

TITLE 11
PUBLIC PEACE, SAFETY AND MORALS

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CHAPTER 11.01
(Reserved)

CHAPTER 11.02
GENERAL

Sections:

11.02.010 Authority

- 11.02.020 Purpose
- 11.02.030 Penalties

11.02.010 Authority. The Town adopts Title 11 relating to public peace, safety and morals in accordance with the powers granted it in § 31-15-401 C.R.S., as amended. (Source: Ord. No. 143)

11.02.020 Purpose. This Title shall be construed in such manner as to promote maximum fulfillment of its general purposes, namely:

(a) To define offenses, to define adequately the act and mental state which constitute each offense, to place limitations upon the condemnation of conduct as criminal when it is without fault, and to give fair warning to all persons concerning the nature of the conduct prohibited and the penalties authorized upon conviction;

(b) To forbid the commission of offenses, and to prevent their occurrence through the deterrent influence of the sentences authorized; to provide for the rehabilitation of those convicted, and their punishment when required in the interest of public protection.

11.02.030 Penalties. (a) All criminal offenses contained in this Title, as well as any other criminal offenses prosecuted in the Collbran Municipal Court shall be divided into three (3) categories of municipal offenses. The classification, and maximum penalties, for each offense are as follows:

Class	Maximum Fine	Maximum Imprisonment
A	<u>\$500.00 (minimum) - \$1,000.00 (maximum)</u>	One Year
B	\$ 500.00 <u>(maximum)</u>	Six Months
C	\$ 100.00 <u>(maximum)</u>	<u>N/A</u> None

(b) If an offense carries a specific penalty, then that penalty shall apply.

(c) Any offense not otherwise classified which does not carry a specific penalty is denominated as a Class B municipal offense.

(d) All non-criminal municipal offenses, as designated in Section 7.07.010 shall be punishable by a penalty not to exceed five-hundred dollars (\$500.00)~~one hundred dollars (\$100.00)~~.

CHAPTER 11.03
(Reserved)

CHAPTER 11.04
PRINCIPLES OF CRIMINAL CULPABILITY

Sections:

11.04.010	Applicability
11.04.020	Definitions
11.04.030	Requirements for Criminal Liability
11.04.040	Construction of Sections with Respect to Culpability Requirements
11.04.050	Effect of Ignorance or Mistake
11.04.060	Consent
11.04.080	Criminal Attempt

11.04.010 Applicability. This Chapter shall be applicable to all offenses defined in this Title as well as any other criminal offenses prosecuted in the Collbran Municipal Court.
(Source: Ord. No. 143)

11.04.020 Definitions. The following definitions are applicable to the determination of culpability requirements for offenses defined in this title as well as any other criminal offenses prosecuted in the Collbran Municipal Court:

- (a) "Act" means a bodily movement, and includes words and possession of property.
- (b) "Conduct" means an act or omission and its accompanying state of mind or, where relevant, a series of acts or omissions.
- (c) "Criminal negligence." A person acts with "criminal negligence" when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.
- (d) "Culpable mental state" means intentionally, or with intent, or knowingly, or willfully, or recklessly, or with criminal negligence, as these terms are defined in this Section.
- (e) "Intentionally" or "with intent." All criminal offenses in which the mental culpability requirement is expressed as "intentionally" or "with intent" are declared to be specific intent offenses. A person acts intentionally or with intent when his conscious objective is to cause the specific result proscribed by the Section defining the offenses. It is immaterial to the issue of specific intent whether or not the result actually occurred.

(f) "Knowingly" or "willfully." All criminal offenses in which the mental culpability requirement is expressed as "knowingly" or "willfully" are declared to be general intent crimes. A person acts knowingly or willfully with respect to conduct or to a circumstance described by a section defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts knowingly or willfully with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

(g) "Omission" means a failure to perform an act as to which a duty of performance is imposed by law.

(h) "Recklessly." A person acts "recklessly" when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(i) "Voluntary act" means an act performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.

11.04.030 Requirements for Criminal Liability. The minimum requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is physically capable of performing. If that conduct is all that is required for commission of a particular offense, or if an offense or some material element thereof does not require a culpable mental state on the part of the actor, the offense is one of "strict liability." If a culpable mental state on the part of the actor is required with respect to any material element of an offense, the offense is one of "mental culpability."

11.04.040 Construction of Sections with Respect to Culpability Requirements.

(a) When the commission of an offense, or some element of an offense, requires a particular culpable mental state, that mental state is ordinarily designated by use of the terms "intentionally," "with intent," "knowingly," "willfully," "recklessly," or "with criminal negligence."

(b) Although no culpable mental state is expressly designated in a Section defining an offense, a culpable mental state may nevertheless be required for the commission of that offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such a culpable mental state.

(c) If a Section provides that criminal negligence suffices to establish an element of an offense, that element also is established if a person acts recklessly, knowingly, or intentionally. If recklessness suffices to establish an element, that element also is established if a person acts knowingly or intentionally. If acting knowingly suffices to establish an element that

element also is established if a person acts intentionally.

(d) When a section defining an offense prescribes as an element thereof a specified culpable mental state, that mental state is deemed to apply to every element of the offense unless an intent to limit its application clearly appears.

(a) 11.04.050 Effect of Ignorance or Mistake. A person is not relieved of criminal liability for conduct because he engaged in that conduct under a mistaken belief of fact, unless:

(1) It negates the existence of a particular mental state essential to commission of the offense; or

(2) The Section defining the offense or any Section relating thereto expressly provides that a factual mistake or the mental state resulting therefrom constitutes a defense or exemption; or

(3) The factual mistake or the mental state resulting therefrom is of a kind that supports a defense of justification as defined in this Title.

(b) A person is not relieved of criminal liability for conduct because he engages in that conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless the conduct is permitted by one of the following:

(1) A statute or ordinance binding in this State and Town;

(2) An administrative regulation, order, or grant of permission by a body or official authorized and empowered to make such order or grant the permission under the laws of the Town and the State of Colorado;

(3) An official written interpretation of the ordinance or law relating to the offense, made or issued by a public servant, agency, or body legally charged or empowered with the responsibility of administering, enforcing, or interpreting an ordinance, regulation, order, or law. If such interpretation is by judicial decision, it must be binding in the Town and the State of Colorado.

(c) Any defense authorized by this Section is an affirmative defense.

(a) 11.04.060 Consent. The consent of the victim to conduct charged to constitute an offense or to the result thereof is not a defense unless the consent negates the element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

(b) When conduct is charged to constitute an offense because it causes or threatens bodily injury, consent to that conduct or to the infliction of that injury is a defense only if the

bodily injury consented to or threatened by the conduct consented to is not harmful or the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport, or the consent established a justification under this Title.

(c) Unless otherwise provided by this Title or by the law defining the offense, assent does not constitute consent if:

(1) It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense; or

(2) It is given by a person who, by reason of immaturity, mental disease or mental defect, or intoxication is manifestly unable and is known or reasonably should be known by the Defendant to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(3) It is given by a person whose consent is sought to be prevented by the law defining the offense; or

(4) It is induced by force, duress, or deception.

(d) Any defense authorized by this Section is an affirmative defense.

(a) 11.04.080 Criminal Attempt. A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he engages in conduct constituting a substantial step toward the commission of the offense. A substantial step is any conduct, whether an act, omission, or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his complicity under Section 11.06.040 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 effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of his criminal intent.

CHAPTER 11.05
(Reserved)

CHAPTER 11.06
PARTIES TO OFFENSES - ACCOUNTABILITY

Sections:

11.06.010	Applicability
11.06.020	Liability Based upon Behavior
11.06.030	Behavior of Another
11.06.040	Complicity
11.06.050	Exemptions from Liability Based upon Behavior of Another
11.06.060	Liability Based on Behavior of Another - No Defense

11.06.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offenses prosecuted in the Collbran Municipal Court. (*Source: Ord. No. 143*)

11.06.020 Liability Based upon Behavior. A person is guilty of an offense if it is committed by the behavior of another person for which he is legally accountable as provided in this Chapter.

(a) 11.06.030 Behavior of Another. A person is legally accountable for the behavior of another person if:

(1) He is made accountable for the conduct of that person by the law defining the offense or by specific provision of this Code; or

(2) He acts with the culpable mental state sufficient for the commission of the offense in question and he causes an innocent person to engage in such behavior.

(b) As used in subsection (a) of this Section, "innocent person" includes any person who is not guilty of the offense in question, despite his behavior, because of duress, legal incapacity or exemption, or unawareness of the criminal nature of the conduct in question or of the defendant's criminal purpose, or any other factor precluding the mental state sufficient for the commission of the offense in question.

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

(a) 11.06.050 Exemptions from Liability Based upon Behavior of Another. Unless

otherwise provided by the section defining the offense, a person shall not be legally accountable for behavior of another constituting an offense if he is a victim of that offense or the offense is so defined that his conduct is inevitably incidental to its commission.

(b) It shall be an affirmative defense to a charge under Section 11.06.040 if, prior to the commission of the offense, the defendant terminated his effort to promote or facilitate its commission and either gave timely warning to law enforcement authorities or gave timely warning to the intended victim.

11.06.060 Liability Based on Behavior of Another - No Defense. In any prosecution for an offense in which criminal liability is based upon the behavior of another pursuant to this Chapter, it is no defense that the other person has not been prosecuted for or convicted of any offense based upon the behavior in question or has been convicted of a different offense or degree of offense, or the defendant belongs to a class of persons who by definition of the offense are legally incapable of committing the offense in an individual capacity.

CHAPTER 11.07
(Reserved)

CHAPTER 11.08
JUSTIFICATION AND EXEMPTIONS FROM
CRIMINAL RESPONSIBILITY

Sections:

11.08.010	Applicability
11.08.020	Execution of Public Duty
11.08.030	Choice of Evils
11.08.040	Use of Physical Force - Special Relationships
11.08.050	Use of Physical Force in Defense of a Person
11.08.060	Use of Physical Force in Defense of Premises
11.08.070	Use of Physical Force in Defense of Property
11.08.080	Use of Physical Force in Making an Arrest
11.08.090	Duress
11.08.100	Entrapment
11.08.110	Affirmative Defense

11.08.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offenses prosecuted in the Collbran Municipal Court. (*Source: Ord. No. 143*)

11.08.020 Execution of Public Duty. Unless inconsistent with other provisions of this Chapter, defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by a provision of law or a judicial decree binding in Collbran, Colorado.

(a) 11.08.030 Choice of Evils. Unless inconsistent with other provisions of this Chapter, defining justifiable use of physical force or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of the actor, and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the law defining the offense in issue.

(b) The necessity and justifiability of conduct under subsection (a) of this Section shall not rest upon considerations pertaining only to the morality and advisability of the law, either in this general application or with respect to its application to a particular class of cases arising thereunder. When evidence relating to the defense of justification under this Section is offered by the defendant, before it is submitted for the consideration of the jury, the Court shall first rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a justification.

(a) 11.08.040 Use of Physical Force - Special Relationships. The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(1) A parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person, and a teacher or other person entrusted with the care and supervision of a minor, may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent it is reasonably necessary and appropriate to maintain discipline or promote the welfare of the minor or incompetent person.

(2) A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use reasonable and appropriate physical force when and to the extent that it is necessary to maintain order and discipline.

(3) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use reasonable and appropriate physical force upon that person to the extent that it is reasonably necessary to thwart the result.

(4) A duly licensed physician, or a person acting under his direction, may use reasonable and appropriate physical force for the purpose of administering a recognized form of treatment which he reasonably believes to be adapted to promoting the physical or mental health of the patient if:

(i) The treatment is administered with the consent of the patient, or if the patient is a minor, or an incompetent person, with the consent of his parent, guardian, or other person entrusted with his care and supervision; or

(ii) The treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient would consent.

(a) 11.08.050 Use of Physical Force in Defense of a Person. Except as provided in subsection (b) of this Section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the infliction or imminent infliction of bodily harm, if there exists an actual and real danger of such physical harm. A person may use a minimum degree of force which he reasonably believes to be necessary and is actually necessary for that purpose; provided, however, a person justified in using such physical force may not at any time become an aggressor.

(b) Notwithstanding the provisions in subsection (a) of this Section, a person is not justified in using physical force if:

(1) The physical force involved is used to resist any arrest or to interfere with any arrest which he knows is being made by a peace officer, even though the arrest is unlawful; or

(2) With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical force by that other person; or

(3) He is the aggressor, except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the infliction of bodily harm; or

(4) The physical force involved is the product of a combat by agreement not specifically authorized by law.

11.08.060 Use of Physical Force in Defense of Premises. A person in possession or control of any building, realty, or other premises, or a person who is licensed or privileged to be thereon, is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably and actually necessary to prevent or terminate what he

reasonably believes to be the commission or attempted commission of an unlawful trespass by the other person in or upon the building, realty, or premises.

11.08.070 Use of Physical Force in Defense of Property. A person is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably and actually necessary to prevent what he reasonably believes to be an attempt by the other person to commit theft, criminal mischief, or criminal tampering involving property.

(a) 11.08.080 Use of Physical Force in Making an Arrest. A peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(1) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(2) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while affecting or attempting to affect such an arrest or while preventing or attempting to prevent such an escape.

(b) For purposes of this Section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If he believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsection (a) of this Section unless the warrant is invalid and is known by the officer to be invalid.

(c) A person who has been directed by a peace officer to assist him to effect an arrest or to prevent an escape from custody is justified in using reasonable and appropriate physical force when and to the extent that he reasonably believes that force to be necessary to carry out the peace officer's direction, unless he knows that the arrest or prospective arrest is not authorized.

(d) A private person acting on his own account is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest, or to prevent the escape from custody of an arrested person who has committed an offense in his presence.

11.08.090 Duress. A person may not be convicted of an offense, based upon conduct in which he engaged because of the use or threatened use of unlawful force upon him or upon another person, which force or threatened use thereof a reasonable person in his situation would have been unable to resist. This defense is not available when a person intentionally, recklessly,

or negligently places himself in a situation in which it is foreseeable that he will be subjected to such force or threatened use thereof.

11.08.100 Entrapment. The commission of acts which would otherwise constitute an offense is not criminal if the defendant engaged in the proscribed conduct because he was induced to do so by a law enforcement official or other person acting under his direction, seeking to obtain evidence for the purpose of prosecution, and the methods used to obtain that evidence were such as to create a substantial risk that the acts would be committed by a person who, but for such inducement, would not have conceived of or engaged in conduct of the sort induced. Merely affording a person an opportunity to commit an offense is not entrapment even though representations or inducements calculated to overcome the offender's fear of detection are used.

11.08.110 Affirmative Defense. The issues of justification or exemption from criminal liability under this Chapter are affirmative defenses in any prosecution of a criminal offense in the Collbran Municipal Court.

CHAPTER 11.09
(Reserved)

CHAPTER 11.10
RESPONSIBILITY

Sections:

- 11.10.010 Applicability
- 11.10.020 Insufficient Age
- 11.10.030 Intoxication
- 11.10.040 Responsibility - Affirmative Defense

11.10.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offense prosecuted in the Collbran Municipal Court. (*Source: Ord. No. 143*)

11.10.020 Insufficient Age. No child under ten (10) years of age shall be found guilty of any offense prosecuted in the Collbran Municipal Court.

(a) 11.10.030 Intoxication. Intoxication of the accused is not a defense to any criminal offense, except as provided in subsection (b) of this Section.

(b) A person is not criminally responsible for his conduct if, by reason of intoxication that is not self-induced at the time he acts, he lacks capacity to conform his conduct to the requirements of the law.

(c) "Intoxication" as used in this Section means a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

(d) "Self-induced intoxication" means intoxication caused by substances which the defendant knows or ought to know have the tendency to cause intoxication and which he knowingly introduced or allowed to be introduced into his body, unless they were introduced pursuant to medical advice or under similar circumstances that would afford a defense to a criminal offense.

11.10.040 Responsibility - Affirmative Defense. The issue of responsibility under this Chapter is an affirmative defense in any prosecution of a criminal offense in the Collbran Municipal Court.

CHAPTER 11.11

(Reserved)

CHAPTER 11.12

OFFENSES RELATING TO PUBLIC
PEACE, ORDER AND SAFETY

Sections:

11.12.010	Obstructing Highway or Other Passageway
11.12.020	Disrupting Lawful Assembly
11.12.030	Public Buildings - Trespass, Interference
11.12.040	Harassment
11.12.050	Disorderly Conduct
11.12.060	Assault and Battery
11.12.070	Disturbing the Peace
11.12.075	Loud Noises and Speaking Services Prohibited
11.12.080	Loitering
11.12.090	Tents, Campers and Trailers - Restrictions on Use in Public Places
11.12.100	Hindering Transportation
11.12.110	Throwing Missiles
11.12.120	Unlawful to Carry Concealed Weapon
11.12.130	Prohibited Use of Weapons
11.12.140	Selling Weapons to Intoxicated Persons Prohibited
11.12.150	Possession of Weapons in Licensed Establishment Prohibited
11.12.160	Storage of Explosives Prohibited

(a) 11.12.010 Obstructing Highway or Other Passageway. An individual or corporation commits a Class C municipal offense if without legal privilege he intentionally, knowingly, or recklessly:

(1) Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway, or hallway to which the public or a substantial group of the public has access or any other place used for the passage of persons, vehicles, or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others; or

(2) Disobeys a reasonable request or order to move issued by a person he knows to be a peace officer, a fireman, or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard.

(b) For purposes of this Section, "obstruct" means to interfere with, to render impassable or to render passage unreasonably inconvenient or hazardous. (*Source: Ord. No. 143*)

11.12.020 Disrupting Lawful Assembly. A person commits a Class A municipal offense if, intending to prevent or disrupt any lawful meeting, procession, or gathering, he significantly obstructs or interferes with the meeting, procession, or gathering by physical action, verbal utterance, or any other means.

(a) 11.12.030 Public Buildings - Trespass, Interference. No person shall conduct himself at or in any public building owned, operated, or controlled by the Town in such a fashion to willfully deny to any public official, public employee, or invitee on such premises the lawful rights of such official, employee, or invitee to enter, to use the facilities of, or to leave any such public building.

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

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

(d) No person shall, at any meeting or session conducted by any judicial, legislative, or administrative body or official at or in any public building willfully impede, disrupt, or hinder

the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session or by any act designed to intimidate, coerce, or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

(e) No person shall, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, willfully impede, disrupt, or hinder the normal proceedings of such body or official.

(f) The term "public building," as used in this Section, includes any premises being permanently or temporarily used by a public officer or employee in the discharge of his official duties.

(g) Any violation of this Section is a Class A municipal offense.

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

(a) 11.12.040 Harassment. A person commits harassment if, with intent to harass, annoy, or alarm another person, he:

(1) Strikes, shoves, kicks, or otherwise touches a person or subjects him to physical contact, which is a Class A municipal offense; or

(2) In a public place directs obscene language or makes an obscene gesture to or at another person, which is a Class B municipal offense; or

(3) Follows a person in or about a public place, which is a Class B municipal offense; or

(4) Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass, alarm, or seriously annoy another person, or threatens bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone which is obscene, which is a Class B municipal offense; or

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation, which is a Class B municipal offense; or

(6) Makes repeated communications to a person at his home or place of work

at extremely inconvenient hours or using offensively course, abusive or obscene language, which is a Class B municipal offense; or

(7) Repeatedly insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response, which is a Class B municipal offense.

(b) A person commits harassment by stalking, which is a Class A municipal offense, if such person:

(1) Makes a credible threat to another person, and in connection with such threat, repeatedly follows that person; or

(2) Makes a credible threat to another person and, in connection with such threat, repeatedly makes any form of communication with that person, whether or not a conversation ensues.

(c) Any act involving telephone communications may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

(d) The following special definitions shall apply to this Section:

(a) "Annoy" means to irritate with a nettling or exasperating effect.

(2) "Alarm" means to arouse to a sense of danger, to put on the alert, to strike with fear, to fill with anxiety as to threaten danger or harm.

(3) "Credible threat" means a threat that would cause a reasonable person to be in fear for the person's life or safety.

(4) "Obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.

(5) "Repeatedly" means on more than one (1) occasion.

(Source: Ord. No. 143, 170)

11.12.050 Disorderly Conduct. It is unlawful for any person to commit disorderly conduct. A person commits disorderly conduct if he intentionally, knowingly, or recklessly:

(a) Uses abusive, indecent, profane, or vulgar language in a public or private place, and the language by its very utterance tends to incite an immediate breach of the peace;

- (b) Makes an obviously offensive gesture or display in a public or private place, and the gesture or display tends to incite an immediate breach of the peace;
- (c) Abuses or threatens a person in a public or private place in an obviously offensive manner;
- (d) Urinates or defecates in any public or private place not designed for such purposes;
- (e) Exposes his genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.
- (f) Any violation of paragraph (b) of this Section is a Class C municipal offense; any violation of paragraph (e) of this Section is a Class A municipal offense; and any violation of the other paragraphs of this Section is a Class B municipal offense.

(a) 11.12.060 Assault and Battery. It is unlawful for any person to intentionally, knowingly, or recklessly assault, strike, fight, injure or commit battery upon the person of another, except in an amateur or professional contest of athletic skill.

(b) Any violation of this Section is a Class A municipal offense.

(c) "Assault" as used in this Section means an attempt, coupled with a present ability, to commit a bodily injury upon the person of another. "Battery" as used in this Section means any use of force or violence upon the person of another. (*Source: Ord. No. 143*)

11.12.070 Disturbing the Peace. A person commits a Class B municipal offense if he intentionally, knowingly, or recklessly disturbs the peace and quiet of others by violent or tumultuous carriage or conduct or by making loud, unusual or unreasonable noise in a public place or near or in a private residence, whether or not he has a right to occupy said residence. An owner or occupant of a dwelling or other premises under his control who knowingly permits or allows a disturbance of the peace within such premises shall be deemed guilty of the offense of disturbing the peace.

11.12.075 Loud Noises and Speaking Devices Prohibited. No peddler, transient merchant or solicitor, nor any person acting on his behalf, shall shout, cry out, blow a horn, ring bells, or use any other electrical, mechanical, or electronic or sound amplifying device upon any of the streets, alleys, parks or other public places within the Town, or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which he proposes to sell. Any violation of this

Section is a Class C municipal offense.

11.12.80 Loitering.

(a) The word "loiter" means to be dilatory, to stand idly around, to linger, delay, or wander about, or to remain, abide, or tarry in a public place.

(b) A person commits a Class C municipal offense if he knowingly:

(1) Loiters for the purpose of unlawful gambling with cards, dice, or other gambling paraphernalia; or

(2) Loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse.

(c) A person commits a Class B municipal offense if he knowingly loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse.

(d) It shall be an affirmative defense that the defendant's acts were lawful and he was exercising his rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (*Amended: Ord. 249*)

(*Ordinance No. 8, Series 2016*)

11.12.090 Tents, Campers and Trailers - Restrictions on Use in Public Places. It is unlawful and a Class C municipal offense for any person to knowingly sleep, spend the night, cook or establish a place of abode in any vehicle, tent, travel trailer, mobile home or camper vehicle in any public park, place or public street, way or sidewalk within the Town or owned by the Town, except in any area designated for camping and the temporary parking of such vehicles referred to herein. In no event shall any vehicle, travel trailer, mobile home, tent or camper vehicle be parked or stored in the designated area for a period in excess of ten (10) days.

11.12.100 Hindering Transportation. A person commits a Class C municipal offense if he knowingly and without lawful authority forcibly stops or hinders the operation of any vehicle used in providing transportation of any kind to the public or to any person, association, or corporation.

11.12.110 Throwing Missiles. No person shall knowingly throw or shoot any stone, snowball or other missile at or upon any person, animal, motor vehicle, public property or at or upon any building, structure, tree, or other public or private property not belonging to that person. Any violation of this Section is a Class B municipal offense.

11.12.120 Unlawful to Carry Concealed Weapon. (a) A person commits a Class A municipal offense if he knowingly and unlawfully:

- (1) Carries a knife concealed on or about his person; or
- (2) Carries a firearm concealed on or about his person.

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

(c) It shall be an affirmative defense that the Defendant was:

(1) A person in his own dwelling or place of business or on property owned or under his control at the time of the act of carrying; or

(2) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to Section 18-12-105.1, C.R.S., as amended, to carry the weapon; or

(3) A peace officer, as defined in Section 18-1-901(3)(1), C.R.S., as amended.

(d) Every person convicted of any violation of this Section shall forfeit to the Town such weapon so concealed.

11.12.130 Prohibited Use of Weapons. This Section does not apply to any person acting in lawful defense of home, person or property, or in aid of the civil authority when legally summoned thereto.

(a) A person commits an offense if he knowingly and unlawfully:

(1) Displays or aims a deadly weapon at another person in a manner calculated to alarm; or

(2) Fires or discharges any bow and arrow, cannon, gun, pistol, revolver, or other firearm anywhere within the Town, except at a lawfully authorized target range or on property zoned agricultural; or

(3) Discharges any air gun, gas-operated gun, B.B. gun, pellet gun, slingshot, or spring gun anywhere within the Town; or

(4) Sets off or explodes any firecracker, torpedo ball, rocket, or other fireworks, except on the celebration of some holiday or event by the consent of the Mayor or Town Administrator; or

(5) Explodes or sets off any combustible or explosive material; or

(6) Sets a loaded gun, trap, or device designed to cause explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present; or

(7) Has in his immediate possession a firearm while he is under the influence of intoxicating liquor or of a controlled substance as defined in Section 12-22-303(7), C.R.S., as amended. Possession of a permit under Section 18-12-105(2)(c), C.R.S. as amended, is no defense to a violation of this subsection.

(8) He knowingly aims, swings, or throws a throwing star or nunchaku as defined herein at another person, or he knowingly possesses a throwing star or nunchaku in a public place, except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting a throwing star or nunchaku for a public demonstration or exhibition or for a school or class, it shall be transported in a closed, non-accessible container. For purposes of this paragraph, "nunchaku" means an instrument consisting of two sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, which is in the design of a weapon used in connection with a system of self-defense; and "throwing star" means a disc having sharp radiating points or any disc-shaped blade object which is hand held and thrown and which is in the design of a weapon used in connection with a practice of a system of self defense.

(b) The Mayor or the Town Administrator may grant an exception to the prohibitions contained in subsection (a) above, in writing, for contests, sporting events, indoor shooting galleries or arcade games, construction and/or maintenance work. Such permission shall limit the time and place of firing and shall be subject to being revoked by the Town Board of Trustees at any time after the same has been granted.

(c) Any violation of paragraph (4) of this Section is a Class B municipal offense; any violation of the other paragraphs of this Section is a Class A municipal offense.

(d) It is an affirmative defense to subsections (1) through (6) of Section 11.12.130(a) that the actor was a peace officer or member of the armed forces of the United States or Colorado National Guard, acting in the lawful discharge of his duties; or that the actor was justified under the laws of the State of Colorado or the Town of Collbran.

(e) Every person convicted of any violation of this Section shall forfeit to the Town such firearm or weapon illegally discharged or displayed.

11.12.140 Selling Weapons to Intoxicated Persons Prohibited.

(a) It is a Class A municipal offense for any person, firm or corporation to knowingly sell, loan, or furnish a gun, pistol, or other firearm in which any explosive substance can be used, to any person under the influence of intoxicating liquor or of a controlled substance, as defined in Section 12-22-303(7), C.R.S., as amended, or to any person in a condition of agitation or excitability.

(b) Any such unlawful sale, loan or furnishing of a weapon shall be grounds for the revocation of any license issued by the Town to such person, firm or corporation.

(c) Every person convicted of any violation of this Section shall forfeit to the Town such firearm or weapon illegally discharged or displayed.

11.12.150 Possession of Weapons in Licensed Establishment Prohibited. (a) It is a Class A municipal offense for any person to knowingly carry, possess, or have on or about his person a knife other than a hunting or fishing knife, as defined in Section 11.12.120(b), firearm, or other deadly weapon, in any establishment having a license to sell fermented malt beverages or malt, vinous or spirituous liquors for consumption on the premises.

(b) It shall be an affirmative defense that the defendant was a peace officer, as defined in Section 18-1-901(3)(1), C.R.S., as amended; or that the defendant was the licensee, proprietor, agent or employee of the licensed establishment. Possession of a permit issued under Section 18-12-105(2)(c), C.R.S., as amended, shall not be a defense to a violation of this Section.

(c) Every person convicted of a violation of this Section shall forfeit to the Town such knife, firearm, or other weapon illegally possessed or carried.

11.12.160 Storage of Explosives Prohibited. It is a Class B municipal offense for any person to knowingly store within the Town limits or within one (1) mile thereof any amount of gun powder, blasting powder, nitroglycerine, dynamite, or other high explosive in excess of one hundred fifty (150) pound box or in excess of five hundred (500) caps or other devices used for the detonation of such high explosives. This Section shall not be deemed to apply to sporting goods businesses and other businesses licensed to store explosives pursuant to law.

CHAPTER 11.13
(Reserved)

CHAPTER 11.14
OFFENSES RELATING TO PERSONAL AND REAL PROPERTY

Sections:

11.14.010	Petty Theft
11.14.015	Theft of Rental Property
11.14.020	Fraud by Check
11.14.030	Procuring Food or Accommodations with Intent to Defraud
11.14.040	Injuring or Destroying Public Property
11.14.050	Criminal Mischief
11.14.060	Criminal Trespass
11.14.070	Littering of Public and Private Property
11.14.080	Posting of Handbills and Circulars
11.14.090	Abandoned Containers

11.14.010 Petty Theft.

(a) A person commits petty theft when he knowingly obtains or exercises control over anything of a value of four hundred dollars (\$400) or less belonging to another without authorization or, if applicable, without paying the purchase price therefor, and knowingly uses, conceals or abandons the thing of value in such a manner as to deprive the other person permanently of its use or benefit.

(b) If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or mercantile establishment, whether the concealment be on his 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 obtain control over a thing of value and intended to deprive the owner permanently of its use or benefit without paying the purchase price therefor.

(c) 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.

(d) For the purpose of this Section, when theft occurs from a store, evidence of the retail value of the thing involved shall be prima facie evidence of the value of the thing involved. Evidence offered to establish retail value may include, but shall not be limited to, affixed labels and tags, signs, shelf tags, and notices tending to indicate the price of the thing involved. Hearsay evidence shall not be excluded in determining the value of the thing involved.

(e) Where the value of the thing of value is less than one hundred dollars (\$100), petty theft is a Class B municipal offense. Where the value of the thing of value is more than One hundred dollars (\$100) but less than four hundred dollars (\$400), petty theft is a Class A municipal offense. (*Source: Ord. No. 143*)

11.14.015 Theft of Rental Property. (a) A person commits theft of rental property if he:

(1) Knowingly obtains the temporary use of personal property of another with a value of less than four hundred dollars (\$400), which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or

(2) Having lawfully obtained possession for temporary use of the personal property of another with a value of less than four hundred dollars (\$400), which is available only for hire, knowingly fails to reveal the whereabouts of or to return said property to the owner thereof or his representative or to the person from whom he has received it within seventy-two (72) hours after the time at which he agreed to return it.

(f) For the purposes of this Section, personal property is that of "another" if anyone other than the defendant has a possessory or proprietary interest therein.

(g) If a defendant signs a rental agreement or similar agreement for the temporary use of the personal property of another, and said agreement provides that failure to reveal the whereabouts of said property or to return said property within seventy-two (72) hours after the time at which he agreed to return it shall constitute a wrongful or unlawful retention of the rental property, such agreement shall constitute prima facie evidence of the culpable mental state required under subsection (a)(2) of this Section.

(h) Any violation of this Section is a Class A municipal offense where the value of the personal property is more than one hundred dollars (\$100) and less than four hundred dollars (\$400), and a Class B municipal offense if the value of the personal property is less than one hundred dollars (\$100).

11.14.020 Fraud by Check. (a) As used in this Section, unless the context otherwise requires:

(1) "Check" means a written, unconditional order to pay a sum certain in money, drawn on a bank or other financial institution payable on demand, and signed by the drawer. Check, for the purposes of this Section only, also includes a negotiable order of withdrawal and a share draft.

(2) "Drawee" means the bank or other financial institution upon which a check is drawn or a bank, savings and loan association, industrial bank, or credit union on which a negotiable order of withdrawal or a share draft is drawn.

(3) "Drawer" means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature be that of himself or of a person authorized to draw the check on himself.

(4) "Insufficient funds" means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account, or share draft account with the drawee or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for "no account" shall also be deemed to be dishonored for insufficient funds.

(5) "Issue." A person issues a check when he makes, draws, delivers, or passes it or causes it to be made, drawn, delivered, or passed.

(6) "Negotiable order of withdrawal" and "share draft" mean negotiable or transferable instruments drawn on an account, as the case may be, for the purpose of making payments to third parties or otherwise.

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

(b) Any person, knowing he has insufficient funds with the drawee, who, with intent to defraud, issues a check in the sum of less than four hundred dollars (\$400) for the payment of services, wages, salary, commission, labor, rent, money, property, or other thing of value, commits the offense of fraud by check. Where the check is in the sum of one hundred (\$100) to four hundred dollars (\$400), this offense is a Class A municipal offense; if the check is in the sum of less than one hundred dollars (\$100), this offense is a Class B municipal offense.

(c) Any person having acquired rights with respect to a check which is not paid because the drawer has insufficient funds shall have standing to file a complaint under this Section, whether or not he is the payee, holder, or bearer of the check.

(d) Any person who opens a checking account, negotiable order withdrawal account or share draft account using false identification or an assumed name for the purposes of issuing fraudulent checks commits a Class A municipal offense.

(e) If a deferred prosecution or judgment and sentence or probation is ordered, the Court, as a condition of probation, may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the probation in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

(f) This Section does not relieve the prosecution from the necessity of establishing the required culpable mental state. However, for purposes of this Section, the issuer's knowledge of insufficient funds is presumed, except in the case of a postdated check or order, if:

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

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

11.14.030 Procuring Food or Accommodations with Intent to Defraud.

(a) Any person who, with intent to defraud, procures food or accommodations in any public establishment, without making payment therefor in accordance with his agreement with such public establishment, is guilty of a Class A municipal offense if the total amount due under such agreement is more than one hundred dollars (\$100) and less than four hundred dollars (\$400), and a Class B municipal offense if the total amount is less than one hundred dollars (\$100).

(b) "Agreement with such public establishment" means any written or verbal agreement as to the price to be charged for, or the acceptance of, food, beverage, service, or accommodations where the price to be charged therefor is printed on a menu or schedule of rates shown to or made available by a public establishment to the patron and includes the acceptance of such food, beverage, service, or accommodations for which a reasonable charge is made.

(c) "Public establishment" means any establishment selling or offering for sale prepared food or beverages to the public generally, or any establishment leasing or renting overnight sleeping accommodations to the public generally, including, but not exclusively, restaurants, cafes, dining rooms, lunch counters, coffee shops, boardinghouses, hotels, motor hotels, motels, and rooming houses, unless the rental thereof is on a month-to-month basis or a longer period of time.

(d) It shall be evidence of an intent to defraud that food, service, or accommodations were given to any person who gave false information concerning his name or address, or both, in obtaining such food, service, or accommodations, or that such person removed or attempted to remove his baggage from the premises of such public establishment without giving notice of his intent to do so to such public establishment. These provisions shall not constitute the sole means of establishing evidence that a person accused under subsection (a) had an intent to defraud. Proof of such intent to defraud may be made by any facts or circumstances sufficient to establish such intent to defraud beyond a reasonable doubt as provided by law.

11.14.040 Injuring or Destroying Public Property.

(a) No person shall intentionally, knowingly, negligently, or recklessly injure, deface, destroy or remove real property or improvements thereto or moveable or personal property belonging to the Town.

(b) No person shall intentionally, knowingly, negligently, or recklessly tamper with, injure, deface, destroy, or remove any sign, notice, marker, fire alarm box, fire plug, topographical survey monument or any other personal property owned, erected or placed by the Town.

(c) Any violation of this Section is a Class A municipal offense.

11.14.050 Criminal Mischief.

(a) Any person who intentionally, knowingly, negligently, or recklessly damages, injures, defaces, destroys, removes; or causes, aids in, or permits the damaging, injuring, defacing, destruction, or removal of real property or improvements thereto, or movable or personal property of another in the course of a single criminal episode where the aggregate damage to the real or personal property is less than four hundred dollars (\$400) but more than one hundred dollars (\$100) commits a Class A municipal offense; and if the damage is less than one hundred dollars (\$100), such person commits a Class B municipal offense.

(b) For the purposes of this Section, property shall be deemed to be injured or damaged when physical effort or the expenditure of moneys is required to restore the property to its previous condition.

(c) For the purposes of this Section, property shall be deemed to belong to "another," if anyone other than the defendant has a possessory or proprietary interest therein.

11.14.060 Criminal Trespass. A person commits a Class A municipal offense if he intentionally, knowingly, or willfully:

(a) Unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced or if he unlawfully enters or remains in or upon the premises of a hotel, motel, bar, lounge, restaurant, condominium, or apartment building;

(b) Unlawfully enters or remains in or upon any other premises or a motor vehicle.

(c) A person "unlawfully enters or remains" in or upon premises when he is not licensed, invited, or otherwise privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of the premises or some other authorized person in charge or control thereof.

License or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice forbidding entry is given by posting with signs at intervals of not more than four hundred forty yards (440 yds.), or, if there is a readily identifiable entrance to the land, by posting with signs at such entrance to the private land or the forbidden part of the land.

(d) As used in this Section, "premises" means real property, buildings, and other improvements thereon.

11.14.070 Littering of Public and Private Property. (a) Any person who knowingly deposits, throws, or leaves any litter on any public or private property or in any waters, or permits the same, commits the Class C municipal offense of littering.

(b) It shall be an affirmative defense that:

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

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

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

(c) 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.

(d) The phrase "public or private property" as used in this Section includes, but is not limited to, the right of way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, playground, or building, any refuge, conservation, or recreation area, and any residential, commercial, farm, or ranch properties.

(e) It is in the discretion of the Court, upon the conviction of any person and the imposition of a fine under this Section, to suspend the fine upon the condition of the convicted person to gather and remove from specified public property or specified private property, with prior permission of the owner or tenant and lawful possession thereof, any litter found thereon.

(f) 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 the litter to be so thrown, deposited, dropped, or dumped therefrom.

11.14.080 Posting of Handbills and Circulars. (a) It is a Class C municipal offense for any person to knowingly place, post, erect or paint any handbill, placard, circular, notice, advertising device or matter of any kind upon any public building, structure, or upon any tree, post, pole or other improvement located within a Town right of way, park or open space without the prior written permission of the Town Administrator.

(b) It is unlawful for any person to knowingly place, post, erect or paint any handbill, placard, circular, notice, advertising device or matter of any kind upon any private residence, fence, tree, store, building, or other private premises without permission from the owner, tenant, or occupant of the same.

11.14.090 Abandoned Containers. It is a Class A municipal offense for any person to knowingly 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 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 said door or lid, snaplock or other locking device.

CHAPTER 11.15
(Reserved)

CHAPTER 11.16
OFFENSES RELATING TO MORALS

Sections:

11.16.010	Prostitution Prohibited
11.16.020	Soliciting for Prostitution
11.16.030	Pandering
11.16.040	Keeping a Place of Prostitution
11.16.050	Patronizing a Prostitute
11.16.060	Prostitute Making Display
11.16.070	Public Indecency
11.16.080	Sale of Sexually Explicit Materials Harmful to Children - Prohibited
11.16.090	Sexually Explicit Materials Harmful to Children - Definitions
11.16.100	Sexually Explicit Materials Harmful to Children - Applicability

11.16.010 Prostitution Prohibited. (a) Any person who knowingly performs or offers or agrees to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with any person not his spouse in exchange for money or other thing of value commits the offense of prostitution, which is a Class A municipal offense.

(b) (1) "Fellatio," as used in this Section, means any act of oral stimulation of the penis.

(2) "Cunnilingus," as used in this Section, means any act of oral stimulation of the vulva or clitoris.

(3) "Masturbation," as used in this Section, means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

(4) "Anal intercourse," as used in this Section, means contact between human beings of the genital organs of one and the anus of another. (*Source: Ord. No. 143*)

11.16.020 Soliciting for Prostitution. A person commits a Class A municipal offense if he knowingly:

(a) Solicits another for the purpose of prostitution; or

(b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution;
or

(c) Directs another to a place knowing such direction is for the purpose of prostitution.

11.16.030 Pandering. Any person who knowingly arranges or offers to arrange a situation in which a person may practice prostitution commits pandering, which is a Class B municipal offense.

11.16.040 Keeping a Place of Prostitution. Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits the Class A municipal offense of keeping a place of prostitution if he:

(a) Knowingly grants or permits the use of such place for the purpose of prostitution;
or

(b) Knowingly permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

11.16.050 Patronizing a Prostitute. Any person who performs any of the following with a person not his spouse commits the Class B Municipal offense of patronizing a prostitute:

(a) Knowingly engages in an act of sexual intercourse or of deviate sexual conduct with a prostitute; or

(b) Knowingly enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse or deviate sexual conduct.

11.16.060 Prostitute Making Display. Any person who knowingly by word, gesture, or action endeavors to further the practice of prostitution in any public place or within public view commits a Class B Municipal offense.

11.16.070 Public Indecency. Any person who knowingly performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits the Class A municipal offense of public indecency:

(a) An act of sexual intercourse; or

(b) An act of deviate sexual intercourse; or

(c) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or

(d) A lewd fondling or caress of the body of another person.

11.16.080 Sale of Sexually Explicit Materials Harmful to Children - Prohibited. (a) It is a Class A Municipal offense for any person knowingly to sell or loan for monetary consideration to a child:

(1) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to children; or

(2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1) of this subsection (a), or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to children.

(b) It is unlawful for any person knowingly to sell to a child an admission ticket or pass, or knowingly to admit a child to premises whereon there is exhibited a motion picture, show, or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is harmful to children or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by children not admitted to any such premises.

(c) It is unlawful for any child to knowingly and falsely represent to any person mentioned in subsection (a) or (b) of this Section, or to his agent, that he is eighteen (18) years of age or older, with the intent to procure any material set forth in subsection (a) of this Section, or show, or other presentation, as set forth in subsection (b) of this Section.

(d) It is unlawful for any person knowingly to make a false representation to any person mentioned in subsection (a) or (b) of this Section, or to his agent, that he is the parent or guardian of any juvenile, or that any child is eighteen (18) years of age or older, with the intent to procure any material set forth in subsection (a) of this Section, or with the intent to procure any child's admission to any motion picture, show, or other presentation, as set forth in subsection (b) of this Section.

(e) It is unlawful for any person knowingly to exhibit, expose, or display in public at newsstands or any other business or commercial establishment frequented by children or where children are or may be invited as part of the general public:

(1) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is

harmful to children; or

(2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1) of this subsection (e), or explicit verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to children.

11.16.090 Sexually Explicit Materials Harmful to Children - Definitions. As used in Section 11.16.080 unless the context otherwise requires:

(a) "Child" means a person under the age of eighteen (18) years.

(b) "Harmful to children" means that quality of any description or representation, in whatever form, of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

(1) Taken as a whole, predominantly appeals to the prurient interest in sex of children; and

(2) Taken as a whole, is patently offensive to prevailing standards in the adult community within the Town with respect to what is suitable material for children; and

(3) Is, when taken as a whole, lacking in serious literary, artistic, political and scientific value for children.

(c) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry, or both, of:

(1) The character and content of any material described herein which is reasonably susceptible of examination; and

(2) The age of the child; however, an honest mistake shall constitute an excuse from liability hereunder if a reasonable bona fide attempt is made to ascertain the true age of such child.

(d) "Sadomasochistic abuse" means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

(e) "Sexual conduct" means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse, sodomy, or physical contact in an act of apparent sexual

stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.

(f) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(g) "Sexually explicit nudity" means a state of undress so as to expose the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

11.16.100 Sexually Explicit Materials Harmful to Children - Applicability. Nothing contained within Sections 11.16.080 for 11.16.090 shall be construed to apply to:

(a) The purchase, distribution, exhibition, or loan of any work of art, book, magazine, or other printed or manuscript material by any accredited museum, library, school, or institution of higher education;

(b) The exhibition or performance of any play, drama, tableau, or motion picture by any theater, museum, school, or institution of higher education, either supported by public appropriation or which is an accredited institution supported by private funds.

CHAPTER 11.17
(Reserved)

CHAPTER 11.18
OFFENSES RELATING TO GAMBLING

Sections:

11.18.010	Legislative Declaration - Construction
11.18.020	Definitions
11.18.030	Gambling - Professional Gambling - Offenses
11.18.040	Gambling Devices - Gambling Records - Gambling Proceeds
11.18.050	Possession of a Gambling Device or Record
11.18.060	Gambling Information
11.18.070	Gambling Premises

11.18.010 Legislative Declaration - Construction. (a) Pursuant to Section 31-15-401(g), C.R.S., as amended, it is declared to be the policy of the Town Board, recognizing the

close relationship between professional gambling and other organized crime, to restrain all persons from seeking profit from gambling activities in this Town; to restrain all persons from patronizing such activities when conducted for the profit of any person; to safeguard the public against the evils induced by common gamblers and common gambling houses; and at the same time to preserve the freedom of the press and to avoid restricting participation by individuals in sport and social pastimes which are not for profit, do not affect the public, and do not breach the peace.

(b) All the provisions of this Chapter shall be liberally construed to achieve these ends and administered and enforced with a view to carrying out the declaration of policy stated in subsection (a) of this Section. (*Source: Ord. No. 143*)

11.18.020 Definitions. As used in this Chapter, unless the context otherwise requires:

(a) "Gain" means the direct realization of winnings; "profit" means any other realized or unrealized benefit, direct or indirect, including without limitation benefits from proprietorship, management, or unequal advantage in a series of transactions.

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

(1) Bona fide contests of skill, speed, strength, or endurance in which awards are made only to entrants or the owners of entries; or

(2) Bona fide business transactions which are valid under the law or contracts;
or

(3) Other acts or transactions now or hereafter expressly authorized by law; or

(4) Any game, wager, or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in professional gambling; or

(5) Gambling conducted by an organization pursuant to the provisions of Sections 12-47-128(5)(n), C.R.S., or participation in the Colorado Lottery, as authorized by law.

(c) "Gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that

activity consists of gambling between persons or gambling by a person involving the playing of a machine.

(d) "Gambling information" means a communication with respect to any wager made in the course of, and any information intended to be used for, professional gambling. In the application of this definition the following shall be presumed to be intended for use in professional gambling: information as to wagers, betting odds, or changes in betting odds. Legitimate news reporting of an event for public dissemination is not gambling information within the meaning of this Chapter.

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

(f) "Gambling proceeds" means all money or other things of value at stake or displayed in or in connection with professional gambling.

(g) "Gambling record" means any record, receipt, ticket, certificate, token, slip, or notation given, made, used, or intended to be used in connection with professional gambling.

(h) "Professional gambling" means:

(1) Aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom; or

(2) Participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one (1) or more of the other participants.

11.18.030 Gambling - Professional Gambling - Offenses. It is a Class B municipal offense for any person to knowingly engage in gambling or professional gambling.

11.18.040 Gambling Devices - Gambling Records - Gambling Proceeds. (a) Except as provided in subsection (b) of this Section, all gambling devices, gambling records, and gambling proceeds are subject to seizure by any peace officer and may be confiscated and destroyed by order of a Court. Gambling proceeds shall be forfeited to the Town and shall be transmitted by Court order to the general fund of the Town.

(b) If a gambling device is an antique gambling device and is not operated for gambling purposes for profit or for business purposes, it shall not be confiscated or destroyed pursuant to subsection (a) of this Section. If a gambling device is confiscated and the owner shows that such gambling device is an antique gambling device and is not used for gambling

purposes, the Court shall order such gambling device returned to the person from whom it was confiscated. For the purpose of this Section, "antique gambling device" means a gambling device which was manufactured twenty-five (25) years ago or earlier.

11.18.050 Possession of a Gambling Device or Record. Except as provided in Section 18-10-105 (1.5) C.R.S., a person who knowingly owns, manufactures, sells, transports, possesses, or engages in any transaction designed to affect the ownership, custody, or use of a gambling device commits the Class B municipal offense of possession of a gambling device or record.

11.18.060 Gambling Information. (a) Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, facsimile, electronic mail, or other means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information commits a Class B municipal offense.

(b) Facilities and equipment furnished by a public utility in the regular course of business, and which remain the property of the utility while so furnished, shall not be seized except in connection with an alleged violation of this Chapter by the public utility and shall be forfeited only upon conviction of the public utility therefor.

11.18.070 Gambling Premises. Whoever as owner, lessee, agent, employee, operator, or occupant knowingly maintains, aids, or permits the maintaining of gambling premises for professional gambling commits the Class B municipal offense of maintaining gambling premises.

CHAPTER 11.19
(Reserved)

CHAPTER 11.20
OFFENSES RELATING TO GOVERNMENTAL OPERATIONS

Sections:

11.20.010	Obstructing Government Operations
11.20.020	Resisting or Interfering with a Peace Officer
11.20.030	Obstructing a Peace Officer or Fireman
11.20.040	Accessory to Crime
11.20.050	Refusal to Permit Inspection
11.20.060	Refusal to Aid a Peace Officer
11.20.070	Compounding
11.20.080	False Reporting to Authorities

- 11.20.090 Impersonating a Peace Officer
- 11.20.100 Impersonating a Public Servant
- 11.20.110 Aiding Escape
- 11.20.120 Escapes
- 11.20.130 Attempt to Escape
- 11.20.140 Failure to Appear in Court
- 11.20.150 Tampering With a Utility

11.20.010 Obstructing Government Operations. (a) A person commits the Class A Municipal offense of obstructing government operations if he intentionally obstructs, impairs, or hinders the performance of a governmental function by a public servant, by using or threatening to use violence, force, or physical interference or obstacle. "Public servant," as used herein, means any officer or employee of the Town, whether elected or appointed, or otherwise performing a governmental function of the Town, but does not include peace officers or witnesses.

(b) It shall be an affirmative defense that:

- (1) The obstruction, impairment, or hindrance was of an unlawful action by a public servant; or
- (2) The obstruction, impairment, or hindrance of a governmental function was by lawful activities in connection with a labor dispute with the government. (*Source: Ord. No. 143*)

11.20.020 Resisting or Interfering with a Peace Officer. It is unlawful to resist arrest or interfere with a peace officer.

(a) Resisting Arrest. A person resists arrest if he knowingly prevents or attempts to prevent a peace officer, acting under color of his official authority, from effecting the actor's arrest by:

- (1) Using or threatening to use physical force or violence against the peace officer; or
- (2) Using any other means which creates a risk of physical injury to the peace officer or another.

(b) Interfering with a Peace Officer. A person interferes with a peace officer if he knowingly prevents or attempts to prevent a peace officer, acting under color of his official authority, from effecting an arrest or pursuing an investigation, by:

(1) Using or threatening to use physical force or violence against the peace officer or another; or

(2) Refusing or disobeying a request by the peace officer necessary to effect an arrest or pursue an investigation, including a request to withdraw from the immediate area of the peace officer to a reasonable distance from the officer; or

(3) Using any other means which create a risk of physical injury to the peace officer or another.

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

(d) The term "peace officer" as used in this Section, means the Town Marshal or Deputy Marshal in uniform or if out of uniform, one who has identified himself by exhibiting his credentials as a member of the Marshal's Department to the actor, or one whom the actor knew was a Town peace officer at the time of the alleged offense.

(e) Resisting Arrest is a Class A municipal offense.

11.20.030 Obstructing a Peace Officer or Fireman. (a) A person commits the Class A Municipal offense of obstructing a peace officer or fireman when, by using or threatening to use violence, force, or physical interference, or obstacle, he knowingly obstructs, impairs, or hinders the enforcement of the penal law or the preservation of the peace by a peace officer, acting under color of his official authority, or knowingly obstructs, impairs, or hinders the prevention, control, or abatement of fire by a fireman, acting under color of his official authority.

(b) It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if he was acting under color of his official authority, as defined in the previous Section.

11.20.040 Accessory to Crime. (a) A person is an accessory to crime if, with intent to hinder, delay, or prevent the discovery, detection, apprehension, prosecution, conviction, or punishment of another for the commission of a crime under this Code, he renders assistance to such person. Being an accessory to crime is a Class A municipal offense.

(b) "Render assistance" means to:

(c) Harbor or conceal the other; or

(2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law; or

(3) Provide such person with money, transportation, weapon, disguise, or other thing to be used in avoiding discovery or apprehension; or

(4) By force, intimidation, or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of such person; or

(5) Conceal, destroy, or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of such person.

11.20.050 Refusal to Permit Inspection. (a) A person commits a Class C municipal offense if, knowing that a public servant, as defined in Section 11.20.010, is legally authorized to inspect property:

(1) He refuses to produce or make available the property for inspection at a reasonable hour; or

(2) If the property is available for inspection he refuses to permit the inspection at a reasonable hour.

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

11.20.060 Refusing to Aid a Peace Officer. A person, eighteen (18) years of age or older, commits a Class A municipal offense when, upon command by a person known to him to be a peace officer, he unreasonably refuses or fails to aid the peace officer in affecting or securing an arrest or preventing the commission by another of any offense.

11.20.070 Compounding. (a) A person commits the Class A municipal offense of compounding if he accepts or agrees to accept any pecuniary benefit as consideration for:

(1) Refraining from seeking prosecution of an offender; or

(2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any municipal offense or information relating to a municipal offense.

(b) It is an affirmative defense to prosecution under this Section that the benefit received by the defendant did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the offense.

11.20.080 False Reporting to Authorities. A person commits the Class A municipal offense of false reporting to authorities, if:

(a) He knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service, or any other government agency which deals with emergencies involving danger to life or property; or

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

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

11.20.090 Impersonating a Peace Officer. A person who knowingly and falsely pretends to be a peace officer and performs an act in that pretended capacity commits the Class A municipal offense of impersonating a peace officer.

11.20.100 Impersonating a Public Servant. (a) A person commits the Class A municipal offense of impersonating a public servant if he knowingly and falsely pretends to be a public servant, as defined in Section 11.20.010, other than a peace officer and performs any act in that pretended capacity.

(b) It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist.

11.20.110 Aiding Escape. (a) Any person who knowingly aids, abets, or assists another person in custody or confinement and charged with, held for, or convicted of a municipal offense, to escape or attempt to escape from custody or confinement commits the Class A municipal offense of aiding escape.

(b) "Escape" is deemed to be a continuing activity commencing with the conception of the design to escape and continuing until the escapee is returned to custody or the attempt to escape is thwarted or abandoned.

(c) "Assist" includes any activity characterized as "rendering assistance" in Section 11.20.040.

11.20.120 Escapes. (a) A person commits a Class A municipal offense if, while being in custody or confinement and held for or charged with a municipal offense, or while being in custody or confinement under a sentence following conviction of a municipal offense, he knowingly escapes from said place of custody or confinement.

(b) Upon conviction of the offense of escape, said person shall be punished by imprisonment in the county jail for not less than one (1) month nor more than one (1) year. Any sentence imposed following conviction of this offense shall run consecutively and not concurrently with any sentence which the offender was serving at the time of the escape.

11.20.130 Attempt to Escape. If a person, while in custody or confinement and held for or charged with a municipal offense, or while in custody or confinement following conviction of a municipal offense, knowingly attempts to escape from said custody or confinement, he is guilty of a Class A municipal offense, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than one (1) month nor more than one (1) year. Any sentence imposed pursuant to this Section shall run consecutively with any sentences being served by the offender.

11.20.140 Failure to Appear in Court. (a) It is a Class A municipal offense for any person to knowingly fail to appear in the Collbran Municipal Court to answer any offense pursuant to a Summons and Complaint or Penalty Assessment Notice issued to said person at the time and place specified in such Summons and Complaint or Penalty Assessment Notice, unless said person has paid the penalty assessment as permitted by law; and it is unlawful for such person to knowingly fail to appear for any subsequent proceedings in such case.

(b) A person who is released on bail bond of whatever kind, and either before, during, or after release is accused by a complaint of any offense contained in this Code arising from the conduct for which he was arrested, commits a Class A municipal offense if he knowingly fails to appear for trial or other proceedings in the Collbran Municipal Court in the case in which the bail bond was filed.

11.20.150 Tampering With a Utility. (a) Any person who connects any pipe, tube, stopcock, wire, cord, socket, motor, or other instrument or contrivance with any main, service pipe, or other medium conducting or supplying gas, water, sewer, or electricity to any building without the knowledge and consent of the person supplying such gas, water, sewer or electricity commits a Class B Municipal offense.

(b) Any person who in any manner alters, obstructs, or interferes with the action of any meter provided for measuring or registering the quantity of gas, water, sewer or electricity

passing through said meter without the knowledge or consent of the person owning said meter commits a Class B Municipal offense.

(c) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards.

CHAPTER 11.21
(Reserved)

CHAPTER 11.22
OFFENSES RELATING TO JUVENILES

Sections:

11.22.010	Curfew for Minors
11.22.020	Responsibility of Parents or Guardians
11.22.030	Aiding or Abetting a Minor
11.22.040	Procurement, Use and Possession of Tobacco Products by Minors

11.22.010 Curfew for Minors. (a) It is unlawful for any child under the age of eighteen (18) years to knowingly wander, loiter, idle, or play in or upon any public street, highway, road, alley, or other public ground, public place, or public building, vacant lot, or other unsupervised place subsequent to the hour of 10:00 p.m. on Sunday, Monday, Tuesday, Wednesday and Thursday, and prior to the hour of 5:00 a.m. of the following day; or subsequent to the hour of 11:00 p.m. and prior to the hour of 5:00 a.m. on Friday and Saturday; provided, however, the above restrictions shall not apply to lawful employment, an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the child; and the above restrictions shall not apply if such child is accompanied by the parent, guardian, or other person of the age of twenty-one (21) years, having express permission of the parent or guardian to have temporary physical custody and care of such child.

(b) Any person who violates the provisions of this Section for the first time within twelve (12) consecutive months commits a non-criminal municipal offense. Any person who violates such provisions for the second or subsequent time within twelve (12) consecutive months commits a Class C criminal offense. (*Source: Ord. No. 176, Amended: Ord. No. 212*).

11.22.020 Responsibility of Parents or Guardians. (a) It is a Class A municipal offense for a parent, guardian, or other person having care or custody of any child under the age of eighteen (18) years to intentionally, knowingly, or negligently allow or permit any such child to loiter, wander, idle or play in or upon a public street, highway, road, alley, or other public ground, public place, or public building, vacant lot, or other unsupervised place in violation of

the provisions of Section 11.22.010 of this Chapter.

(b) The fact that the child is upon the street, highway, road, alley, or other public ground, public place, public building, vacant lot, or other unsupervised place contrary to the provisions of Section 11.22.010 of this Chapter shall be prima facie evidence that the parent, guardian, or other person having custody of the child, is guilty of violating this Section.

11.22.030 Aiding or Abetting a Minor. It is a Class A municipal offense for any person to knowingly permit any minor child or children to aid, abet or encourage in; or to approve, encourage, allow, permit, tolerate or consent to the violation by any minor child or children of any provisions of this Title or any other ordinances of the Town.

11.22.040 Procurement, Use and Possession of Tobacco Products by Minors

(a) Definitions. As used in this Section, the following words or phrases are defined as follows:

(1) “Minor” means any person at least ten years of age but under eighteen years of age.

(2) “Person” means any natural person, association, partnership, limited liability company or corporation.

(3) “Smoking” means the holding or carrying of a lighted pipe, lighted cigar, or lighted cigarette of any kind and includes the lighting of a pipe, cigar, or cigarette of any kind.

(4) “Tobacco Product” means cigarettes or tobacco products as defined by Section 39-28.5-101(5), C.R.S., including chewing tobacco, any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(b) Unlawful possession or use of tobacco products by minors.

(1) It shall be unlawful for any minor to knowingly possess, consume, or use, either by smoking, ingesting, absorbing, or chewing, any tobacco product.

(2) It shall be unlawful for any minor to knowingly obtain or attempt to obtain any tobacco product by misrepresentation of age or by any other method.

(3) It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco product.

(4) The court may, in its discretion and as part of the sentence to be imposed, require a minor convicted of violating any portion of this subsection to complete court-approved public service in an amount to be set by the court and at a cost to the defendant as set by resolution of the Board of Trustees.

(c) Unlawful furnishing of tobacco products to minors.

(1) It shall be unlawful for any person to knowingly furnish to any minor, by gift or sale, or through a readily accessible retail display or by any other means, any tobacco product.

(2) It shall be an affirmative defense to a prosecution under this subsection that the person furnishing the tobacco product was presented with and reasonably relied upon a document which identified the minor receiving the tobacco product as being eighteen years of age or older.

(d) Penalties. Violations of subsection (b) shall be a non-criminal municipal offense. Violation of subsection (c) shall be a Class B municipal offense. (*Amended: Ord. 249*)

CHAPTER 11.23
(Reserved)

CHAPTER 11.24
PUBLIC NUISANCES

Sections:

11.24.010	Definitions - General
11.24.020	Public Nuisances - Policy
11.24.030	Public Nuisances - Defined
11.24.040	Author of Nuisance - Defined
11.24.050	Jurisdiction - Parties - Process
11.24.060	Temporary Restraining Order - Preliminary Injunction - When to Issue
11.24.070	Judgment - Relief
11.24.080	Re-delivery of Seized Premises
11.24.090	Violation of Injunction
11.24.100	Fees - Costs and Fines - Liens and Collection

11.24.010 Definitions - General. As used in this Chapter, unless the context otherwise requires:

- (a) "Action to abate a public nuisance" means any action authorized by this Chapter to restrain, remove, terminate, prevent, abate, or perpetually enjoin a public nuisance.
- (b) "Building" means any house, office building, store, warehouse, or structure of any kind, whether or not such building is permanently affixed to the ground upon which it is situated, and includes any trailer, semi-trailer, trailer coach, mobile home, or other vehicle designed or used for occupancy by persons for any purposes. (*Source: Ord. No. 143*)

11.24.020 Public Nuisances - Policy. It is the policy of the Town pursuant to Section 31-15-401(c), C.R.S., as amended, that every public nuisance shall be restrained, prevented, abated, and perpetually enjoined. It is the duty of the Town Attorney to bring and maintain an action, pursuant to the provisions of this Chapter, to restrain, prevent, abate, and perpetually enjoin any such public nuisance. Nothing contained in this Chapter shall be construed as an amendment or repeal of any of the criminal laws of this state, but the provisions of this Chapter, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws.

11.24.030 Public Nuisances - Defined. The following are deemed to be a public nuisance:

- (a) Any place where people congregate, which encourages the disturbance of the peace, or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, or the residents in the vicinity, or the passersby on the public streets or highways; or
- (b) Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquor or fermented malt beverages to persons under the legal drinking age, solicitation for prostitution, or trafficking in stolen property; or
- (c) Any offensive or unwholesome business or establishment, or any business or establishment carried on in a manner dangerous to the public health, safety, or welfare within the Town or within one (1) mile beyond the outer limits of the Town; or
- (d) Any building, fence, structure, or land within the Town, the condition of which presents a substantial danger or hazard to public health or safety, including any "dangerous building," or
- (e) Any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm, soil erosion, or rodent infestation, or

which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter; or

(f) Any unlawful pollution or contamination of any surface or subsurface waters in this Town or of the air, or any water, substance or material intended for human consumption, but no action shall be brought under this subsection if the State Department of Health or any other agency of the State of Colorado charged by and acting pursuant to statute or duly adopted regulation has assumed jurisdiction by the institution of proceedings on that pollution or contamination; or

(g) Any cellar, vault, sewer, drain, place, property, or premises within the Town which is damp, unwholesome, nauseous, offensive, or filthy, or which is covered for any portion of the year with stagnant or impure water, or which is in such condition as to produce unwholesome or offensive odors, or which is injurious to the public health; or

(h) Permitting any garbage container to remain on a premises when it has become unclean, offensive, or which is injurious to the public health; or

(i) Allowing vegetable or animal waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard, or area except when it is temporarily deposited for immediate removal; or

(j) Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard, or in any other building or area in which any animals are kept; or

(k) Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed, or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed; or

(l) Discharging or placing any offensive water, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so; or

(m) Keeping or collecting any stale or putrid grease or other offensive matter; or

(n) Having or permitting upon any premises any fly or mosquito producing condition; or

(o) Keeping any drinking vessel for public use without providing a method of decontamination between uses; or

(p) Any toilet or sanitary sewer facilities not constructed and maintained in accordance with the ordinances of the Town; or

(q) Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults, septic tanks and cesspools or other individual waste water disposal systems within twenty (20) days after notice from any enforcement officer or official of the Town; or

(r) Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the Town; or

(s) The maintenance of any drainage system, canal, ditch, conduit or other water course of any kind or nature, natural or artificial, in a manner which will become obstructed and cause the water to backup and overflow therefrom, or to become unsanitary; or

(t) Any use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, or scattering over the premises, lumber, junk, trash, debris, or abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers; or

(u) Unsheltered storage of old, unused, stripped and junked machinery, implements, or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the Town; or

(v) Any building, land, premises, or business, occupation or activity, operation, or condition which, after being ordered abated, corrected, or discontinued by lawful order of the Town or any officer thereof, continues to be conducted or continues to exist in violation of:

(1) Any ordinance of this Town;

(2) Any regulation enacted pursuant to the authority of an ordinance of this Town; or

(w) Those offenses which are known to the common law of the land and the statutes of Colorado as nuisances when the same exist within the Town limits or within a mile thereof.

11.24.040 Author of Nuisance - Defined. Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the owner or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be authors thereof and shall be jointly and equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

11.24.050 Jurisdiction - Parties - Process. (a) An action to abate a public nuisance

shall be brought in Municipal Court.

(b) Except as otherwise may be provided in this Chapter, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado Rules of Civil Procedure.

(c) An action to abate a public nuisance may be brought by the Town Attorney in the name of the State of Colorado and the Town of Collbran.

(d) An action to abate a public nuisance, and any action in which a temporary restraining order, temporary writ of injunction, or preliminary injunction is requested, shall be commenced by the filing of a complaint, which shall be verified or supported by affidavit. A summons shall be issued and served as in civil cases.

11.24.060 Temporary Restraining Order - Preliminary Injunction - When to Issue.

(a) If the existence of a public nuisance is shown in such action to the satisfaction of the Municipal Court, either by verified complaint or affidavit, the Court or Judge may issue a temporary restraining order to abate and prevent the continuance or reoccurrence of the nuisance. Such temporary restraining order may direct the Chief of Police or any police officer to seize and close the public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. Within ten (10) days following the filing of a motion of any person adversely affected by a temporary restraining order, the Court shall conduct a hearing and determine whether the temporary restraining order shall be continued pending final determination of the action.

(b) The Court may, as part of a preliminary injunction, direct the Town Marshal or any law enforcement officer to seize and close such public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. While the preliminary injunction remains in effect, the building or place seized and closed shall be subject to the orders of the Court. Preliminary injunctions may issue as provided by the Colorado Rules of Civil Procedure. No bond or security shall be required of the Town Attorney or the People of the State of Colorado or the Town in any action to abate a public nuisance.

11.24.070 Judgment - Relief. (a) The judgment in an action to abate a public nuisance may include a permanent injunction to restrain, abate, and prevent the continuance or reoccurrence of the nuisance. The Court may grant declaratory relief, mandatory orders, or any other relief deemed necessary to accomplish the purposes of the injunction and enforce the same, and the Court may retain jurisdiction of the case for the purpose of enforcing its order.

(b) The judgment in an action to abate a public nuisance may include an order directing the Town Marshal to seize and close the public nuisance, and to keep the same effectually closed until further order of the Court, not to exceed one (1) year.

(c) The judgment in an action to abate a public nuisance may include, in addition to

or in the alternative to other injunctive relief, an Order requiring the removal, correction, or other abatement of a public nuisance, in whole or in part by the owner or operator of the public nuisance.

(d) The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to any other relief authorized by the provisions of this Chapter, the imposition of a fine of not more than one thousand dollars (\$1000), conditioned upon failure or refusal of compliance with the orders of the Court within any time limits therein fixed.

11.24.080 Redelivery of Seized Premises. If the owner or operator of a building or place seized and closed as a public nuisance has not been guilty of any contempt of Court in the proceedings, and demonstrates by evidence satisfactory to the Court that the public nuisance has been abated and will not recur, the Court may order the premises delivered to the owner or operator. As a condition of such order, the Court may require the posting of bond, in an amount fixed by the order by the Court, for the faithful performance of the obligation of the owner or operator thereunder to prevent recurrence of or continuance of the public nuisance.

11.24.090 Violation of Injunction. Any violation or disobedience of any injunction or order issued by the Court in an action to abate a public nuisance is a Class A municipal offense, and each day on which the violation or disobedience of an injunction or order continues or recurs may be considered as a separate contempt.

11.24.100 Fees - Costs and Fines - Liens and Collection. (a) For seizing and closing any building or premises as provided in this Chapter, or for performing other duties pursuant to the direction of the Court pursuant to the provisions of this Chapter, the Town shall be entitled to a reasonable sum fixed by the Court, in addition to the actual costs incurred or expended.

(b) All fees and costs allowed by the provisions of this Section, the costs of a Court action to abate any public nuisance, and all fines levied by the Court in contempt proceedings incident to any action to abate a public nuisance shall be a first and prior lien upon any real property seized or closed under the provisions of this Chapter, and the same shall be enforceable and collectible by execution issued by order of the Court, from the property of any person liable therefor.

(c) Nothing in this Chapter shall be construed in such a manner as to destroy the validity of a bona fide lien upon real or personal property appearing of record prior to recording of Court orders involving real estate as authorized under this Chapter.

(d) In addition to the remedies set forth in paragraphs (a) through (c), the assessment, together with up to fifteen percent (15%) for inspection and other incidental costs in connection therewith, shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. Such assessment may be certified by the Town Treasurer to the Mesa County Treasurer and collected and paid over in the same

manner as provided by law for the collection of taxes. However, any such assessment shall not be more than twenty percent (20%) in any one (1) year. Any amount charged on the tax roll of the succeeding year, and any unpaid balance so carried over shall bear interest at the rate established by the Commissioner of Banking pursuant to Section 39-21-110.5, C.R.S., until paid.

CHAPTER 11.25

(Reserved)

CHAPTER 11.26

OFFENSES RELATING TO INTOXICATING LIQUOR AND DRUGS

Sections:

- 11.26.010 Distribution to Minors and Others Prohibited
- 11.26.020 Possession of Open Alcoholic or Fermented Malt Beverage Container Prohibited
- 11.26.030 Purchase of Alcoholic or Fermented Malt Beverages by Minors Prohibited
- 11.26.040 Unlawful Possession or Consumption of Alcohol by an Under Age Person
- 11.26.050 Possession of Marijuana, Marijuana Products, and Marijuana Accessories

11.26.010 Distribution to Minors and Others Prohibited. It is a Class B municipal offense for any person to sell, serve, give away, dispose of, exchange, procure, or deliver or permit the sale, serving, giving or procuring of any fermented malt beverages or malt, vinous or spirituous liquors to or for any person under the legal drinking age, to a visibly intoxicated person, or to a known habitual drunkard. Said offense shall be one of "strict liability." (*Source: Ord. No. 143*)

11.26.020 Possession of Open Alcoholic or Fermented Malt Beverage Container Prohibited. (a) It shall constitute a non-criminal municipal offense for any person to intentionally, knowingly, wilfully or negligently have either in his possession or within a motor vehicle under his control, while in or upon any public street, highway, alley, sidewalk, park, or other publicly owned property located within the Town limits, or parking area open to the public, a bottle, can or other receptacle which is open, or which has a broken seal, or the contents of which have been partially removed, and which contains any alcoholic or fermented malt beverage. (*Amended: Ord. No. 243*)

(b) Nothing in this Section shall prohibit the consumption, possession or sale of alcoholic or fermented malt beverages when the Town Administrator or Mayor has issued a permit therefor; provided that:

- (1) Such permit shall be issued only for a designated area;
- (2) Such permit shall not be issued for longer than ten (10) calendar days in any year; and
- (3) The Town Administrator or Mayor has determined that the permit is necessary desirable for conducting a public event or celebration that adequate provision has been made for police supervision and area maintenance.

11.26.030 Purchase of Alcoholic or Fermented Malt Beverages by Minors

Prohibited. (a) It is a non-criminal municipal offense for any person to knowingly obtain, or attempt to obtain, fermented malt beverages or malt, vinous or spirituous liquors by any method in any place where such fermented malt beverage or malt, vinous or spirituous liquor is sold when such person is under the legal drinking age. (*Source: Ord. No. 176*).

(b) It is a Class B municipal offense for any person to knowingly use any false, fraudulent or altered identification card, or make other misrepresentations of age, in order to purchase or attempt to purchase, any fermented malt beverage or malt, vinous, or spirituous liquor.

11.26.040 Unlawful Possession or Consumption of Alcohol by an Under Age Person.

(a) As used in this Section, unless the context otherwise requires;

(1) "Ethyl alcohol" means any substance which is or contains ethyl alcohol.

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

(b) (1) Any person under twenty-one (21) years of age who possess or consumes ethyl alcohol anywhere within the Town commits the non-criminal municipal offense of illegal possession or consumption of ethyl alcohol by an under age person. Prohibited possession or consumption of ethyl alcohol by an under age person is a strict liability offense. (*Source: Ord. No.176*).

(2) The Court, upon sentencing a defendant pursuant to this paragraph (2), may, in addition to any fine, order that the defendant perform up to twenty-four (24) hours of useful public service, and may further order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program, at such defendant's own expense.

(c) It shall be an affirmative defense to the offense described in subsection (b) of this Section that the existence of ethyl alcohol in a person's body was due solely to the ingestion of a confectionery which contained ethyl alcohol within the limits prescribed by Section 25-5-

410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed, or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed, or intended solely for medicinal or hygienic purposes, or solely from the ingestion of a beverage which contained less than one-half of one percent (.5%) of ethyl alcohol by weight.

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

(e) Prima facie evidence of a violation of subsection (b) of this Section shall consist of:

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

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

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

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

(h) The qualitative result of an alcohol test or tests shall be admissible at the trial of any person charged with a violation of subsection (b) of this Section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting alcohol by the Executive Director of the Department of Health.

(i) Official records of the Department of Health relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions, and certification of laboratories shall be official records admissible in Court and shall constitute prima facie evidence of the information contained in such records.

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

11.26.050 Possession of Marijuana, Marijuana Products, and Marijuana Accessories.

(a) Definitions.

Marihuana or marijuana means all parts of the plant cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, but the term does not include industrial hemp, nor does it include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

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

Openly or publicly means the consumption or growing of marijuana in a place commonly or usually open to or accessible by the general public, or to which members of the general public may resort, including without limitation public ways, streets, sidewalks, alleys, bicycle paths, trails, golf courses, public buildings, parks, open spaces, parking lots, shopping centers, places of business usually open to the general public, and automobiles or other vehicles in or upon any such place or places, but excluding the interior or enclosed yard area of private homes,

residences, condominiums or apartments. For purposes of this Section, “openly or publicly” expressly includes the consumption or growing of marijuana in any place not used for residential purposes where individuals gather to consume or grow marijuana, regardless of whether such place calls itself private or public or charges an admission or membership fee.

(b) Unlawful Acts. It is unlawful:

(1) For any person to use, display, purchase, transport, possess, or transfer more than one ounce of marijuana in the Town; or

(2) For any person to possess, grow, process, or transport in the Town more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants. A person may possess the marijuana produced by these plants, provided that such possession is limited to the premises where the plants were grown and further provided that the growing takes place in an enclosed locked space and is not conducted openly or publicly or made available for sale.

(3) For a person under the age of twenty-one (21) to use, display, purchase, transport, possess, or transfer marijuana, marijuana products, or marijuana accessories anywhere in the Town.

(4) For a person twenty-one (21) years of age or older to use, display, purchase, transport, possess, or transfer marijuana, marijuana products, or marijuana accessories in the Town for any reason other than personal use.

(5) For a person twenty-one (21) years of age or older to purchase on behalf of, transfer to, or otherwise assist a person under the age of twenty-one (21) in obtaining marijuana, marijuana products or marijuana accessories in the Town.

(6) For any person to openly or publicly consume or grow marijuana or to consume marijuana in a manner that endangers others in the Town.

(c) Penalty.

(1) A violation of this Section is a Class B municipal offense. Violators of this Section shall be punishable as set forth in Title 10 Chapter 1 of this Code.

(2) It shall be an affirmative defense to a prosecution under this Section that a person is in possession of a valid registry identification card authorizing the medicinal use of marijuana issued by the State, so long as consumption or use does not occur in a public place.

11.26.060. Possession of drug paraphernalia prohibited.

(a) Controlled substance means a controlled substance as that term is defined by Section 18-18-102(5), C.R.S.

(b) Drug paraphernalia means drug paraphernalia as that term is defined by Section 18-18-426, C.R.S.

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

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

(d) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the State of Colorado or the Town of Collbran.

(e) It shall be unlawful to sell or deliver, possess with intent to sell or deliver, or manufacture with intent to sell or deliver equipment, products, or materials knowing, or under circumstances where one reasonably should know, that such equipment, products, or materials could be used as drug paraphernalia.

(f) Any violation of this Section is a Class C municipal offense.

CHAPTER 11.27
OFFENSES RELATED TO CABLE TELEVISION

Sections:

- 11.27.010 Unauthorized Connection with Cable Television
- 11.27.020 Unlawful Tampering with Cable Television

11.27.010. Unauthorized connection with cable television. It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise in any other manner, with any part of the cable television system under any permit within the Town for the purpose of enabling himself, herself or others to receive any television signal, radio signal, picture, program, or sound without payment to the operator of said system.

11.27.020. Unlawful tampering with cable television. It is unlawful for any person, without 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, programs, or sound.