city.

Sec. 75-133 Counterfeit insignias

It shall be unlawful for any person to counterfeit, imitate, or cause to be counterfeited, or imitated, any insignia of office used by the police or fire department.

Sec. 75-134 Impersonation of city official, employees

It shall be unlawful for any person not a city official or city employee to falsely represent him or herself to be a city official or an employee of the city or to perform any act in the false capacity as a city official or employee.

Sec. 75-135 Unlawful interference – public buildings

(a) It shall be unlawful for any person to so conduct him or herself at or in any public building owned, operated or controlled by the city, the state or any of its political subdivisions, as to willfully deny to any public official, public employee or any invitee on such premises, the lawful rights of such official, employee or invitee to enter, use the facilities of or leave any such public building.

(b) It shall be unlawful for any person at or in any such public building to willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, coercion or intimidation or by force and violence or threat thereof.

(c) It shall be unlawful for any person to willfully refuse or fail to leave any such public building upon being requested to do so by an administrative officer or such officer's designee charged with maintaining order in such public building, if such 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 such public building.

(d) It shall be unlawful for any person at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building to willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other such areas designated for the use of the body of official conducting such 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 the duties of such meeting or session.

(e) It shall be unlawful for any person, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official act or in any public building, to willfully impede, disrupt or hinder the normal proceedings of such body or official.

Sec. 75-136 Interference with staff, faculty or students of educational institutions.

(a) It shall be unlawful for any person on or near the premises, or facilities of any educational institution, to willfully deny to students, school officials, employees, and invitees:

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

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

(c) It shall be unlawful for any person to willfully refuse or fail to leave the property of or any building, or other facility, used by any educational institution, upon being requested to do so by the chief administrative officer, his 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.

(e) It shall be unlawful for any person to knowingly make or convey to another person a credible threat to cause death or to cause bodily injury with a deadly weapon against:

(1) A person the actor knows or believes to be a student, school official, or employee of an educational institution; or

(2) An invitee who is on the premises of an educational institution.

(3) For purposes of this subsection, "credible threat" means a threat or physical action that would cause a reasonable person to be in fear of bodily injury with a deadly weapon or death.

Sec. 75-137 Obstructing government operations.

(a) It shall be unlawful for any person to intentionally obstruct, impair, or hinder the performance of a governmental function by a public servant, by using or threatening to use violence, force, or physical interference or obstacle.

(1) It shall be an affirmative defense that:

- a. The obstruction, impairment, or hindrance was of unlawful action by a public servant; or
- b. The obstruction, impairment, or hindrance was of the making of an arrest; or
- c. The obstruction, impairment, or hindrance of a governmental function was by lawful activities in connection with a labor dispute with the government.

ARTICLE VII OFFENSES AGAINST PUBLIC DECENCY

Sec. 75-138 Public indecency

(a) *Acts.* It is unlawful for any person knowingly to perform any of the following in a public place or place within public view:

- (1) An act of sexual intercourse; or
- (2) A lewd exposure of a person's intimate parts, which means the external genitalia, or the perineum, or the anus, or the buttocks, or the pubis, or a woman's breast done with the 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; or
- (4) A knowing exposure of the person's genitals to the view of a person under circumstances in which such conduct is likely to cause affront or alarm to the other person; or
- (5) Urination or defecation in any public or private place other than in or upon a toilet facility provided for such purpose.

(c) *Affirmative defense to prosecution.* It shall be an affirmative defense to a prosecution under this section:

- (1) That a person who has exposed her breast had the consent or assent of all persons who viewed or may have viewed such act. Persons who utilize public places or patronize businesses where they know or should know that such will be exposed shall be deemed to have given their assent to such conduct.
- (2) That the person exposing her breast was nursing an infant.

Sec. 75-139 Prostitution prohibited

It shall be unlawful for any person to engage in prostitution. A person engages in prostitution when the person performs, offers, or agrees to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with any person other than such person's spouse in exchange for money or other thing of value.

Sec. 75-140 Soliciting for prostitution

(a) It shall be unlawful for any person to solicit for prostitution. A person solicits for prostitution if the person:

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

Sec. 75-141 Pandering

It shall be unlawful for any person to pander. A person panders when, for money or other thing of value, the person knowingly arranges a situation in which a person may practice prostitution.

Sec. 75-142 Keeping a place of prostitution

(a) It shall be 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 the person:

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

Sec. 75-143 Patronizing a prostitute

(a) It shall be unlawful for any person to patronize a prostitute. Any person who performs any of the following patronizes a prostitute:

- (1) Engages in an act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with a prostitute; or
- (2) Enters or remains in a place of prostitution with the intent to engage in an act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with a prostitute.

ARTICLE VIII OFFENSES INVOLVING DRUGS, ALCOHOL AND TOBACCO

DIVISION I DRUG OFFENSES

Sec. 75-144 Possession of marijuana

(a) For the purposes of this article, the following words and phrases shall mean as set forth unless the context specifically specifies otherwise:

- (1) "Marijuana" means all parts of the plant of the genus cannabis 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, including marijuana concentrate.

Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant, which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

(2) "Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as but not limited to edible products, ointments and tinctures.

(3) "Openly" means occurring or existing in a manner that is unconcealed, undisguised or obvious.

(4) "Publicly" means occurring or existing in a public place, or occurring or existing in any outdoor location where the consumption of marijuana is clearly observable by the naked eye from a public place.

(5) "Public place" means a place to which the public or a substantial number of the public have access, and includes, but is not limited to, streets, sidewalks, and highways, transportation and recreation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings or facilities.

(b) It shall be unlawful for any person to possess one (1) ounce or less of marijuana or marijuana products unless such person is twenty-one years of age or older or otherwise permitted by law to possess marijuana or marijuana products.

(c) It shall be unlawful for any person, except as specifically authorized by law to: (i) sell one ounce or less of marijuana or marijuana products to any person, or (ii) to permit the transfer of marijuana or marijuana products with or without remuneration to any person under the age of twenty-one years, or (iii) to permit any person under the age of twenty-one years to purchase, possess, use, transport, grow or consume marijuana or marijuana products.

(d) It shall be unlawful for any person to (i) openly and publicly consume marijuana, or (ii) to possess, use, sell, grow, distribute, display or consume marijuana or marijuana products upon or within any park, athletic field, play ground, recreation area, golf course, aquatic center, camp ground, open space, trail, parking lot, or building or facility, owned, occupied or controlled by the city.

(e) It shall be unlawful for any person to consume, use, display, transfer, or distribute marijuana within one thousand (1,000) feet of any public or private elementary school, middle school, junior high school or high school when such person is upon any street, sidewalk or other property owned or controlled by the city.

(f) It shall not be an offense under subsection (d)(i) of this section if the consumption of marijuana is occurring on private residential property behind the rear building line of the principal structure and the person consuming the marijuana is (i) an owner of the property, or (ii) a person who has a leasehold interest in the property, or (iii) any other person who has been granted express or implied permission to consume marijuana on the property by the owner or lessee of the property.

Sec. 75-145 Open marijuana container – motor vehicle prohibited

(a) For the purposes of this section, the following words and phrases shall mean as follows unless otherwise specified:

(1) "Motor vehicle" shall mean a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.

(2) "Motor home" means a vehicle designed to provide temporary living quarters and which is built into, an integral part of or a permanent attachment to, a motor vehicle chassis or van.

(3) "Open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and:

- a. That is open or has a broken seal;
- b. The contents of which are partially removed; or
- c. There is evidence that marijuana has been consumed within the motor vehicle.

(4) "Passenger area" means the area designed to seat the driver and passengers, including seating behind the driver, while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

(5) "Trailer coach" means a wheeled vehicle having an overall length, excluding towing gear and bumpers, of not less than twenty-six feet, without motive power, that is designed and generally and commonly used for occupancy by persons for residential purposes, in temporary locations, and that may occasionally be drawn over the public highways by a motor vehicle and is licensed as a vehicle.

(b) Except as otherwise permitted in paragraph (1) of this subsection (b), a person while in the passenger area of a motor vehicle that is on a public street or roadway, or the right-of-way of a public street or roadway may not knowingly:

- (1) Use or consume marijuana; or
 - (2) Have in his or her possession an open marijuana container.
- (c) The provisions of this section shall not apply to:

(1) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

- (2) The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a motor home, or trailer coach;
- (3) The possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or
- (4) The possession of an open marijuana container in an area not normally occupied by the driver of a passenger in a motor vehicle that is not equipped with a trunk.

Sec. 75-146 Drug paraphernalia definitions

(a) For the purposes of this article, the following words and phrases shall mean as set forth unless the context specifically specifies otherwise:

- (1) "Controlled substance" means a drug, substance or immediate precursor included in Schedules 1 through V as set forth in the Uniform Controlled Substances Act of 2013 (C.R.S. Section 18-18-101 et seq.) as same may be amended from time to time.
- (2) "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance. The term "drug paraphernalia" includes, but is not limited to:
 - a. Testing equipment used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances.
 - b. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
 - c. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining cannabis.
 - d. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
 - e. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
 - f. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
 - g. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish or hashish oil into the human body, such as:

- i. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- ii. Water pipes;
- iii. Carburetion tubes and devices;
- iv. Smoking and carburetion masks;
- v. Roach clips; defined as objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- vi. Miniature cocaine spoons and cocaine vials;
- vii. Chamber pipes;
- viii. Carburetor pipes;
- ix. Electric pipes;
- x. Air driven pipes;
- xi. Chillums;
- xii. Bongs; or
- xiii. Ice pipes or chillers.

(3) "Marijuana accessories," as defined in Section 16 of Article XVIII of the Colorado Constitution and used in this section means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounded, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(4) "Drug paraphernalia" does not include marijuana accessories if possessed or used by any person, twenty-one years of age or older or who is otherwise lawfully permitted to possess or use marijuana.

Sec. 75-147 Possession, manufacture, sale or delivery of drug paraphernalia

(a) It shall be unlawful for any person to knowingly possess drug paraphernalia.

(b) Manufacture, sale, or delivery of drug paraphernalia. It shall be unlawful for any person to sell or deliver, possess with intent to sell or deliver, manufacture with intent to sell or deliver equipment, products, or materials, knowing that such equipment, products, or materials constitute drug paraphernalia.

(c) Determination considerations. In determining whether an object constitutes drug paraphernalia, the court may consider, in addition to all other relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Proximity of the object to any controlled substance;
- (3) The existence of any residue of controlled substances on the object;

- (4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person knows that it will be delivered to persons who he knows could use the object to facilitate a violation of this section;
 - (5) Instructions, oral or written, provided with the object concerning its use;
 - (6) Descriptive materials accompanying the object which explain or depict its use;
 - (7) National or local advertising concerning the object's use;
 - (8) The manner in which the object is displayed for sale;
 - (9) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;
 - (10) The existence and scope of legal uses for the object in the community;
 - (11) Expert testimony concerning its use.
- (d) In the event a case brought pursuant to this section is tried before a jury, the court shall hold an evidentiary hearing on issues raised pursuant to this subsection.

Sec. 75-148 Inhaling toxic vapors

(a) It shall be unlawful for any person to intentionally 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, or possess, buy, or use any such substance for the purpose of violating or aiding another to violate this section. This section does not apply to the inhalation of anesthesia for medical or dental purposes.

(b) As used in this section, the term "toxic vapors", includes but is not limited to the following substances or products containing such substances: alcohols (methyl, isopropyl, propyl or butyl); aliphatic acetates (ethyl, methyl, propyl, or methyl collective acetate); acetone; benzene; carbon tetrachloride; cyclohexane; freons (freon 11 and freon 12); hexane; methyl ethyl ketone; methyl isobutyl detone; naphtha; perchlorethylene; toluene; tricholoroethane; or xylene. Evidence that a container lists one or more of these substances shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof.

DIVISION II ALCOHOL AND TOBACCO OFFENSES

Sec. 75-149 Alcohol Definitions

(a) As used within this article the following words shall mean as follows unless the context specifically specifies otherwise:

(1) "Alcoholic beverages" or "Alcoholic liquors" means malt, vinous, or spirituous liquors; except that "alcoholic beverages" and "alcoholic liquors" shall not include confectionery containing alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., as amended.

(2) "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 (1/2) of one (1) percent and not more than three and two tenths percent (3.2%) alcohol by weight; except that "fermented malt beverage" shall not include confectionery containing alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., as amended.

Sec. 75-150 Consumption regulated

(a) It shall be unlawful for any person to possess an open container of or consume any fermented malt or alcoholic beverages in public, except upon premises licensed or permitted under the provisions of Article 46, 47 or 48, Title 12, as amended, of the Colorado Revised Statutes.

(b) For the purpose of this article "open container" means any container which is either opened so that the contents can be removed or upon which the bottle cap seal has been broken.

(c) For the purpose of this section, "in public" means:

(1) In or upon any public highway, street, alley, walk, parking lot, building, park or other property or place which is owned or leased by the city or other governmental entity, whether in a vehicle or not; and

(2) In or upon those portions of any private property upon which the public has express or implied license to enter or remain. If such express or implied license is subject to time or conduct restrictions, consumption or prohibited possession of fermented malt alcoholic beverages on such property shall be deemed to be "in public" even if the entry or remaining on the property is in violation of time or conduct restrictions.

(d) For the purposes of this section evidence that a container, or a similar container, if the label is missing or unreadable, lists as contents any fermented malt or alcoholic beverages is prima facie evidence that the substance in such container is fermented malt or alcoholic beverages.

(e) It is an affirmative defense to a charge of violating this section that the owner of the property involved or the owner's authorized agent gave prior express written permission to the accused or to members of the accused's group or entity to perform the acts complained of.

(f) The city manager or manager's designee may, as provided below, grant express written permission to persons to consume fermented malt or alcoholic beverages on city owned property for the following special functions: athletic events; artistic events; cultural events; receptions; street closure events; or civic events.

(1) The city manager shall adopt an administrative directive specifying the city properties or portions thereof upon which fermented malt or alcoholic beverages may be consumed.

(2) The city manager shall grant such permission to persons applying therefor if, considering the type of function and type of alcohol to be served, the manager finds that:

- a. The application to the city manager was filed not later than forty-eight (48) hours prior to the date of the event.
- b. The time, location and duration of the function are not likely to significantly interfere with public traffic or services, including public safety services.
- c. The number and concentration of participants at the function are not likely to result in crowds exceeding limitations of the city fire code or create a nuisance resulting in inconvenience to the residents of the surrounding neighborhood.
- d. Procedures are proposed that are likely to ensure that underage persons and persons under the influence of alcohol will not obtain or consume fermented malt or alcoholic beverages served at the function.
- e. Procedures are proposed that are likely to secure and supervise the area and the participants during the function.
- f. The applicant agrees to provide sandwiches and other food services at the location during the time consumption is permitted in an amount sufficient to serve the persons anticipated to attend.
- g. The applicant agrees to be personally responsible for and provide financial guaranties to ensure the cleaning, trash disposal or repairs necessary as a result of the event for which the permission was granted. The city manager shall determine the amount of required financial guaranty based upon the city facility involved, the duration of the event, the number of persons anticipated to attend, the type of beverage to be served, the failure of the applicant to clean or repair city property in conjunction with past events and the financial resources of the applicant.
- h. The applicant agrees, to the extent permitted by law, to indemnify and hold harmless the city, its employees and agents for all liability claims arising out of the event and to provide general liability insurance, with minimum liability limits equal to that established by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as amended, to guarantee indemnification. The city manager may waive or reduce this insurance requirement if the applicant affirmatively establishes that the risk of liability to the city as a result of the function does not present the city with any significant additional risk of liability.

(3) The city manager shall deny permission where:

- a. There is insufficient data presented by the applicant to make the findings required in Subsection (f)(2) of this section.
- b. Approval would be detrimental to the public safety, health, morals, order or welfare by reason of the nature of the event, the likelihood that the event would create a public nuisance, an unreasonable risk of violence or public disorder or result in the consumption of alcoholic beverages by underage persons or, alternatively, that the proximity of the event to schools or the failure of the applicant to conduct a past event in compliance with this section and the applicable rules and regulations.
- c. Another event has previously been scheduled for the same location on the same date and time.
- d. The event would unreasonably interfere with normal activities and customary and general use and enjoyment of the facility.

(4) An applicant who has been denied permission or who claims to be otherwise aggrieved by the city manager's decision concerning an application may make written request to the city manager's office for a hearing on the application. Such request shall be made within seven (7) days of the postmarked date of the city manager's decision. Within ten (10) days of receipt of such a request, the city manager shall designate an independent hearing officer who shall conduct a hearing at which the applicant and the city may present such evidence and information as may be relevant to the application.

(5) The granting of permission by the city manager under this section does not relieve the applicant from the responsibility of obtaining any license or special permit as may be required by state law or city ordinances.

(g) This section is not intended to create a right of use or possession of city owned or leased property in any person or group; rather, this section relates only to permission to consume malt, vinous or spirituous liquor or fermented malt beverage by an individual or group who otherwise has the lawful right to use or possess city owned property pursuant to city policy.

Sec. 75-151 Underage persons alcoholic beverages prohibitions

(a) It shall be unlawful for any person to sell, serve, give away, dispose of, exchange, deliver, or permit the sale, serving, giving or procuring of any fermented malt or alcoholic beverages to or for any person under the age of twenty-one (21).

(b) It shall be unlawful for any person under twenty-one (21) years of age to obtain or attempt to obtain fermented malt or alcoholic beverages by misrepresentation of age or by any other method in any place where fermented malt or alcoholic beverages are sold.

(c) It shall be unlawful for any person under twenty-one (21) years of age to possess or consume alcoholic or fermented malt beverages. Illegal possession or consumption of alcoholic or fermented malt beverages is a strict liability offense.

(d) It shall be unlawful for any person under the age of twenty-one (21) to make false statements or to furnish, present or exhibit any fictitious or false registration card, identification card, or note or other document or documents issued to a person other than the person presenting the same, for the purpose of procuring the sale, gift or delivery of fermented malt or alcoholic beverages.

(e) It shall be unlawful for any person under the age of twenty-one (21) to engage or utilize the services of another person, whether for remuneration or not, to procure for such person under the age of twenty-one (21) fermented malt or alcoholic beverages

(f) It shall be unlawful for any person, whether for remuneration or not, knowingly to procure for any person under the age of twenty-one (21) fermented malt or alcoholic beverages.

(g) As used within this section, the following words shall mean as follows unless the context clearly specifies otherwise:

(1) "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.

(2) "Possession of alcoholic or fermented malt beverages" means that a person has or holds any amount of alcoholic or fermented malt beverages on his/her person, or that a person owns or has custody of, or has alcoholic or fermented malt beverages within his/her immediate presence and control.

(3) "Private property" means any dwelling and its curtilage which is being used by a natural person or natural persons 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 liquor license or permit pursuant to Article 46, 47 or 48 of Title 12, C.R.S.; or
- b. Any establishment which sells alcoholic or fermented malt beverages or upon which alcoholic or fermented malt beverages are sold; or
- c. Any establishment which leases, rents or provides accommodations to members of the public generally.

(h) It shall be an affirmative defense to the offense described in subsection (c) of this section that the alcohol or fermented malt beverage was possessed or consumed by a person under twenty-one 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 alcohol or fermented malt beverage was possessed or consumed with the consent of his/her parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of alcohol or fermented malt beverages in a person's body was due solely to the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes.

(i) The possession or consumption of alcohol or fermented malt beverages shall not constitute a violation of this section if such possession or consumption takes place for religious purposes protected by the First Amendment of the United States constitution.

(j) Prima facie evidence of a violation of subsection (c) of this section shall consist of:

(1) Evidence that the defendant was under the age of twenty-one years and possessed or consumed alcoholic or fermented malt beverages; or

(2) Evidence that the defendant was under the age of twenty-one years and manifested any of the characteristics commonly associated with alcoholic or fermented malt beverage intoxication or impairment.

(k) During any trial for violation of this section, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic or fermented malt beverages. A label which identifies the contents of any bottle, can or other container, as "beer", "ale", "malt beverage", "fermented malt beverage", "malt liquor", "wine", "champagne", "whiskey", "gin", "vodka", "tequila", "schnapps", "brandy", "cognac", "liqueur", "cordial", "alcohol", or "liquor" shall constitute prima facie evidence that the contents of the bottle, can, or other container was composed in whole or in part of alcoholic or fermented malt beverages.

(l) In any judicial proceeding concerning a charge under subsection (c) of this section, 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 certified devices 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.

Sec. 75-152 Underage person's tobacco restrictions and prohibitions

(a) Definitions. For purposes of this section the following words shall mean as defined unless the context specifies otherwise:

(1) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

a. Any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

- b. Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by consumers as a cigarette; or
- c. Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (a) of this paragraph (1).
- d. The term "cigarette" includes roll-your-own, meaning any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(2) "Tobacco Products" are defined as: 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.

(b) It shall be unlawful for anyone under the age of eighteen (18) years to purchase, possess, consume or use either by burning, ingesting, absorbing or chewing any cigarettes or tobacco products.

(c) It shall be unlawful for any person to knowingly furnish to any person who is under eighteen (18) years of age, by gift, sale, or any other means, any cigarettes or tobacco products.

(d) Any person who sells, or offers to sell any cigarettes or tobacco products, shall display a warning sign as specified in this section. The warning shall be displayed in a prominent place within the establishment, and shall have a minimum height of three inches and a width of six inches, and shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO PURCHASE CIGARETTES OR TOBACCO PRODUCTS.

(e) That any person under the age of 18 is/was in possession of any package or container with labeling indicating that such contains cigarettes or tobacco products shall be *prima facie* evidence of a violation of subsections (b) and (c) herein.

(f) It shall be unlawful for any person who sells or offers to sell any cigarettes or tobacco products to store, display, or sell such cigarettes or tobacco products in any area or means that is accessible for use by the public without assistance from the seller of such goods or products. This subsection shall not be construed to preclude or prohibit the storage or display of cigarettes or tobacco products in an area viewable by the public so long as such items are not accessible

to the public without assistance from the seller.

ARTICLE IX WEAPONS

Sec. 75-153 Definitions

(a) As used in this article, the following shall mean as defined herein unless otherwise specifically provided:

- (1) "Blackjack" means any billy club, sand club, sandbag, sap gloves 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.
- (2) "Crossbow" means any device resembling a firearm in configuration, having a bow or similar device mounted perpendicularly to a stock, grip or frame, and usually equipped with a winch or similar device which draws back the bowstring and cocks the weapon and which fires an arrow, bolt, stone or other projectile from a groove or depression in the stock, grip or frame by the manipulation of a trigger or other similar mechanism.
- (3) "Firearm" means any handgun, revolver, pistol, rifle, shotgun or other instrument or device from which any shot, bullet or other missile can be discharged.
- (4) "Gas gun" means any device designed for projecting gas-filled projectiles which release their contents after being projected from the device and includes projectiles designed for use in such device.
- (5) "Gravity knife" means any knife, the blade of which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which blade, upon release, becomes locked in place by means of a button, spring, plate, level or other device.
- (6) "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 and the length of the barrel, not including any revolving, detachable, or magazine breech, does not exceed twelve inches.
- (7) "Illegal weapon" means a blackjack, gas gun, metallic knuckles, knife, gravity knife or switchblade knife.
- (8) "Juvenile" means any person less than eighteen (18) years of age.
- (9) "Knife" means any dagger, knife, bayonet, straight razor, dirk, machete, stiletto, sword or sword cane with a blade over three and one half (3 ½) inches in length, or any other dangerous instrument designed to inflict cutting, stabbing or tearing wounds; but, as used in this article, does not include a knife or hatchet of the type customarily used in hunting, fishing or camping, when such is being carried for sporting use; and does not include any instruments being used in pursuance of a lawful home use, trade, occupation or profession or otherwise being lawful under

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

(10) "Mechanical gun" means an air, spring operated or blow gun that discharges pellets, BB shots, paint balls, arrows or darts and includes but is not limited to BB guns, spring guns, pellet guns, paint ball guns or other similar devices.

(11) "Metallic knuckles" means a weapon worn on the hand, consisting of a metal strip or chain with holes or links into which the fingers fit.

(12) "Nunchaku" means an object consisting of two 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.

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

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

(15) "Weapon" means any instrument or device specifically designated for use in attack or defense in combat or fighting, and includes, but is not limited to, those enumerated in this section.

Sec. 75-154 Prohibited Use of Weapons; exception

(a) It shall be unlawful for any person to:

(1) Knowingly and unlawfully aim a firearm at another person; or

(2) Recklessly or with criminal negligence discharge a firearm or shoot a bow and arrow; or

(3) Knowingly set a loaded gun, trap, or device designed to cause an explosion upon being tripped or approached, and leave it unattended by a competent person immediately present; or

(4) Have in his or her possession a firearm while the person is under the influence of intoxicating liquor or of a controlled substance, as defined in C.R.S. § 18-18-102; or

(5) Knowingly aim, swing, or throw a throwing star or nunchaku at another person, or knowingly possess 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.

Sec. 75-155 Unlawful open carrying of deadly weapons in city buildings, parks, trails, open spaces or recreation areas

(a) It shall be unlawful for any person to openly carry any deadly weapon upon the grounds of or within any building or facility owned or leased by the city, or any department or agency thereof.

(b) It shall be unlawful for any person to openly carry any deadly weapon within or upon any city park, trail, golf course, athletic field, camp ground, aquatic center, recreation area or open space.

(c) Nothing herein shall be deemed to affect or impair in any way the authority of any private or public property owner other than the city to prohibit the carrying of deadly weapons into or upon other public or private property.

Sec. 75-156 Unlawful carrying of a concealed weapon; unlawful possession of weapons

(a) It shall be unlawful for any person to carry a concealed weapon or possess weapons. A person commits the crime of unlawfully carrying a concealed weapon or possessing a weapon, when a person knowingly:

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

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

(3) Without legal authority, carries, brings, or has in such person's possession, a firearm or any explosive, incendiary, or other dangerous device on the property of or within any building in which the chambers or offices of the city council are located, or in which a city council hearing or meeting is being or is to be conducted, or in which the official office of any member, officer, or employee of the city is located.

(b) It shall not be an offense if 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; or

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

(3) A person who, at the time of carrying a concealed weapon, held a valid permit to carry a concealed handgun, or a temporary emergency permit issued pursuant to state law, except that it shall be an offense under this section if the person was carrying a concealed handgun in violation of the provisions of C.R.S. § 18-12-214.

Sec. 75-157 Defacing or possession of defaced firearm.

(a) It shall be unlawful for any person to knowingly:

- (1) Remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark of a firearm; or
- (2) Possess a firearm, the manufacturer's serial number of which, or other distinguishing number or identification mark, has been removed, defaced, altered, or destroyed, except by normal wear and tear.

Sec. 75-158 Exception for law enforcement and military personnel

Nothing within this article shall be construed to forbid any enforcement officer of the law enforcement agencies of the United States government, city or the state, or any sheriff or his or her deputies, or any regular, special or ex officio peace officer as defined by state law, or members of the United States armed forces, Colorado National Guard or Reserve Officer Training Corp or any other person specifically authorized by state or federal law from carrying, wearing, concealing or using such weapon as shall be necessary in the proper discharge of his or her duties, or as otherwise permitted by law.

ARTICLE X NOISE

Sec. 75-159 Definitions.

For the purpose of this article, the following words and phrases used herein are defined as follows:

"Amplified outdoor music" means the use of musical instruments or sound equipment to produce or amplify sound that is not fully enclosed by permanent, solid walls, and a roof.

"Chief of Police" means the chief of the city's police department or the chief's authorized designee.

"Community Development Director" means the city's community development director or the director's authorized designee.

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

"Domestic power equipment" means any power equipment, rated five (5) horsepower or less, used in home or building repair or grounds maintenance, including but not limited to lawn mowers, garden tools, snow blowers and chain saws.

"Muffler" means an apparatus consisting of a series of chambers or baffle plates designated for the purpose of transmitting gases while reducing sound emanating from such apparatus.

"Plainly audible" means any sound which can clearly be heard, by unimpaired auditory senses on a direct line of sight from fifty (50) or more feet; however, words or phrases need not be clearly discernable but such sound shall include bass reverberation.

“Public Works Director” means the city’s public works director or the director’s authorized designee.

“Sound equipment” means a loudspeaker, public address system, amplification system, or other sound producing device.

“Sound level” means the A-weighted sound level in decibels (dBA).

“Sound level meter” means an instrument used to measure sound pressure levels conforming to standards as specified in American National Standards Institute (S.I. 4-1983), as same may be amended from time to time.

“Unreasonable noise” means any sound of such level, intensity or duration as may or tends to be injurious to human health or welfare, or that unreasonably interferes with the enjoyment of life or property, or causes damage to any property, but excludes all aspects of the employer-employee relationship; concerning health and safety hazards within the confines of a place of employment.

“Vehicle” means any machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides to transport persons or property or pull machinery and includes, without limitation, automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy and wagon.

Sec. 75-160 Noise prohibited

(a) It shall be unlawful for any person to make, cause to be made, or to permit any unreasonable noise upon any property within a residential, public or developing resource district or for any district within any vehicle owned, possessed or operated or controlled by such person.

(b) Law enforcement personnel, including community service officers, may, in the determination of whether a noise is unreasonable consider factors that include, but are not limited to:

- (1) The time of day;
- (2) The size of any gathering of persons creating or contributing to the noise;
- (3) The presence or absence of sound amplification equipment; and
- (4) Any other factors tending to show the magnitude and/or disruptive effect of the noise.

(c) With regard to vehicles, the determination of unreasonable noise, in addition to the previously stated factors shall include, but not be limited to:

(1) The continuous or repeated sounding of any horn, alarm or signal device of a vehicle, except where an actual emergency or danger exists. For the purposes of this subsection, "continuous" shall mean continuing for an unnecessary or unreasonable period of time.

(2) The operation of any vehicle in a manner which causes unreasonable noise as a result of unnecessary rapid acceleration, deceleration, revving the engine or tire squeal.

(c) It shall be unlawful for any person to make, cause or permit any noise as measured in the manner described herein, from any source, at a level in excess of the dBA established for the time period and zoning districts set forth herein.

<u>Zoning Districts</u>	<u>Time Period</u>	<u>Max dBA Level</u>
Commercial and Business Districts	7:00 a.m. – 10:00 p.m.	70
	10:00 p.m. – 7:00 a.m.	65
Industrial Districts	7:00 a.m. – 10:00 p.m.	75
	10:00 p.m. – 7:00 a.m.	70

(1) If the noise source is located on private property, or public property other than public right-of-way, the noise shall be measured at the property boundary of any property receiving the noise.

(2) If the noise source is located within the public right of way, the noise shall be measured at least twenty-five (25) feet from the noise source.

(3) No outdoor measurement shall be taken without a commercial wind screen, or during periods when wind speeds, including gusts, exceed fifteen (15) miles per hour.

(4) The measurement time period shall not be less than five (5) minutes in length, and highest dBA reading measured for a majority of this time shall be deemed the official measurement.

(5) Outdoor amplified music in commercial, business or industrial districts shall be exempt from the time and dBA requirements of this section but are subject to the requirements set forth herein in section 75-64.

Sec. 75-161 Conditions/exceptions

(a) The prohibitions set forth in section 75-60 (a) and (c) shall not apply to sound from or subject to the following conditions:

(1) Any bell or chime from any building clock, school or church operated between the hours of 7:00 a.m. and 10:00 p.m. and not continuing for more than five (5) minutes.

(2) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm system used in case of fire, collision, civil defense, police activity or other imminent danger;

provided, however, that burglar alarms not terminated within fifteen (15) minutes after being activated shall not be excepted.

- (3) City authorized events, including, but not limited to, parades, festivals, community activities and fireworks displays.
 - (4) Any domestic power equipment operated between 7:00 a.m. and 10:00 p.m.
 - (5) Noise from commercial construction activities between 7:00 a.m., and 7:00 p.m., Monday through Saturday. The Public Works Director, upon consultation with the Community Development Director and Chief of Police, may grant an exception to the time restrictions herein upon receipt and review of a written request when the Public Works Director determines such exception is necessary for the public welfare, and/or denial would cause an undue hardship upon the applicant. Any exception must be in writing, shall not violate any restrictions of an approved Planned Unit Development (PUD), and shall be subject to all terms and conditions deemed reasonably necessary by the Public Works Director.
 - (6) Activities directly related to the abatement of an emergency.
 - (7) Loading, unloading, opening or otherwise handling boxes, crates, containers, trash or recycle materials, or other objects or goods between the hours of 6:00 a.m. to 9:00 p.m.
 - (8) Noise generated from open space, golf course and park maintenance activities or operations.
 - (9) Noise generated from agricultural activities or operations on property owned by the city.
 - (10) School activities.
- (b) As a means to mitigate noise generated by the activities set forth herein in subsections (a) (8) and (9), the city administrator, for improvements within his or her purchasing authority, or city council, for improvements in excess of the city administrator's purchasing authority, may authorize construction or installation of sound mitigation improvements on city property without regard to zoning restrictions set forth in chapter 26 of the Code.

Sec. 75-162 Specific prohibitions.

(a) It shall be unlawful for any person to make, cause or permit the following, all of which shall be deemed unreasonable noise; however, the following list shall not be deemed exclusive:

- (1) The operation of any vehicle with an engine compression brake device (jake brake) which is not properly muffled.
- (2) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, air compressor equipment, motorboat, vehicle or other power device, which is not at all times equipped with an adequate muffler in constant operation and properly maintained to prevent any unreasonable noise, and no such muffler or exhaust system shall be

modified or used with a cutoff, bypass or similar device.

(3) To play, use or permit the operation of any device for producing or reproducing sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for any persons in the structure or vehicle in which the device is operated or in such manner as to be plainly audible from the structure or vehicle.

Sec. 75-163 Amplified outdoor music restrictions

(a) It shall be unlawful for any person to make, cause to be made, or to permit amplified outdoor music upon any premises possessed or controlled by such person where such music occurs:

(1) Between the hours of 9:30 p.m., through 10:00 a.m., of the next day, except that on Friday and Saturday nights music is permitted until 10:30 p.m.; or

(2) Where any amplified outdoor music as measured in accordance with sub-section 75-61 (C) herein exceeds 82 dBA.

(3) City authorized events, including but not limited to, parades, festivals, community activities and fireworks displays which include amplified outdoor music shall be exempt from the restrictions set forth in this section.

Section 2. Article III of Chapter 75, "Abandoned Personal Property Other Than Motor Vehicles" of the Code of Ordinances of Lafayette is retitled and re-numbered as Article I of Chapter 76 of the Code of Ordinances of Lafayette, Colorado.

Section 3. Article II of Chapter 10, "Alcohol Offenses Pertaining to Minors" of the Code of Ordinances of Lafayette, Colorado, is repealed in its entirety.

Section 4. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 6. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions,

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suits, proceedings or prosecutions.

Section 7. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 8. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Municipal Code of the City of Lafayette, Colorado.

Section 9. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 15th DAY OF APRIL, 2014.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 6th DAY OF MAY 2014.

CITY OF LAFAYETTE, COLORADO

Christine Berg, Mayor

ATTEST:

APPROVED AS TO FORM:

Susan Barker, CMC
Deputy City Clerk

David S. Williamson
City Attorney