

TITLE 15

MISCELLANEOUS OFFENSES AND PENALTIES

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Chapter 15.04

MISCELLANEOUS OFFENSES AND PENALTIES^{1, 2}

¹ **Editor's note**—Ord. No. 46-1974, § 1, repealed former Ch. 13, §§ 13-1—13-42, "Miscellaneous Offenses and Provisions," and enacted in lieu thereof a new Ch. 13 [Ch. 15.04]. Former Ch. 13 was derived from Code 1962, §§ 5-1-10, 6-1-1—6-1-6, 6-1-8—6-1-11, 6-1-13, 6-1-14, 6-1-16—6-1-18, 6-1-21, 6-1-24—6-1-26, 6-1-28, 6-1-29, 6-1-34—6-1-36, 6-1-40, 6-1-42, 6-1-43, 6-1-45—6-1-47, 6-4-1—6-4-4, 6-6-3, 8-7-1—8-7-5; Ord. No. 21-1966; Ord. No. 22-1966; Ord. No. 24-1966; Ord. No. 32-1966; Ord. No. 17-1969; Ord. No. 35-1969; Ord. No. 17-1971; Ord. No. 2-1973; and Ord. No. 26-1973.

² **State law reference**—Colorado Criminal Code, Section 18-1-101 et seq., C.R.S.

Sec. 15.04.010. Application of Chapter.

This Chapter applies to all land lying and being within the City and all other land outside the City limits over which the City has jurisdiction and control. (Code 1971, § 13-1; Ord. No. 46-1974, § 1)

Sec. 15.04.020. Principals, parties subject to prosecution.

Any person eighteen (18) or over is chargeable under and can be convicted of, a violation of any Section in this Chapter, for conduct violating such Section, as well as for violating such Section if, with the intent to promote or facilitate the commission of the violation, the person aids, abets or advises another in planning or committing the violation. Any person under the age of eighteen is chargeable under and can be convicted of a violation of any municipal ordinance or provision of this code, including but not limited to violations of any Section in this Chapter; however, the penalties for juvenile offenders are limited by the provisions of Sections 1.04.080 (c) and (d) of this code. . (Code 1971, § 13-3; Ord. No. 46-1974, § 1; Ord. No. 18-2013§1)

Sec. 15.04.030. Definitions.

The following terms shall have the meanings hereinafter set forth when used in this Chapter:

(a) *Bodily injury* means physical pain, illness or any impairment of physical or mental condition and is to be distinguished from *serious bodily injury* which involves *bodily injury* and which includes substantial risk of death, serious permanent disfigurement or protracted loss or impairment of the function of any part or organ of the body.

(b) *Intentionally*. A person acts *intentionally* with respect to a result or to conduct described herein defining an offense when his or her conscious object is to cause that result or to engage in that conduct or when his or her actions are such as to give rise to a substantial certainty that such results will be provided.

(c) *Knowingly*. A person acts *knowingly* with respect to conduct or a circumstance described by a Section in this Chapter defining an offense when he or she is aware or reasonably should be aware, that his or her conduct is of that nature or that the circumstance exists.

(d) *Recklessly*. A person acts *recklessly* with respect to a result or to a circumstance described by a Section defining an offense when he or she is aware or reasonably should be aware, of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a willful and wanton deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware thereof solely by reason of self-induced intoxication acts recklessly with respect thereto. *Willful and wanton* as used in this Subsection means conduct purposefully committed which the person knew or reasonably should have known, was dangerous to another's person or property and which he or she performed without regard to the consequences or the rights and safety of another's person or property.

(e) *Criminal negligence*. A person acts with *criminal negligence* with respect to a result or to a circumstance which is defined herein as an offense when he or she fails to perceive a substantial

and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider state statutes or municipal ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence.

(f) *Public* means affecting or likely to affect persons in a place to which the public or a substantial group has access; among such places are included public streets, malls, alleys, sidewalks, parks, public buildings, any place of commerce, business or amusement which said buildings, places of commerce, business or amusement are open to the public. (Code 1971, § 13-5; Ord. No. 46-1974, § 1)

Sec. 15.04.040. Liability of corporations.

For the purposes of this Chapter, corporate liability shall inure for offenses enumerated herein as follows:

(a) A corporation is guilty of an offense if:

(1) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or

(2) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the Board of Directors or by a high managerial agent acting within the scope of his or her employment or in behalf of the corporation.

(b) As used in this Section, *agent* means any director, officer or employee of a corporation or any other person who is authorized to act on behalf of the corporation and *high managerial agent* means an officer of a corporation or any other agent in a position of authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees. (Code 1971, § 13-7; Ord. No. 46-1974, § 1)

Sec. 15.04.050. Acting as accessory before or after the fact prohibited.

(a) It shall be unlawful for any person to act as an accessory before the fact in the commission of any act which is a violation of a provision of this Code; and such person shall be deemed and considered as a principal offender when charges are brought for such violation.

(b) An *accessory before the fact* shall mean a person who stands by and aids, abets or assists or, who not being present, had advised or encouraged the perpetration of any such violation.

(c) It shall be unlawful for any person to act as an accessory after the fact in the commission of any act which is a violation of a provision of this Code.

(d) An *accessory after the fact* shall mean a person who, after gaining knowledge that a violation of this Code has been committed, conceals such knowledge from any court or any law enforcement official or harbors or protects a person charged with or convicted of a violation of a provision of this Code. (Code 1971, § 13-9; Ord. No. 46-1974, § 1)

Sec. 15.04.060. Criminal attempt.

(a) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he or she intentionally engages in conduct constituting a substantial step toward commission of the offense. A substantial step is any conduct, whether act, omission or

possession, which is strongly corroborative of the firmness of the actor's intent to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his or her complicity under Section 15.04.050(a) were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of his or her criminal intent. (Code 1971, § 13-10; Ord. No. 14-1976, § 1)

Sec. 15.04.070. Conspiring to violate provisions of this Code prohibited.

It shall be unlawful for any person or persons to conspire with any other person or persons to commit any act which is a violation of a provision of this Code. (Code 1971, § 13-11; Ord. No. 46-1974, § 1)

Sec. 15.04.080. False reporting prohibited.

It shall be unlawful to knowingly cause a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other governmental agency which deals with emergencies involving danger to life or property. (Code 1971, § 13-13; Ord. No. 46-1974, § 1)

Sec. 15.04.090. Unlawful to impersonate an officer.

(a) It shall be unlawful for any person, other than an official police officer, a member of the police Department or a person duly empowered with police authority, to wear the uniform, apparel or any other insignia of office like or similar to or a colorable imitation of that worn by such official officers, members or persons duly empowered with police authority.

(b) It shall be unlawful for any person to counterfeit, imitate or colorably imitate or cause to be counterfeited, imitated or colorably imitated, the uniform, apparel or any other insignia of office used by official police officers, members of the police department or persons duly empowered with police authority.

(c) It shall be unlawful for any person, without due authority, to exercise or attempt to exercise the authority of any police officer, member of the police department, person duly empowered with police authority, sheriff, deputy sheriff, prison steward, deputy warden, public officer or of any investigator, inspector, deputy or clerk in any department of the City or of any other law enforcement officer, for any purpose; or for any person falsely to assume, pretend to be or hold himself or herself out to be such officer or official, for any purpose. (Code 1971, § 13-15; Ord. No. 46-1974, § 1)

Sec. 15.04.100. Duty to assist officers.

It shall be the duty of all persons, when called upon by any police officer, member of the police Department or person duly empowered with police authority, promptly to aid and assist such officer, member or person in the discharge of his or her duties. (Code 1971, § 13-17; Ord. No. 46-1974, § 1)

Cross reference—Police, Ch. 19.04.

Sec. 15.04.110. Duty to report offenses.

It shall be the duty of all persons who witness or have reason to believe that a provision of this Code is being or has been violated, promptly to report the same to a police officer, a member of the police department or a person duly empowered with police authority. (Code 1971, § 13-19; Ord. No. 46-1974, § 1)

Sec. 15.04.120. Resisting and interfering with an officer prohibited.

(a) It shall be unlawful for any person in the City to resist any police officer, member of the police Department, special policeman, private policeman or employee of the City in the discharge of his or her duty or in any way interfere with or hinder or prevent him from discharging his or her duty.

(b) Profane or abusive language directed to a police officer or employee of the City shall be deemed interference with and obstruction to the discharge of the police officer's or City employee's duties.

(c) It shall be unlawful for any person to offer or endeavor to assist any person in the custody of a police officer, member of the police department, special policeman, private policeman or employee of the City, to escape or to attempt to escape from such custody.

(d) It shall be no defense to a prosecution under this Section that the officer or employee was attempting to make an arrest which was unlawful if he or she was acting under color of his or her official authority and in attempting to make the arrest he or she was not resorting to unreasonable or excessive force giving rise to a right of self defense. An officer or employee 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. The term *peace officer* as used in this Section means a police officer in uniform or if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such peace officer to the person whose arrest is attempted. (Code 1971, § 13-21; Ord. No. 46-1974, § 1)

Sec. 15.04.130. Assault and battery prohibited.

It shall be unlawful for any person to commit an assault or battery upon the person of another. An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another. A battery is an intentional and unlawful use of force or violence upon the person of another. (Code 1971, § 13-23; Ord. No. 46-1974, § 1)

Sec. 15.04.140. Reserved.

Editor's note—Ord. No. 13-1979, § 1, repealed former § 13-25, which was derived from Ord. No. 46-1974, § 1. Said section prohibited lewd or lascivious speech or behavior in public. (Code 1971, § 13-25)

Sec. 15.04.150. Indecent exposure.

It shall be unlawful for any person to willfully appear in a state of nudity or in any indecent or lewd dress or condition in any public place or in any place open to public view or in any such place to willfully make any indecent exposure of his or her person or private parts thereof or the private parts of another. (Code 1971, § 13-27; Ord. No. 46-1974, § 1)

Sec. 15.04.160. Urinating in public prohibited.

It shall be unlawful for any person to urinate in any way or place which is public in nature or any place open to public view. (Code 1971, § 13-29; Ord. No. 46-1974, § 1)

Sec. 15.04.170. Carrying concealed weapon prohibited.

It shall be unlawful for any person to knowingly carry a knife or firearm concealed on or about his or her person. It shall be an affirmative defense that the defendant was:

(a) 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;

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

(c) Or a person who, prior to the time of carrying a concealed weapon, has been issued a written permit to carry the weapon by the chief of police of a city, the mayor of a town or the sheriff of a county and such written permit shall be effective in all areas of this State. (Code 1971, § 13-30; Ord. No. 46-1974, § 1)

Sec. 15.04.180. Drinking liquor or possession of open container on public property prohibited.

(a) It shall be unlawful for any person to drink any fermented malt beverages, malt, vinous or spirituous liquors upon any street, alley, sidewalk or other public property in the City.

(b) It shall be unlawful for any person to possess or to have in his or her control on any street, alley, sidewalk or other public property in the City, any malt beverages, malt, vinous or spirituous liquors in any containers of any kind which are not sealed or upon which the seal is broken. Included in the word "seal" shall be any regular seal applied by the U.S. Government over the cap of all malt, vinous or spirituous liquors. (Code 1971, § 13-31; Ord. No. 46-1974, § 1; Ord. No. 27-1992, § 1)

Cross reference—Alcoholic beverages, Title 5.

State law reference—Consumption of alcoholic beverages, Section 12-47-128, C.R.S.

Sec. 15.04.190. Shoplifting prohibited.

(a) It shall be unlawful for any person to commit shoplifting. Shoplifting is the willful taking or possession of any goods, wares or merchandise having an aggregate value of less than four hundred dollars (\$400.00), owned or held by and offered or displayed for sale by a store or other mercantile establishment, with the intention of converting the merchandise to the use of the person so taking possession.

(b) If any person willfully conceals unpurchased goods, wares or merchandise having an aggregate value of less than four hundred dollars (\$400.00), owned or held by and offered or displayed for sale by a store or other mercantile establishment, whether the concealment be on his or her own person or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of shoplifting.

(c) If any person conceals upon his or her person or otherwise carries away any unpurchased goods, wares or merchandise having a value of less than four hundred dollars (\$400.00), owned or held by and offered or displayed for sale by a store or other mercantile establishment, the merchant or any employee thereof or any peace or police officer, acting in good faith and upon probable cause based on reasonable grounds therefor, may detain and question such person in a reasonable grounds therefore, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of shoplifting. Such questioning of a person by a merchant, merchant's employee or peace or police officer shall not render the merchant, merchant's employee or peace or police office civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention. (Code 1971, § 13-32; Ord. No. 18-1994, § 1)

Sec. 15.04.200. Reserved.

Editor's note—Former Section 13-33, Prohibiting expectorating on sidewalks or in public buildings, derived from Ord. No. 46-1974, § 1, was repealed by Ord. No. 14-1979, § 1. (Code 1971, § 13-33)

Sec. 15.04.210. Unlawful to throw stones, snowballs or discharge guns and other missiles.

It shall be unlawful for any person to throw any stone, snowball or other missile or discharge any bow, blowgun, slingshot, gun, catapult or other device upon or at any vehicle, building or other public or private property or upon or at any person or in any public way or place which is public in nature. (Code 1971, § 13-35; Ord. No. 46-1974, § 1; Ord. No. 5-1975, § 1)

Sec. 15.04.220. Obstructing public streets, places and buildings prohibited.

(a) It is unlawful for any person, whether alone or with others, without legal privilege to do so, to obstruct vehicular or pedestrian movement on any street, alley, sidewalk, mall, way, place or doorway or entrance into or out of any building which is open to the public.

(b) *Obstruction* means the interference with or prevention of, convenient or reasonable passage or use of the public street, alley, sidewalk, mall, way, place or building or entrance or doorway into or out of any building which is open to the public by any individual or group of individuals.

(c) For purposes of this Section, the following acts will constitute a violation of this Code:

(1) When one (1) person, whether alone or with others, intentionally causes or creates an *obstruction*; or

(2) When one (1), whether alone or with others, causes, creates or contributes to causing or creating an *obstruction* where a reasonable man in the same circumstances would be aware that he or she was causing, creating or contributing to causing or creating an *obstruction*. (Code 1971, § 13-37; Ord. No. 46-1974, § 1)

Sec. 15.04.230. Certain vehicles prohibited on sidewalks, malls and streets.

(a) It shall be unlawful for any person to operate any motorized vehicle or to ride a bicycle upon sidewalks and malls. It shall also be unlawful for any person to operate or ride a skateboard on the sidewalks and malls in the C-1 and CC Zoning Districts.

(b) Except when used by a handicapped person or exempted by the Aspen Police Department, it shall be unlawful for any person to operate a recumbent or low rider tricycle on the streets, sidewalks and malls that are included in the enclosed area: the area bordered by Main Street (Highway 82) on the north, Aspen on the west, Durant on the south and Spring on the east (inclusive of Main Street, Aspen, Durant and Spring and the sidewalks that abut them.) In addition, it shall be unlawful for any person to operate a recumbent or low rider tricycle on the following streets and the sidewalks that abut them: Highway 82 (including all sections known as Main Street), Cemetery Lane and Mill Street from Highway 82 to the intersection of Red Mountain and Gibson, Spring and Hopkins are exempted for the purpose of access only.

(c) For purposes of this Section, a *recumbent* or *low rider tricycle* shall be defined as follows: a tricycle on which the rider is seated less than twenty-four (24) inches above the ground in a reclined or sitting position with his or her legs in relation to the ground in a more horizontal than vertical position.

(d) It shall be unlawful for any person to ride or operate horses or horse drawn carriages upon the sidewalks or malls of the CC Zoning District, except that horses and carriages may load and unload

passengers and park on the mall at the corner of Galena and Cooper Streets. (Code 1971, § 13-38; Ord. No. 14-1978, § 1; Ord. No. 22-1998 § 2; Ord. No. 33-2002, § 1)

Sec. 15.04.240. Injury to public and private property prohibited.

It shall be unlawful for any person to intentionally or knowingly to injure, deface, mutilate, remove, pull down, break or in any way interfere with or molest or secrete any trees, real or personal property belonging to or under the control of the City or any person within the City. (Code 1971, § 13-39; Ord. No. 46-1974, § 1)

Sec. 15.04.250. Painting or decorating public buildings prohibited.

It shall be unlawful for any person to paint or decorate any building, fence or other structure or property owned, leased or used by the City without the written permission of the department head responsible for such building, fence or other structure or property. (Code 1971, § 13-41; Ord. No. 46-1974, § 1)

Sec. 15.04.260. Unlawful to put up unauthorized posters.

It shall be unlawful for any person to post, put up or paste any handbill, poster, placard or painted or printed matter upon or against any public or private house, store or other building or structure or upon or against any private or public fence, utility pole or other structure or upon any public or private real property without the permission of the owner, agent or occupant of such structure or property; or unless such person is lawfully authorized to make such posting by the City. (Code 1971, § 13-43; Ord. No. 46-1974, § 1)

Sec. 15.04.270. Defacing posted notices unlawful.

Any person who intentionally mars, destroys or removes any posted notice authorized by law commits the violation of defacing posted notice. (Code 1971, § 13-45; Ord. No. 46-1974, § 1)

Sec. 15.04.280. Trespassing prohibited.

It shall be unlawful for any person without legal privilege to enter on or remain upon the premises of another, to place personal property on the premises of another or to fail or refuse to remove himself or herself or such property from such premises when requested to do so by the owner, occupant or person having lawful control thereof. (Code 1971, § 13-47; Ord. No. 46-1974, § 1; Ord. No. 69-1975, § 1)

Sec. 15.04.290. Window-peeping prohibited.

It shall be unlawful for any person to look or peep into any window, door, skylight or other opening in a house, room or building such as to wrongfully observe the occupants of such house, room or building. (Code 1971, § 13-49; Ord. No. 46-1974, § 1)

Sec. 15.04.300. Disorderly conduct prohibited.

It shall be unlawful for any person to commit disorderly conduct within the City. A person commits disorderly conduct when he or she knowingly, intentionally or recklessly:

(a) Uses profane, obscene or offensive language directed at or in the presence of another person, which language tends to an immediate breach of peace; or

(b) Abuses or threatens another in an obviously offensive manner and in such a manner as to tend to be an immediate breach of the peace; or

(c) Disturbs or tends to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct or by loud or unusual noises; or

(d) Threatens, quarrels, challenges to fight or fights with another; or

(e) Interferes with the free and unobstructed use of any way or place which is public in nature by any other person or persons; or

(f) Goes about from door to door of private homes or commercial and business establishments to beg or receive monies for himself or herself or others; or

(g) Solicits money upon any public way or public place, provided nothing herein shall preclude the acceptance of money offered unsolicited from passersby in return for a musical or other performance given in said public place; or

(h) Not being a police officer, discharges a firearm in a public place; or

(i) Not being a police officer, displays a deadly weapon or what reasonably appears to be a deadly weapon, in a public place in a manner calculated to alarm. (Code 1971, § 13-51; Ord. No. 46-1974, § 1; Ord. No. 5-1975, § 2)

Sec. 15.04.310. Making false reports unlawful.

It shall be a violation of this Section for any person to do any of the following:

(a) Make a report or intentionally cause the transmission of a report to any law enforcement officer or other City official of a crime or other incident within their official concern, when he or she knows that the crime or incident did not occur.

(b) Make a report or intentionally cause the transmission of a report to any law enforcement officer or other City official pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false. (Code 1971, § 13-53; Ord. No. 46-1974, § 1)

Sec. 15.04.320. Using false identification prohibited.

It shall be unlawful for any person to offer, use or attempt to offer or use any means, manner, type or kind of paper, document, card, license or any other evidence of the identification of such person for the purpose of making sales or purchase of commodities, cashing checks, making other monetary transactions, to gain admission to any place or for any other purpose whatsoever where such means, manner, type or kind of identification offered or used or which is attempted to be offered or used, is false, fraudulent or incorrect in any manner or way or which misrepresents said person so offering or using the same or who attempts to offer or use the same or which does not belong to such person or which is altered, forged, defaced or changed in any respect, except such changes as are required or authorized by law. (Code 1971, § 13-55; Ord. No. 46-1974, § 1)

Sec. 15.04.330. Occupying or sleeping in certain places and in vehicles prohibited.

(a) It shall be unlawful for any person to occupy, lodge or sleep in any vacant or unoccupied barn, garage, shed, shop or other building or structure without owning the same or without permission of the owner or person entitled to the possession of the same or sleep in any vacant lot or any public place whatsoever during the hours of darkness.

(b) It is unlawful for any person to occupy any vehicle upon any city street, alley, way or other public area if the purpose for such occupation is the use of the vehicle as a permanent or temporary residence. (Code 1971, § 13-57; Ord. No. 46-1974, § 1)

Sec. 15.04.340. Peddlers and solicitors prohibited from going onto private residences; exception.

(a) It shall be unlawful for solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise to go in or upon private residences in the City, not having been requested or invited so to do by the owner or occupant of such private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise or for the purpose of disposing of or peddling or hawking the same, subject to the exceptions stated in Subsection (b) below. Such action is deemed an offense and is punishable as a violation of this Code.

(b) Subsection (a) above shall not be applicable to persons representing charitable, recreational or civic enterprises. (Code 1971, § 13-59; Ord. No. 46-1974, § 1)

Sec. 15.04.350. Vending on public parks and rights-of-way prohibited.

(a) Vending agreements.

(1) No person shall use or occupy any street, alley, mall, golf course, park or parkway (whether in or on a vehicle, structure, building or otherwise) for the storage, display or sale of goods or services, wares or merchandise, to solicit the sale of a service or to place or permit portable display signs on any street, alley, mall, golf course, park or parkway within the City; provided, however, that the prohibition of this Section shall not apply to any person who has entered into a vending agreement with the City to provide any such vending services and paid a processing fee equal to the special event fee for minor events set forth at Section 14.20.070 of this Code. The City Manager or her designee shall be authorized to execute and approve said vending agreements on behalf of the City after considering:

- (A) The public need for such services;
- (B) The availability of existing services;
- (C) The availability of nonpublic property upon which to conduct the requested activity;
- (D) The costs of policing and administering the proposed vending service;
- (E) The revenues which can be reasonably expected to accrue to the City by virtue of the vending services proposed; and
- (F) Whether the vendor applying for such vending agreement will best serve the public interest.

(2) Any applicant aggrieved of a decision by the City Manager concerning the denial or terms of a vending agreement may seek an appeal of same to the City Council. All appeals must be submitted in writing to the City Manager within ten (10) days of the decision appealed from and set forth the grounds for the appeal. The City Manager shall promptly add the appeal to the next reasonably available regular City Council meeting agenda. City Council shall conduct a hearing on the appeal at which time the applicant shall be heard and a decision rendered. Such decision need not be reduced to writing.

(b) Vending agreements for farmers' markets. Farmers' markets are permitted in any downtown street in the Commercial Core (CC), Commercial (C-1), Neighborhood Commercial (NC) or

Service/Commercial/Industrial (S/C/I) Zone Districts provided a vending Agreement is approved by the City Council. Streets that form the border between the Commercial Core (CC) and Office (O) zone districts or the Commercial (C-1) and Office (O) Zone Districts, such as South Monarch and South Spring, respectively, shall be eligible for consideration. Streets alongside any area zoned Public (PUB) or Park (P) but within the traditional downtown, such as South Monarch between Durant and Hyman, shall also be eligible for consideration.

(1) Minimum requirements. The Community Development Director shall promulgate rules and regulations for the establishment and operation of farmers' markets. The City Council shall incorporate such rules and regulations which it deems appropriate in vending agreements.

(2) Procedure. Pursuant to Section 26.52.020, the applicant shall conduct a pre-application conference with staff of the Community Development Department. As a result of the conference, the planner shall prepare a pre-application summary providing the appropriate application packet including the submission requirements and any other pertinent land use material, enumerate the fees associated with the reviews and explain the review process in general.

After the pre-application conference summary is received by the applicant, said applicant shall prepare an application for review and approval by staff and the City Council, respectively. In order to proceed with additional reviews or obtain a development order, the City Council shall, at a public hearing, find the submitted land use application consistent with the provisions, requirements and standards of this Section. Notice of the public hearing shall be in accordance with the requirements of Section 26.52.060(E)(3) Paragraph (a), as well as any other form(s) of notice required by the Community Development Director. City Council may approve, approve with conditions or deny any application for a farmers' market by resolution. An ordinance is not required and the signed resolution shall serve as the vending agreement.

(3) Application. An application for approval of new or modified farmers' markets shall comply with the submittal requirements applicable to conditional use reviews pursuant to Chapter 26.52, Common Development Review Procedures and Chapter 26.60, Conditional Uses, of this Code. Also, farmers' market vending agreement applications shall contain any other additional information identified in the pre-application conference summary.

(4) Applicant. Applications for or from individual vendors will not be accepted. Applications for vending agreements for farmers' markets must be submitted on behalf of an organization encompassing all vendors that would participate in the particular market. The organization will need to select one (1) or two (2) persons to represent the market in dealings with the City. The applicant/organization will be responsible for governance of the market and maintaining compliance with the rules and regulations contained in this Section and in any conditions assigned to the approval of a vending agreement. (Code 1971, § 13-61; Ord. No. 46-1974, § 1; Ord. No. 54-1975, § 1; Ord. 51-1992, § 1; Ord. No. 13-1998, § 3)

Sec. 15.04.360. Vendors not to obstruct public ways.

It shall be unlawful for any person engaged in the sale of newspapers, magazines or other goods or merchandise, to make any unnecessary sound or noise, to obstruct any sidewalk or other place of a public nature or to disturb or impede other persons. (Code 1971, § 13-63; Ord. No. 46-1974, § 1)

Sec. 15.04.370. Curfew for minors.

(a) For the purposes of this Section, the following words are herewith defined as follows:

(1) *Minor.* A *minor* is defined as any person who has not attained the age of eighteen (18) years.

(2) *Parent.* A *parent* is defined as any person who is the natural parent of a minor or who has been given legal custody of a minor or who has the care and control of a minor, either permanently or temporarily.

(b) It shall be unlawful for any minor to loiter, linger, wander or play on the public streets, highways, alleys, roads or other public grounds, public places and public buildings, vacant lots or other unsupervised places within the City between the hours of 11:00 p.m. and 5:00 a.m. the following day. The provisions of this Section do not apply to those minors who are accompanied by their parents or where the minor is upon legitimate business directed by or at the request of his or her parents or is under the supervision of an adult person with the knowledge of his or her parents.

(c) It shall be unlawful for any parent to permit any minor to loiter, linger, wander or play on the public streets, highways, roads, alleys or other public grounds, public places and public buildings, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 5:00 a.m. the following day; provided, however, that the provisions of this Section do not apply where the minor is accompanied by his or her parent or where the minor is upon legitimate business directed by or at the request of his or her parent or is under the supervision of an adult person with the knowledge of his or her parent.

(d) The fact that the minor is upon the streets, highways, alleys or other public places as defined in this Section, between the hours of 11:00 p.m. and 5:00 a.m. the following day, shall be prima facie evidence that the parent is guilty of violating this Section. (Code 1971, § 13-65; Ord. No. 46-1974, § 1)

Sec. 15.04.380. Littering of public or private property prohibited.

(a) Any person who deposits, throws or leaves any litter on any public or private property or in any waters commits a violation of this Section unless:

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

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

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

(b) The term *litter*, as used in this Section, means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

(c) The phrase *public* or *private property*, used in this Section, includes, but is not limited to, the right-of-way of any street or highway; and any body of water, ditch or watercourse, including frozen areas or the shores thereof, any park, playground or building; any refuge, conservation or recreation area; and any residential or business property.

(d) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted such litter to have been so thrown, deposited, dropped or dumped therefrom. (Code 1971, § 13-67; Ord. No. 46-1974, § 1)

Sec. 15.04.390. Distributing handbills in public places; placement on vehicles.

(a) No person shall distribute, throw or deposit any commercial or noncommercial handbill in or upon any vehicle or in any public place, provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it. Recipients of such items, however, shall not discard the same except in conformity with this Chapter.

(b) For purposes of this Section, a commercial handbill is any printed or written matter, sample or device, circular, leaflet, pamphlet, paper or booklet which advertises for sale any merchandise, produce, commodity or thing; or which directs attention to any business, commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or which directs attention to or advertises any meeting, theatrical performance, exhibition or event for which an admission fee is charged for the purpose of private gain or profit; or which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement for private benefit or gain.

(c) A noncommercial handbill is any printed or written matter, sample or device, circular, leaflet, pamphlet, paper or booklet not included in the aforesaid definitions of a commercial handbill. (Code 1971, § 13-68; Ord. No. 5-1975, § 3)

Sec. 15.04.400. Abandonment of motor vehicles prohibited.

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

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

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

(1) The motor vehicle has been left for more than seven (7) days unattended and unmoved; or

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

(3) The motor vehicle has been damaged or is deteriorated so extensively that it has value only for junk or salvage; or

(4) The owner has been notified by a law enforcement agency to remove the motor vehicle and it has not been removed within three (3) days after notification. (Code 1971, § 13-69; Ord. No. 46-1974, § 1)

Cross reference—Impoundment of motor vehicles, Section 24.08.010.

Sec. 15.04.410. Maintaining inoperable vehicles prohibited.

(a) The City Council finds that junked, wrecked, dismantled, inoperable, discarded or abandoned vehicles in and upon real property within the City is a matter affecting the health, safety and general welfare of the citizens of Aspen, Colorado, for the following reasons:

(1) Such vehicles serve as a breeding ground for flies, mosquitoes, rats and other insects and rodents;

(2) They are a danger to persons, particularly children, because of broken glass, sharp metal protrusions, insecure mounting on blocks, jacks or supports and because they are a ready source of fire and explosion;

(3) They encourage pilfering and theft and constitute a blighting influence upon the area in which they are located thereby causing a loss in property value to surrounding property;

(4) They constitute a fire hazard in that they block access for fire equipment to adjacent buildings and structures.

(b) For the purposes of this Section the following definitions shall apply:

(1) *Inoperable* means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed.

(2) *Vehicle* means any automobile, truck, tractor or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

(c) Except as provided in Subsections (d) and (e), it shall be unlawful for any person, partnership, corporation or their agent, either as owner, lessee, tenant or occupant of any lot or land within the City to park, store or deposit or permit to be parked, stored or deposited thereon, an inoperable vehicle unless it is enclosed in a garage or other building.

(d) The provisions of Subsection (c) shall not apply to any person, partnership or corporation or their agent with one (1) vehicle inoperable for a period of thirty (30) consecutive days.

(e) The provisions of Subsection (c) shall not apply to any person, firm or corporation or their agent who is conducting a business enterprise in compliance with existing zoning regulations or who places such vehicles behind screening of sufficient size, strength and density to screen vehicles from the view of the public using the streets and sidewalks and to prohibit ready access to such vehicles by children; provided, however, that nothing in this Section shall authorize the maintenance of a public nuisance.

(f) Existence of any of the following conditions shall raise the presumption that a vehicle is inoperable:

(1) Absence of an effective registration plate or safety inspection sticker upon such vehicle;

(2) Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports;

(3) Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

(g) Whenever an informal complaint is made to the Police Chief or to any other appropriate City Official or member of the City Council regarding an alleged violation of Section 15.04.410 or whenever any police officer or sanitation officer of the City observes an apparent violation of Section 15.04.410, a Police Officer or Sanitation Officer shall, within seven (7) days thereafter, cause a written notice to be served upon the person in possession or the owner of the real property upon which such inoperable vehicle is located. Such notice shall inform such person of the violation and direct that he or she take action within seven (7) days after receipt of such notice to comply with Section 15.04.410 or that prosecution will be commenced for violation thereof. If compliance is not made as directed, prosecution proceedings against the responsible person or persons shall be commenced. (Code 1971, § 13-71; Ord. No. 46-1974, § 1)

Sec. 15.04.420. Keeping of junk prohibited.

(a) It shall be unlawful to keep, store or provide for the collection of junk within the City and that the keeping, storage or collection of junk within the City is hereby declared to be a nuisance and is detrimental to the health, safety, convenience and general welfare of the citizens thereof.

(b) *Junk* is hereby defined to be any old, used or secondhand materials of any kind, including, without limitation, cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, tires, brass, copper or other metal, furniture, refrigerators, freezers, all other appliances, the parts of used motor vehicles, machines, apparatuses and contrivances and parts thereof, which are no longer in use, any used building material, boards or other lumber, cement blocks, bricks or brick bats or other secondhand building material or any discarded machinery, tractors, trucks or automobiles or any other article or thing commonly known and classified as junk.

(c) The keeping, storage or collection of junk shall not be deemed unlawful or a nuisance when and if same is kept, stored or collected in completely enclosed buildings and this Section shall not apply to any premises where a licensed motor vehicle dealer or a farm implement dealer conducts his, her or their business.

(d) Each act or omission in violation of one (1) or more than one (1) of the provisions hereof shall be deemed a separate violation of such provision and for each calendar day during which any violation continues, a separate violation shall be deemed to have been committed. (Code 1971, § 13-73; Ord. No. 46-1974, § 1)

Sec. 15.04.430. Reserved.

Editor's note—Ord. No. 47-1978, § 1, repealed former § 13-74 relative to the covering of outdoor recreational heated swimming and therapy pools. Said section was derived from Ord. No. 12-1976, § 1: (Code 1971, § 13-74)

Sec. 15.04.440. Abandoned iceboxes and refrigerators regulated.

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has a door or lid, snaplock or other locking device which may not be released from the inside, without first removing such door or lid, snaplock or other locking device. (Code 1971, § 13-75; Ord. No. 46-1974, § 1)

Sec. 15.04.460. Survey monuments, markers and stakes; removal prohibited.

(a) It shall be unlawful for any person to remove any permanent survey monuments, markers or stakes established, placed or installed by the City without having first obtained the approval of the City Engineer.

(b) In the event any person shall find it necessary by reason of practical difficulty in the use of the land or through the construction or erection of improvements thereon or by reason of a change, alteration, repair, construction, erection or installation of a public improvement, to remove and relocate any of the permanent survey monuments, markers or stakes, such person shall apply to the City Engineer for authority to remove or relocate the survey monument involved and shall specify in detail the reason therefor. The City Engineer shall examine such application and shall inspect the location of the monument involved and if after the examination and inspection the City Engineer shall find that the survey monument should be removed or relocated, he or she shall grant such person the authority and permission to remove or relocate such monument and shall specify the manner in which the survey

monument shall be removed or relocated. No permanent survey monument, marker or stake shall be removed except by a person licensed as a land surveyor under the laws of the State.

(c) In the event a permanent survey monument, marker or stake in the City is removed as provided in Subsection (b), the surveyor involved shall file with the City Engineer a plat showing in detail the new location of the survey monument and shall also file written field notes therewith as may be directed by the City Engineer. The City Engineer shall keep a permanent record of all such plats and field notes filed with him pursuant to this Section and the record thereof shall be available at all times to the general public.

(d) If any person shall destroy, mutilate, damage or remove any permanent survey monument, marker or stake in the City, except as provided by this Code, he or she shall be liable to the City for all costs and expenses incurred by the City in restoring the survey monument to its original condition and proper location and such costs and expenses may be collected by the City on proof thereof in a civil court of competent jurisdiction. This remedy shall be in addition to all other remedies available to the City for a violation of any provision of this Code. (Code 1971, § 13-77; Ord. No. 46-1974, § 1)

Sec. 15.04.470. Radio interference prohibited.

(a) It shall be unlawful for any person to operate within the limits of the City, any electrical device, machine or equipment which needlessly and unnecessarily causes interference with radio reception, which such interference can be reasonably prevented by means of repair, adjustments, the installation of corrective appliances or other practicable alterations.

(b) The administration and enforcement of this Section shall be entrusted to and imposed upon the Chief Building Official whose duty it shall be to investigate complaints of radio interference by finding a qualified, mutually agreeable third party to test actual site conditions, locate the source of such interference and advise and make recommendations as to its elimination. The Chief Building Official is hereby authorized to issue orders for such repairs, adjustments or alterations to be complied with within a reasonable length of time, as shall be practicable and reasonably necessary to prevent the continuance of such interference. The cost of testing shall be borne by the facility/equipment operator for the first claim made by a claimant, then by the claimant for subsequent claims; however, costs of testing for all verified cases of interference shall be reimbursed to the claimant by the operator of the facility/equipment causing said interference.

(c) The Chief Building Official shall, upon presentation of his or her badge or other evidence of his or her authority, have the right of access to any premises at any reasonable hour for the purpose of inspecting the installation and operation of any device or equipment coming within the provisions of this Section. (Code 1971, § 13-79; Ord. No. 46-1974, § 1; Ord. No. 34-1998, § 4)

Sec. 15.04.480. Unauthorized interception of CATV television signals prohibited.

(a) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a signal of a cable TV system for the purpose of enabling anyone to receive any television signal, radio signal, picture, sound or other transmission, without payment to the transmitting company.

(b) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures or other transmission.

(c) In any prosecution charging a violation of this Section, proof that particular apartment, residence or structure was connected without authorization to a cable TV system for the purpose of

enabling anyone to receive any television signal, radio signal, picture, sound or other transmission, without payment to the transmitting company, together with proof that the defendant named in the complaint was at the time of such authorized connection the occupant of the particular apartment, residence or structure, as title owner or lessee, shall constitute in evidence a prima facie presumption that the occupant of the premises was the person who connected the premises in violation of this Section. (Code 1971, § 13-81; Ord. No. 46-1974, § 1; Ord. No. 41-1979, § 1)

Sec. 15.04.490. Permits required for parades, meetings and assemblies.

It shall be unlawful for any person to organize, sponsor or participate in a meeting, assembly or parade attended by fifty (50) or more persons in or upon any public street, right-of-way or sidewalk, public park or in any other public way or City-owned or operated place or facility within the City unless and until a permit to conduct such parade, meeting or assembly has been applied for and obtained, as set forth at either Section 14.20.020, 14.20.040 or 14.20.050 of this Code and unless such event is conducted in accordance with the terms set forth in such permit. (Code 1971, § 13-83; Ord. No. 46-1974, § 1; Ord. No. 27-1992, § 2)

Sec. 15.04.500. Interference with public process prohibited.

(a) No person shall willfully refuse or fail to leave any public building owned, operated or controlled by the State, County or City upon being requested to do so by an officer charged with maintaining order in such 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, process, procedures or functions being carried on in such public building.

(b) No person shall, at any meeting or session conducted by any judicial, legislative or administrative body or official at or in, any public building, willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chambers or other areas designated for the use of the body or 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 duties at such meeting or session. (Code 1971, § 13-85; Ord. No. 46-1974, § 1)

Sec. 15.04.510. Lost and confiscated property; procedures for disposal.

(a) The words *lost* and *confiscated property* mean:

(1) Property which has been lost or stolen from the owner thereof and which has been turned over to an employee or department of the City; or

(2) Property which has been confiscated according to law by a police officer of the City and the owner's possession of the property is unlawful or the owner's identity and whereabouts are not known and cannot be reasonably determined by any member of the Police Department or by any other City employee. This definition shall not be deemed to include pets or other animals, nor motor vehicles.

(b) Until such time as an item of lost or confiscated property has been sold according to the provisions of Subsection (d) or reclaimed by the owner or other persons entitled to the possession of such item, each such item shall be retained in the custody of the Chief of Police. All such property shall be kept at facilities of the City provided for that purpose and the Chief of Police or someone designated by him, shall keep records pertaining to the receipt and disposition of all such property. Such records shall be open to public inspection at all reasonable times.

(c) The Chief of Police shall cause to be held, at periodic intervals, public sales at which lost or confiscated property shall be offered for sale to the highest bidders, unless in the judgment of the City Manager or the City Manager's designee specific property can be used for public purposes. In that event, the City Manager or the City Manager's designee shall have the authority to claim and convert that property for public use. No item of lost or confiscated property shall be offered at any such sale or claimed by the City Manager or City Manager's designee unless the item has been in the custody of the Chief of Police for not less than thirty (30) days. No such item shall be offered for sale or claimed by the City Manager or City Manager's designee, which is the subject of any civil or criminal judicial proceeding involving, directly or indirectly, a determination of the ownership of such property. If it is determined in any such civil or criminal judicial proceeding that the individual claiming the ownership or right of possession of such item is not entitled thereto as against the City, such items shall then be offered for sale at the next regularly scheduled public sale or be available to be claimed by the City Manager or the City Manager's designee.

(d) A notice of each public sale or claiming, giving the date, hour, place and general description of the property to be sold or claimed, shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the City. The sale or claiming shall be had not less than fifteen (15) days from the date of the first publication. Any item of lost or confiscated property can be reclaimed by the owner thereof or by the person entitled to the possession thereof, at any time prior to the commencement of the public sale or claiming.

(e) Any item of lost or confiscated property which, in the judgment of the Chief of Police will deteriorate substantially if not disposed of prior to the time when the property could be offered for public sale in accordance with Subsection (c) above, may be offered for sale to the public at a special sale. No prior notice of such sale need be given if it would constitute an unreasonable delay. The proceeds for such special sale shall be kept in a special fund for a period of thirty (30) days from the date of the sale. If, at any time during such thirty-day period any person establishes his or her ownership or right to possession, of the item sold, the proceeds from the sale of that item shall be delivered to that person.

(f) When lost or confiscated property is offered for sale pursuant to the terms of this Chapter and there is no bid for the same, the City Manager shall declare the same to be sold to the City for the amount of the cost of storage, advertisement and sale and shall place the items in the custody of such departments of the City as he or she, in his or her sole discretion, may determine and for the sole benefit and use of the City.

(g) The proceeds from regular and special sales shall be delivered to the Director of Finance. he or she shall pay from such sale proceeds the expenses of storage, advertisement and sale. The balance of proceeds from regular sales shall be placed into the general fund. Proceeds in the special fund required by Subsection (e) above, shall be transferred to the general fund after the period for reclaiming such proceeds has passed.

(h) Any person who has found lost property may, if the same shall not be claimed by its owner, recover possession of the same prior to any public sale of the property as hereinabove provided or after sixty (60) days of reporting the finding of the property to the Police Department, whichever first occurs.

(i) The owner or other person having the right to possession, of any item of lost or confiscated property sold at any public sale conducted in accordance or substantially in accordance with the provisions of this Section shall be barred from asserting any claim against the City or against the proceeds held by the City, from and after the date of the sale, except to the extent provided in Subsection (e) above with respect to the proceeds of a special sale claimed within thirty (30) days thereof. (Code 1971, § 13-87; Ord. No. 46-1974, § 1; Ord. No. 51-1976, §§ 1, 2; Ord. No. 16-1991, § 1)

Sec. 15.04.520. Prohibition against nuisances; right of entry to investigate.

(a) A public nuisance is a substance, act, occupation, condition or use of property which is of such nature and shall continue for such length of time as to:

(1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

(2) In any way render the public insecure in life or in the use of property;

(3) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way.

(b) In all cases where no provision is made defining what are nuisances and how the same may be removed, abated or prevented, in addition to what may be declared such herein, those offenses which are known to the common law of the land and statutes of Colorado as nuisances may, in case the same exist within the City, be treated as such and proceeded against as in this Chapter provided or in accordance with any other provision of law.

(c) Any person in the City who is responsible for any nuisance as provided in this Chapter and who shall fail to abate the same after the giving of adequate notice shall be in violation of this Chapter and subject to the penalties herein provided.

(d) Where a nuisance exists upon private property and is the outgrowth of the usual, natural or necessary use of the property, the owner or owners thereof or his or their agents, are hereby declared the authors thereof; but where any such nuisance shall arise from the unusual use to which any such property may be put or from any business thereon conducted, the occupant or occupants shall also be deemed the author or authors thereof; and any person who shall by himself or herself or an agent cause or create the same shall be deemed the author of such nuisance.

(e) Complaints of nuisances may be made to the City Manager, City Sanitarian, Building Inspector, Fire Marshal, Chief of Police or any other City official. Whenever possible any complaint shall state the nature of such nuisance, the location including street address, name of the owner, agent or occupant of the building or lot, if known and the name and address of the complainant.

(f) Whenever necessary to make an inspection to enforce any of the provisions of this Chapter or whenever an authorized representative of the City shall have reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a nuisance hereunder, the City Manager, Building Inspector, Fire Marshal, City Sanitarian or Police Officer may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed on any of them. Provided that if such building or premises be occupied, such person shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner and/or occupant or other person or persons having charge or control of the building or premises and upon locating said owner, occupant or other person or persons, shall present proper credentials and demand entry. If entry is refused, such person shall give the owner and/or occupant or if said owner and/or occupant cannot be located after a reasonable effort, he or she shall leave at the building or premises a twenty-four-hours' written notice of intention to inspect. The notice given to the owner and/or occupant or left on the premises, as aforesaid, shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a Municipal Judge of the City or Judge of any other court having jurisdiction.

(g) After the expiration of said twenty-four-hour period from the giving or leaving of notice, the City Manager, Building Inspector, Fire Marshal, City Sanitarian, Policeman or any of them or their

authorized representative, may appear before the Judge of the City Municipal Court and upon a showing of probable cause shall obtain a search warrant entitling him to enter said building or upon such premises. Upon presentation of said search warrant and proper credentials or possession of the same in the case of an unoccupied building or premises, said person may enter into said building or upon said premises using such reasonable force as may be necessary to gain entry.

(h) For the purposes of the above Subsection, a determination of *probable cause* will be based upon reasonableness and if a valid public interest justifies the intrusion contemplated, then there is probable cause to issue a search warrant. The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises in issue in order to obtain a search warrant. It shall be unlawful for any owner and/or occupant of said building or premises to resist reasonable force used by any authorized agent acting pursuant to this Section.

(i) Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, the City Manager, Building Inspector, Fire Marshal, City Sanitarian or Police Officer or the authorized representative of any of them, upon a presentation of proper credentials or identification, in the case of an occupied building or premises or possession of said credentials in the case of an unoccupied building or premises, may enter into any building or upon any premises within the jurisdiction of the City. In said emergency situation such person or his or her authorized representative may use such reasonable force as may be necessary to gain entry into said building or upon said premises.

(j) For purposes of the above Subsection, an emergency situation shall include, but not be limited to, any situation where there is imminent danger of loss of life, limb and/or property. It shall be unlawful for any owner and/or occupant of said building or premises to resist reasonable force used by the authorized official acting pursuant to this Subsection. (Code 1971, § 13-89; Ord. No. 46-1974, § 1)

Sec. 15.04.530. Abatement of nuisances.

(a) Each and every nuisance declared or defined by any ordinance of the City or otherwise is hereby prohibited and the City Manager or Chief of Police is hereby authorized, in their discretion, to cause the same to be summarily abated in such manner as they may direct subject to the limitations herein provided.

(b) Upon authorization of the City Manager or Chief of Police, if any nuisance found to exist shall cause such imminent danger to the life, limb, property or health as to require immediate abatement, any such nuisance may be summarily abated by action of the City Manager, Chief of Police, Police Agent, Building Inspector, Fire Marshal or City Sanitarian.

(c) In the case of any nuisance not requiring summary abatement, it shall be the duty of the City Manager or Chief of Police to cause notice to be served upon the person responsible for any nuisance which may be found, requiring said person to abate the same in a reasonable time and in such reasonable manner as prescribed and such notice may be given or served by any officer directed or deputized to give or make the same. In causing notice to be served, the City Manager or Chief of Police may authorize City officials, inspectors or any other appropriate City employee to issue notice of abatement. The reasonable time for abatement shall not exceed fourteen (14) days unless it appears from the facts and circumstances that compliance could not reasonably be made within fourteen (14) days or that a good faith attempt at compliance is being made. Such notice shall be in writing, signed by the official issuing the same and shall be personally served upon the person responsible for said nuisance if said person occupied the premises upon which said nuisance exists, but if not occupied by said responsible person then by posting the same prominently at some place on the premises upon which said nuisance exists. If service is by posting as aforesaid, then a copy of said notice shall also be mailed by certified mail, return receipt requested, to the owner of such property as shown upon the tax rolls of Pitkin County, Colorado, at the address of such owner as therein shown.

(d) If, after notification, a nuisance is not voluntarily abated, the following procedures shall apply:

(1) Upon notification, if the person so notified shall neglect or refuse to comply with the requirements of said notice to abate the nuisance within the time specified, such person shall be guilty of a violation of this Code and the City Manager, Chief of Police and City Attorney or their authorized agent, may proceed at once, upon the expiration of the time specified in such notice, to commence appropriate legal action to cause such nuisance to be abated; provided, that if the owner or person responsible for said nuisance is unknown or cannot be found, the City Manager may proceed to abate such nuisance after notice has been posted for the period equal to the time specified to abate said nuisance. In either case, the expense of such abatement shall be collected from the person who caused, created, continued or suffered said nuisance to exist.

(2) When any person has responsibility for a nuisance and such nuisance shall exist or be found and said responsible person fails to abate the same after the giving of such notice as provided for in this ordinance, within the time limited therein or as extended, then the City Attorney is authorized to institute proceedings in a court of competent jurisdiction to obtain a judicial determination that such nuisance exists, to abate such nuisance, to enjoin the same and for such other and further relief as may seem necessary or proper, including but not limited to the costs and expenses of abatement.

(3) Upon a judicial determination that a nuisance exists, the Chief of Police may be authorized to abate said nuisance or cause the same to be abated, employing such forces and persons as may be necessary to abate the same, including the employees of the City or by contract or otherwise. All other City officials and employees are hereby authorized and directed to render such assistance to the Chief of Police as may be required for the abatement of such nuisance and in connection with the enforcement thereof.

(4) Any officer or employee of the City who shall be authorized herein to abate any nuisance specified in this ordinance shall have authority to engage the necessary assistance and incur the necessary expenses thereof. In any case where a nuisance is to be abated by the City, it shall be the duty of said authorized person to employ such assistance and adopt such means as may be necessary to effect abatement of said nuisance. It shall also be the duty of the City or any of its representatives to proceed in all abatement cases with due care and without any unnecessary destruction of property. (Code 1971, § 13-91; Ord. No. 46-1974, § 1)

Sec. 15.04.540. Abatement of nuisances; costs of abatement.

(a) The person or persons responsible for any nuisance within the City shall be liable for and pay and bear all costs and expenses of the abatement of said nuisance, which costs and expenses may be collected by the City in any action at law, referred for collection by the City Attorney in his or her discretion or collected in connection with an action to abate a nuisance or assessed against the property as hereinafter provided.

(b) The notice required by this Chapter shall, in addition to other requirements herein, state that if the nuisance is not abated within the time stated in the notice, the cost of such abatement may be assessed as a lien against the property (describing the same) pursuant to the terms of this Chapter, referring to this Chapter, together with an additional five percent (5%) assessment for inspection and incidental costs and an additional ten percent (10%) assessment for costs of collection and collected in the same manner as real estate taxes against the property. If the owner of the property is not personally served with a copy of such notice, then a true copy of such notice shall be mailed by registered or certified mail, return receipt requested, to the owner of such property as shown upon the tax rolls of Pitkin County, Colorado, at the address of such owner as therein shown.

(c) If, after the expiration of the period of time provided for in said notice or as extended, costs or expenses are incurred by or on behalf of the City in the abatement or in connection with the abatement of the nuisance and said costs are not otherwise collected, then the Director of Finance may thereafter certify to the City Clerk the legal description of the property upon which such work was done, together with the name of the owner thereof as shown by the tax rolls of Pitkin County, Colorado, together with a statement of the work performed, the date of performance and the costs thereof.

(d) Upon receipt of such a statement from the Director of Finance, the City Clerk shall mail a notice to the owner of said premises as shown by said tax roll, at the address shown upon the tax rolls, by first class mail, postage prepaid, notifying such owner that work has been performed pursuant to this ordinance, stating the date of performance of the work, the nature of the work and demanding payment of the costs thereof (as certified by the Director of Finance), together with five percent (5%) assessment for inspection and other incidental costs in connection therewith. Such notice shall state that if said amount be not paid within thirty (30) days of mailing the notice, it shall become an assessment on and a lien against the property of said owner, describing the same and will be certified as an assessment against such property together with the ten percent (10%) assessment for costs of collection and the above-mentioned assessments will be collected in the same manner as a real estate tax upon the property.

(e) If the Clerk shall not received payment within the period of thirty (30) days following the mailing of such notice, the Clerk shall inform the City Council of such fact and the Council shall thereupon enact an ordinance assessing the whole cost of such work, including a charge of five percent (5%) of said whole cost for inspection and other incidental costs in connection therewith upon the lots and tracts of land upon which the nuisance was abated and together with a charge of ten percent (10%) of said whole costs for costs of collection.

(f) Following the passage of such ordinance, upon second reading, the Clerk shall certify the same to the County Treasurer, who shall collect the assessment, including the ten percent (10%) charge for cost of collection, in the same manner as other taxes collected.

(g) Each such assessment shall be a lien against each lot or tract of land until paid and shall have priority over other liens except general taxes and prior special assessments. (Code 1971, § 13-93; Ord. No. 46-1974, § 1)

Sec. 15.04.550. Abatement of nuisances; remedies cumulative.

(a) No remedy provided herein shall be exclusive, but the same shall be cumulative and the taking of any action hereunder, including charge or conviction of violation of this Chapter in the City Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist.

(b) Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action and when applicable the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under the municipal ordinances or any other provision of law. (Code 1971, § 13-95; Ord. No. 46-1974, § 1)

Sec. 15.04.560. Nuisances declared.

The following are hereby declared to be public nuisances within the City and subject to the provisions of this Code:

(a) A contaminated or impure well or cistern shall be deemed a nuisance when the water therein is used for human consumption.

(b) Dumping, throwing or placing any rubbish, cans, boxes, debris, grass clippings or other waste materials on any public place in the City is hereby declared to be a nuisance and prohibited. Dumping of waste materials in a public dump specifically designated by order of the City Manager as a dump in compliance with such regulations as the City Manager may direct, shall not be deemed a violation of this Section.

(c) It shall be unlawful and shall constitute a nuisance for any person to pile, store or allow to accumulate any rubbish, trash, garbage, weeds or animal feces on any lot or real estate within the City which could harbor and conceal harmful vermin, rodents or insects or which are unsafe, unhealthy or unsightly to persons or public.

(d) It shall be unlawful and constitute a nuisance for any person to expose, convey or place or cause to be exposed, conveyed or placed in any street or public place any substance, animal or thing to the prejudice of the public health.

(e) It shall be unlawful and shall constitute a public nuisance for any person to maintain any property or building or any other structure in the City in a condition which is in violation of the City Building Code or zoning ordinance.

(f) It shall be unlawful and shall constitute a public nuisance for any person to permit or suffer the accumulation of ice and snow upon any sidewalk, sidewalk area, street, alley or public way in such manner as to impede normal vehicular or pedestrian traffic or emergency access without having obtained prior authorization from the City Manager. (Code 1971, § 13-97; Ord. No. 46-1974, § 1; Ord. No. 79-1983, § 3)

Sec. 15.04.570. Discriminatory practices prohibited.

(a) Definitions.

(1) *Discrimination.* *Discrimination or to discriminate* means, without limitation, any act which because of race, color, creed, religion, ancestry, national origin, sex, age, marital status, physical handicaps, affectional or sexual orientation, family responsibility or political affiliation, results in the unequal treatment or separation of any person or denies, prevents, limits or otherwise adversely affects, the benefit or enjoyment by any person of employment, ownership or occupancy of real property or public services or accommodations. Such discrimination is unlawful and is a violation of this Section, provided, however, that the physical condition of an existing building or structure shall not, of itself, constitute discrimination.

(2) *Housing.* *Housing* means any building, structure, vacant land or part thereof during the period it is advertised, listed or offered for sale, lease, rent or transfer of ownership and during the period while it is being sold, leased or rented.

(3) *Public services or accommodations.* *Public services or accommodations* means any place of business engaged in any sales to the public and any place offering services, facilities, privileges, advantages or accommodations to the public.

(4) *Person.* *Person* means any individual, firm, partnership, corporation, association organization, unincorporated organization, labor union, government agency, incorporated society, statutory or common law trust, estate, executor, administrator, receiver, trustee, conservator, liquidator, trustee in bankruptcy, committee, assignee, officer, employee, principal or agent, legal

or personal representative, real estate broker or salesman or any agent or representative of any of the foregoing.

(b) Discriminatory employment practices prohibited. It shall be unlawful for any person who is an employer or employment agency, directly or indirectly, to discriminate against any employee with regard to application for employment, hiring, occupational training, tenure, promotion, compensation, layoff, discharge or any other term or condition of employment except when based upon a bona fide occupational qualification.

(c) Discriminatory housing practices prohibited. It shall be unlawful for any person, directly or indirectly, to discriminate against or to accord adverse, unlawful or unequal treatment to any other person with respect to the acquisition, occupancy, use and enjoyment of any housing, including the sale, transfer, rental or lease thereof.

(d) Discriminatory public services and accommodation practices prohibited. It shall be unlawful for a person engaged in providing services or accommodations to the public to, directly or indirectly, discriminate against any other person by refusing to allow the full and equal use and enjoyment of the goods, services, facilities, privileges, advantages, including accommodations and the terms and conditions under which the same are made available or to provide adverse, unlawful or unequal treatment to any person in connection therewith.

(e) Penalties and civil liability. Any person who violates the provisions of Subsections (b) through (d) hereof shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars (\$300.00) or imprisonment of not more than ninety (90) days or both such fine and imprisonment, at the discretion of the court. In addition, any person claiming to be aggrieved by an unlawful discriminatory act shall have a cause of action in any court of competent jurisdiction for compensatory damages and such other remedies as may be appropriate, including specifically the issuing of restraining orders and such temporary or permanent injunctions as are necessary to obtain complete compliance with this Section. In addition, the prevailing party shall be entitled to reasonable attorney fees and costs.

(f) Whenever it appears that the holder of a permit, license, franchise, benefit or advantage, issued by the City is in violation of this Section, notwithstanding any other action it may take or may have taken under the authority of the provisions of this Section, the City may take such action regarding the temporary or permanent suspension of the violator's City business license, permit, franchise, benefit or advantage as it considers appropriate based on the facts disclosed to it. (Code 1971, § 13-98; Ord. No. 60-1977, § 1)

Sec. 15.04.580. Endangered species, possession to sell, purchase and sale prohibited.

(a) No person shall buy, possess with intent to sell, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile or the dead body or parts thereof, which appears on the Endangered Species List designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress), as it now exists or may hereinafter be amended.

(b) The office of the City Attorney shall maintain a current edition of said Endangered Species List and make the same available for public inspection at all reasonable times.

(c) Subsection (a) above shall not be construed to prevent importation, possession, purchase or sale of any species by any zoo, circus or museum of natural history, institutes of learning (including elementary and high schools) or local, state or federal agencies, their employees and agents.

(d) Any product being offered for sale, on or after June 1, 1975, in violation of this Section may be seized by the police officer acting pursuant to the orders of the City Manager and upon seizure and hearing which shall be promptly held before the City Manager or his or her duly authorized agent, may be destroyed or in appropriate circumstances be disposed of through zoological, educational or conservation institutions by order of the City Manager. (Code 1971, § 13-99; Ord. No. 10-1975, § 1)

Cross reference—Animals and Fowl, Title 6.

Sec. 15.04.590. Prohibition against the sale of furs, waste furs, used furs and fur products obtained through the use of leg hold traps.

(a) As used in this Section 15.04.590, the following words and phrases shall have the following meanings:

(1) The term *fur* means any animal skin or part thereof with hair, fleece or fur fibers attached thereto, either in its raw or processed state, but shall not include such skins as are to be converted into leather or which in processing shall have the hair, fleece or fur fiber completely removed.

(2) The term *used fur* means fur in any form which has been worn or used by an ultimate consumer.

(3) The term *fur product* means any article of wearing apparel made in whole or in part of fur or used fur; except that such term shall not include such articles as the Federal Trade Commission shall, from time to time, exempt by reason of the relatively small quantity or value of the fur or used fur contained therein.

(4) The term *waste fur* means the ears, throats or scrap pieces which have been severed from the animal pelt and shall include mats and plates made therefrom.

(5) The term *invoice* means a written account, memorandum, list or catalog, which is issued in connection with any commercial dealing in fur products or furs and describes the particulars of any fur products or furs, transported or delivered to a purchaser, consignee, factor, bailee, correspondent or agent or any other person who is engaged in dealing commercially in fur products or furs.

(6) The term *steel-jaw leg hold trap* means any spring-powered pan- or sear-activated device with two opposing steel jaws which is designed to capture an animal by snapping closed upon the animal's limb or part thereof.

(b) It shall be unlawful for a person to knowingly or with wanton disregard for the consequences of his or her act, at any time, take, sell, purchase or barter or offer to sell, purchase or barter, transport, export or import or have in possession or under control for the purpose of sale or barter any fur, used fur, fur product or waste fur obtained by the use of a steel-jaw leg hold trap.

(c) All furs, waste furs or fur products offered for sale in the City shall contain a label displaying the following information in plainly legible English words and numbers:

(1) The name or names of the animal or animals that produced the fur, waste fur, fur product or used fur; and

(2) The name or other identification issued and registered by the Federal Trade Commission under the Fur Products Labeling Act (15 USCA Sec. 69) of one (1) or more of the persons who manufactured such fur, waste fur, fur product or used fur for introduction into commerce, advertised or offered it for sale in commerce or transported or distributed it in commerce; and

(3) The name of the country or state of origin of any imported fur, waste fur, fur product or used fur. No furs, waste furs, fur products nor used furs shall be labeled, invoiced or advertised in any manner which is false, misleading or deceptive in any way.

(d) Any fur, waste fur, fur product or used fur bearing a label indicating that the place of origin is a country, state or territory which does not ban the steel-jawed leg hold trap shall be presumed to be in violation of this Section. This presumption may be rebutted by an affidavit or sworn testimony from the fur producer, trapper or hunter setting forth the place, date and manner of taking the fur-bearing animal and stating that the affiant has personal knowledge that such fur, waste fur, fur product or used fur was obtained by means other than the use of a steel-jawed leg hold trap.

(e) It shall be an affirmative defense to any prosecution under this Section that the fur, waste fur, fur product or used fur was:

- (1) The product of a domesticated animal or ranch-raised animal; or
- (2) Was obtained by a method other than the steel-jawed leg hold trap.

(f) A current list of countries and states which ban the steel-jawed leg hold trap shall be maintained in the office of the City Manager and the same shall be made available without cost to any fur dealer who trades or proposes to trade in furs, waste fur, fur product or used fur in the City.

(g) Any fur, waste fur, fur product or used fur possessed or offered for sale in violation of this Section shall be subject to seizure and disposition in accordance with an appropriate order of a court of competent jurisdiction. At the direction of the City Manager, the City Attorney is hereby authorized to institute seizure, injunctive, abatement or other appropriate action to prevent, enjoin or abate such violation or seize and destroy any item possessed or offered for sale in violation of this Section.

(h) This Section shall not prohibit the possession with intent to sell or the sale, purchase or barter of any fur, waste fur, fur product or used fur which was imported into the City prior to the effective date of this Section or the possession or sale thereof by an individual not normally engaged in the sale of such items, if originally possessed by the seller for his or her own use and so used by the seller prior to the effective date of this Section.

(i) A violation of this Section 15.04.590 shall be punishable by a fine not exceeding three hundred dollars (\$300.00). Each day any violation shall constitute a separate violation. (Code 1971, § 13-101; Ord. No. 56-1986, § 1)

Sec. 15.04.600. Theft prohibited.

(a) It shall be unlawful for any person to (a) commit a theft. A person commits theft when he or she knowingly obtains or exercises control over anything of value of another without authorization or by threat or deception, and:

(1) Intends to deprive the other person permanently of the use or benefit of the thing of value; or

(2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit; or

(3) Uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or

(4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person.

(b) For the purposes of this Section, a thing of value is that of *another* if anyone other than the defendant has a possessory or proprietary interest therein.

(c) For the purposes of this Section, the value of the thing involved shall be less than four hundred dollars (\$400.00). (Ord. No. 26-1998, § 1)

Sec. 15.04.620. Theft of services prohibited.

It shall be unlawful for any person to commit a theft of services. A person commits theft of services when he or she knowingly obtains service from a service provider, including but not limited to a ski or recreational facility, a cable or phone company or a trash/waste collector, by trick, artifice, deception, trespass, use of an unauthorized ticket, device or decoder or by any other means without authorization or with the intent to deprive such service provider of lawful compensation for the services rendered. For the purposes of this Section, the value of the thing involved shall be less than five hundred dollars (\$500.00). (Ord. No. 2-2003, § 1)

Sec. 15.04.640. Theft by resale of a lift ticket, coupon or voucher prohibited.

It shall be unlawful for any person to commit a theft by resale of a lift ticket or coupon. Any unauthorized person who, with intent to profit therefrom, resells or offers to resell any ticket, pass, badge, pin, coupon or other device which then entitles the bearer to the use, benefit or enjoyment of any skiing service, skiing facility or recreational facility commits a theft by resale of a lift ticket or coupon. For the purposes of this Section, the value of the thing involved shall be less than five hundred dollars (\$500.00). (Ord. 2-2003 § 1)

Sec. 15.04.660. Deceptive use of ski or recreational facilities prohibited.

It shall be unlawful for any person to commit a deceptive use of ski or recreational facilities. A person commits a deceptive use of ski or recreational facilities when he or she knowingly obtains or attempts to obtain the use, benefit or enjoyment of any skiing service or skiing facility or other recreational facility by any false pretense, trick or deceptive means, method or device whatsoever. (Ord. 2-2003 § 1)

Sec. 15.04.680. Use of a false ski or recreational ticket prohibited.

It shall be unlawful for any person to use a false ski or recreational ticket. A person commits a use of a false ski or recreational ticket when he or she knowingly possesses, offers, uses, presents, sells or gives away any false, simulated, bogus, spurious, sham, altered, forged, counterfeit, defaced or mutilated ticket, token, pass, badge, pin or other device which is not genuine and which is not authorized for obtaining the use, benefit or enjoyment of any skiing service or skiing facility or other recreational facility by the owner, proprietor, lessee, licensee or operator of such skiing service, skiing facility or other recreational facility. (Ord. 2-2003 § 1)

Sec. 15.04.700. Making a false ski or recreational ticket.

It shall be unlawful for any person to make a false ski or recreational ticket. A person makes a false ski or recreational ticket when he or she knowingly falsifies, alters, forges, counterfeits, defaces or mutilates any ticket, pass, badge, pin or other device entitling the holder thereof to the use, benefit or enjoyment of any skiing service, skiing facility or other recreational facility or makes or manufactures any simulated, bogus, spurious or sham ticket, token, pass, badge, pin or other device purporting to entitle the holder thereof to the use, benefit or enjoyment of any skiing service, skiing facility or other recreational facility. (Ord. 2-2003 § 1)

Sec. 15.04.720. Prohibitions on BB, air, pellet, paintball and imitation guns.

(a) It shall be unlawful to deface, alter or modify a BB gun, air gun, pellet gun or paintball gun from its original state in order to make it appear more like a firearm or deadly weapon. This includes, but is not limited to, the removal, covering or other modification of the orange safety caps, tips or coatings placed on BB guns, air guns, pellet guns and paintball guns by manufacturers, distributors or sales personnel.

(b) It shall be unlawful for any person to fire or discharge a BB gun, air gun, pellet gun or paintball gun in the City limits.

(1) Exception: Subsection (b) above does not apply to the operation of a BB gun, air gun, pellet gun or paintball gun on private property when the gun is used in conjunction with a target that is protected by an appropriate barrier which prevents damage to persons or neighboring property.

(2) Exception: Subsection (b) above does not apply to any business or special event licensed by the City which is engaged in the operation of BB gun, air gun, pellet gun or paintball gun games or events and which is operated in a controlled environment and in an appropriate zone or approved location.

(c) It shall be unlawful to sell any person under the age of eighteen (18) a BB gun, air gun, pellet gun or paintball gun in the City limits.

(d) It shall be unlawful to carry or display a BB gun, air gun, pellet gun, paintball gun or imitation gun in public areas within the City limits except under the following conditions:

(1) The BB gun, air gun, pellet gun or paintball gun shall be unloaded or otherwise inoperable, and

(2) The BB gun, air gun, pellet gun, paintball gun or imitation gun shall be fully encased or enclosed so that no part of the gun is exposed to the public, and

(3) The ammunition or compressed gas cylinders that may be used in the operation of the gun shall be encased or enclosed in a separate compartment, bag or box.

(e) A Police or Community Safety Officer may seize a BB gun, air gun, pellet gun, imitation gun or paintball gun when reasonable and probable grounds exist to believe that a criminal offense has been committed with the gun or when the BB gun, air gun, pellet gun, imitation gun or paintball gun has been used, carried or displayed recklessly or in violation of these provisions.

(f) For purposes of this Section, the following definitions shall apply:

(1) *BB guns, air guns, pellet guns or paintball guns* are nonpowder firearms that expel a metallic or plastic projectile, such as a BB or pellet, through the force of air pressure, CO² pressure, pump or spring action, regardless of the muzzle velocity or are otherwise designated as BB guns, air guns, pellet guns or paintball guns by the manufacturer.

(2) *Imitation guns* are nonfiring replicas of guns or firearms.

(3) *Toy guns*, which may also be included in the category of *imitation guns*, encompass a wide range of less detailed nonfiring replicas of guns or firearms such as, but not limited to, cap pistols. (Ord. No. 22-2004, § 1)