

TITLE XIII: GENERAL OFFENSES

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§ 130.01 PROSTITUTION.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOUSE OF PROSTITUTION. A place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management or supervision of another.

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INMATE. A person who engages in prostitution in or through the agency of a house of prostitution.

PUBLIC PLACE. Any place to which the public or any substantial group thereof has access.

SEXUAL ACTIVITY. Intercourse or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.

(B) *Prostitution.*

(1) A person is guilty of prostitution when:

(a) He or she engages or offers or agrees to engage in any sexual activity with another person for a fee;

(b) Is an inmate of a house of prostitution; or

(c) Loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) Prostitution is a Class B misdemeanor.

(C) *Patronizing a prostitute.* A person is guilty of patronizing a prostitute when:

(1) He or she pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or

(2) He or she enters or remains in a house of prostitution for the purpose of engaging in sexual activity.

(D) *Exploiting prostitution.*

(1) A person is guilty of exploiting prostitution if he or she:

(a) Procures an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate;

(b) Encourages, induces or otherwise purposely causes another to become or remain a prostitute;

(c) Transports a person into or within this municipality with a purpose to promote that person's engaging in prostitution or procuring or paying for transportation with that purpose;

(d) Not being a child or legal dependent of a prostitute, shares the proceeds of prostitution with a prostitute pursuant to their understanding that he or she is to share therein; or

(e) Owns, controls, manages, supervises or otherwise keeps alone or in association with

another a house of prostitution or a prostitute business.

(2) Exploiting prostitution is a Class B misdemeanor.

(E) *Perversion*. It shall be a Class B misdemeanor for any person to:

(1) Commit or offer or agree to commit a lewd act or an act of moral perversion;

(2) Secure or offer another for the purpose of committing a lewd act or an act of moral perversion;

(3) Be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing or procuring another to commit a lewd act or an act of prostitution or moral perversion;

(4) Make a meretricious display in or near any public place, any place frequented by the public, or any place open to the public view;

(5) Knowingly transport any person to any place for the purpose of committing a lewd act or an act of moral perversion;

(6) Knowingly receive, or offer to agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose;

(7) Direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; or

(8) Aid, abet, allow, permit or participate in the commission of any of the acts prohibited in divisions (E)(1) through (E)(7) above.

(Prior Code, § 13-76-10-1300) Penalty, see § 130.99

§ 130.02 BUS PASSENGER SAFETY.

(A) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUS. Any passenger bus or coach or any other motor vehicle having a seating capacity of 15 or more passengers operated by a bus company for the purpose of carry passengers or cargo for hire.

BUS COMPANY or COMPANY. Any person, group of persons or corporation providing for-hire transportation to passengers or cargo by bus on highways or street in this municipality, including passengers and cargo interstate or intrastate travel. The terms also includes local public bodies, public transit districts, municipalities, public corporations, boards and commissions established under the laws of this state providing transportation to passengers or cargo by bus on highways or streets in this municipality, whether or not for hire.

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CHARTER. A group of persons pursuant to a common purpose and under a single contract, and at a fixed charge in accordance with a bus company's tariff, which has acquired the exclusive use of a bus to travel together to a specified destination or destinations.

PASSENGER. Any person transported or served by a bus company, including persons accompanying or meeting another being transported, any person shipping or receiving cargo and any person purchasing a ticket or receiving a pass.

TERMINAL. A bus station or depot or any other facility operated or leased by or operated on behalf of a bus company. This term includes a reasonable area immediately adjacent to any designated stop along the route traveled by any bus operated by a bus company in parking lots or areas adjacent to terminals.

(B) *Threatening breach of peace; disorderly conduct, foul language, refusing request, use of controlled substance, liquor or tobacco, ejection of passenger.*

(1) Threatens a breach of the peace, is disorderly, or uses obscene, profane or vulgar language on a bus;

(2) Is in or upon any bus while unlawfully under the influence of a controlled substance as defined in UCA § 58-37-2;

(3) Fails to obey a reasonable request or order of a bus driver, bus company representative or other person in charge or control of a bus or terminal;

(4) Ingest any controlled substance, unless prescribed by a physician or medical facility, in or upon any bus, or drinks intoxicating liquor in or upon any bus, except a chartered bus; or

(5) Smokes tobacco or other products in or upon any bus, except a chartered bus.

(C) *Theft of baggage or cargo.* Any person who removes any baggage, cargo or other item transported upon a bus or stored in a terminal without consent of the owner of the property or the bus company, or its duly authorized representative is guilty of theft and shall be punished pursuant to § 133.03.

(D) *Obstructing operation of bus.* Any person who unlawfully obstructs or impedes by force or violence, or any means of intimidation, the regular operation of a bus is guilty of a Class C misdemeanor.

(E) *Obstructing operation of bus; conspiracy.* Two or more persons who willfully or maliciously combine or conspire to violate division (D) above shall be guilty of a Class C misdemeanor. (Prior Code, § 13-76-10-1500) Penalty, see § 130.99

§ 130.03 MINORS; CURFEW.

(A) *Purchase, possession prohibited.* Any person who maintains in his or her place of business a tobacco vending machine accessible to persons under the age of 19 or provides any method of self-help

for the disposition to persons under the age of 19 by gift, sale or otherwise of any cigarette or cigarette paper or wrapper or any paper made or prepared for the purpose of making cigarettes or tobacco in any form whatsoever is guilty of a Class C misdemeanor. Cigarette vending machines shall be deemed accessible to person under the age of 19, except:

(1) Where they are in locations where persons under the age of 19 are prohibited;

(2) Where the machine can be operated only by the owner or his or her employee, either directly or through a remote control device which is inaccessible to the customer and must be operated for each sale;

(3) In private industrial locations where only adult employees are customarily allowed, provided such locations are inaccessible to persons under the age of 19; or

(4) In adult-private clubs, provided that such locations are inaccessible to persons under the age of 19.

(B) *Curfew; minors; exceptions.* No person under the age of 18 years shall be or remain upon any of the streets, alleys or public places or vacant lots at night between the hours of 11:00 p.m. and 6:00 a.m. following, unless such person is accompanied by a parent, guardian or other person having legal custody of such minor person, unless the employment or lawful business of such minor makes it necessary to be upon the streets, alleys or public places between such specified hours, in which event such minor person shall obtain a permit from the Chief of Police to be upon the streets, alleys or public places during such hours. On any night when school, civic or church functions are taking place, the hours of curfew shall be 12:30 a.m. to 6:00 a.m. following in order to provide adequate time to attend such functions provided for minor persons. Where a permit is required from the Chief of Police under this section, such permit shall be kept upon the person and it shall be unlawful to be upon the streets, alleys or public places within such curfew hours without such permit.

(Prior Code, § 13-30-1-02) Penalty, see § 130.99

§ 130.04 INTOXICANTS AND LIQUOR.

(A) *Public intoxication prohibited.*

(1) It is a Class C misdemeanor for any person to be under the influence of any intoxicating liquor, a controlled substance or of any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or herself or another in a public place or in a private place where he or she unreasonably disturbs another person.

(2) A peace officer or magistrate may release from custody an individual arrested under this section if he or she believes imprisonment is unnecessary for the protection of the individual or another.

(Prior Code, § 13-30-2-01)

(B) *Illegal sale, manufacturing, storage of intoxicating liquor.* It shall be unlawful for any person, except as permitted by state law, and the ordinances of this municipality to knowingly have in his or her possession any intoxicating liquor or to manufacture, keep, sell or store for sale, offer or expose for

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sale, import, carry, transport, advertise, distribute, give away, dispense or serve intoxicating liquor.
(Prior Code, § 13-30-2-02)

(C) *Possession of liquor.* It shall be unlawful, except as permitted by state law and the ordinances of this municipality, for any person to have or keep for sale or possession any liquor which has not been purchased from the state liquor store or package agency.
(Prior Code, § 13-30-2-03)

(D) *Liquor to drunken person.* It shall be unlawful for any person to sell or supply any alcoholic beverage or to permit alcoholic beverages to be sold or supplied to any person who is apparently under the influence of liquor.
(Prior Code, § 13-30-2-04)

(E) *Alcoholic beverages and minors.*

(1) It shall be unlawful for alcoholic beverages to be given, sold or otherwise supplied to any person under the age of 21 years, but this shall not apply to supplying liquor to such persons for medicinal purposes only by the parent or guardian of such person or to the administering of liquor to such person by a physician in accordance with the provision of this section.

(2) It shall be unlawful for any person under the age of 21 years to have possession of beer or any intoxicating liquor.
(Prior Code, § 13-30-2-05)

(F) *Canvassing or soliciting.* It shall be unlawful for any person to canvass or solicit for alcoholic beverages by mail, telephone or other manner, and the person is hereby prohibited from engaging in such activities, except to the extent that such prohibition may be in conflict with the laws of the United States or the state.
(Prior Code, § 13-30-2-06)

(G) *Solicitation of drinks.*

(1) No person shall frequent or loiter in any tavern, cabaret or night club, with the purpose of soliciting the purchase of alcoholic drinks.

(2) No proprietor or operator of any such establishment shall allow the presence in such establishment of any who violates the provisions of this section.
(Prior Code, § 13-30-2-07)
Penalty, see § 130.99

§ 130.05 DISTURBING THE PEACE.

(A) *Noise.* It is a Class C misdemeanor for any person to disturb the peace or quiet of any neighborhood, family or person by loud or unusual noises, by tumultuous or offensive conduct.
(Prior Code, § 13-30-3-01)

(B) *Fighting; threatening.* It is a Class C misdemeanor for any person to threaten physical force

against another person or to challenge, invite or engage in a fight.
(Prior Code, § 13-30-3-02)

(C) *Loudspeakers.*

(1) It is an infraction for any person to maintain, operate, connect or suffer to permit to be maintained, operated or connected any calliope or radio apparatus, sound device or any talking machine or loudspeaker attached thereto in such a manner that the loudspeaker or amplifier causes the sound from such radio apparatus or sound device or talking machine to be projected directly therefrom outside of any building, vehicle or out-of-doors, provided that the Chief of Police may grant a permit to so broadcast any events or happenings of cultural, political, intellectual or religious interest. Every person desiring a permit to so broadcast shall make application, file a statement showing the place where he or she proposes to broadcast, the times and probable duration, and the nature topics or titles of said broadcast. Said permit shall not be arbitrarily denied and when an application for a permit is denied, the Chief of Police shall set forth in writing and with particularity the grounds for so denying the application for a permit.

(2) Nothing herein contained shall be construed to prevent the operation of a radio apparatus, sound device, amplifier or talking machine used in a reasonable manner by any person within any building, vehicle or structure even though the sound therefrom may be heard on the outside of such building, vehicle or structure, provided that the said apparatus, sound device, amplifier or talking machine shall not project the sound therefrom directly outside of any building, vehicle or out-of-doors, and provided further that no such apparatus, sound device, amplifier or talking machine is in any way fastened to or connected with any outside wall or window in any building, vehicle or structure so that sound therefrom is projected outside of such walls or window.
(Prior Code, § 13-30-3-03)

(D) *Sale or use of fireworks unlawful.* It shall be unlawful for any person, firm, partnership or corporation to offer for sale, expose for sale, sell possess or use or explode any toy cannon in which explosives are used; the type of balloon which requires fire underneath to propel the same; firecrackers torpedoes; sky-rockets, Roman candle bombs or other fireworks of like construction, or any fireworks containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any substance or combination of substances, or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, other than aviation and railroad signal light flares except as in this section provided; provided, further this section shall not prohibit the use of toy pistols, toy canes, toy guns or sparklers.
(Prior Code, § 13-30-3-04)

(E) *Throwing objects prohibited.* Every person who willfully or carelessly throws any stone, stick, snowball or other missile whereby any person is hit or any window broken or other property injured or destroyed, in such manner as to render travel upon the public streets and places dangerous, or in such manner as to frighten or annoy any traveler, is guilty of an infraction.
(Prior Code, § 13-30-3-05)

(F) *Vulgar language.* It shall be a Class C misdemeanor for any person to use vulgar, profane or indecent language on any public street or other public place or in any public dance hall, club dance,

skating rink or place of business open to public patronage.
(Prior Code, § 13-30-3-06)

(G) *Indecent exposure.*

(1) It shall be a Class B misdemeanor for any person over ten years of age to indecently expose his or her body in public.

(2) For the purpose of this division (G), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

INDECENT EXPOSURE.

1. The exposing male genital or the covered male genital shown in a discernible turgid state.

2. The exposed female genital or female breasts which are not covered with an opaque covering below a point immediately above the top of the nipple (or the breast with only the nipple covered).

PUBLIC. Any place open to or frequented by the public or which may be seen from any place open to or frequented by the public and includes private clubs, associations or other places where the public frequents.

(Prior Code, § 13-30-3-07)

(H) *Offensive, indecent entertainment.* It shall be unlawful for any person to hold, conduct or carry on, or to cause or permit to be held, conducted or caused any motion pictures exhibition or entertainment of any sort which is offensive to decency, or which is of an obscene, indecent or immoral nature, or so suggestive as to be offensive to the moral sense.

(Prior Code, § 13-30-3-08)

(I) *Window peeping.* It shall be a Class C misdemeanor for any person to look, peer or peep into or be found loitering around or within view of any window within a building occupied as residence of another with the intent of watching or looking through the window to observe any person undressed, or in the act of dressing or undressing.

(Prior Code, § 13-30-3-09)

(J) *Look outs for illegal acts.* It shall be a Class C misdemeanor for any person to act as a guard or lookout for any building, premises or establishment used for gambling, for illegal sale or purchase of intoxicating liquors, or for any person soliciting, offering or engaging in prostitution, gambling or any other form of vice, or illegal act, or any prostitute, on any street or sidewalk, nor shall any person give any signal intended to, or calculated to warn, or give warning of the approach of any peace officer to any person in or about such building or premises or place mentioned herein.

(Prior Code, § 13-30-3-10)

Penalty, see § 130.99

§ 130.06 PUBLIC PROPERTY.

(A) *Public property.* For the purpose of this section, **PUBLIC PROPERTY** means any publicly owned property except the traveled portion of public streets, and includes any park, sidewalk, curb or any part of any public right-of-way devoted to any planting or park like use.

(Prior Code, § 13-30-4-01)

(B) *Unlawful acts.* On any public property it is unlawful for any person to:

(1) Willfully mark, deface, disfigure, injure tamper with, displace or remove any building, railing, bench, paving, paving material, water line or any facilities or property and equipment of any public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, wall or rock border, or other structures or equipment, facilities or public property or appurtenances whatever, either real or personal;

(2) Soil or litter public restrooms and washrooms;

(3) Dig and remove any sand, soil, rock, stones, trees, shrubs or plants, down timber or other wood materials, or make any excavation by tool, equipment, blasting or other means or agency, unless permission is obtained;

(4) Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, any tent, fly or windbreak, or run or string any rope, cord or wire into, upon or across any public property, except with special permit;

(5) Urinate or defecate, except in the public restroom in receptacles placed there for such purpose;

(6) Damage, cut, carve, burn, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant. No person shall attach any rope, wire or other contrivance to any tree or plant. No person shall dig in or otherwise disturb, or in any other way injure or impair, the natural beauty or usefulness of any park area. This division (B)(6) shall not apply to any person authorized to perform the act proscribed;

(7) Climb any tree or walk, stand or sit on monuments, fountains, railings, fences, planted areas or upon any other property no designed or customarily used for such purposes or to intentionally stand, sit or lie in or upon any street, sidewalk, stairway or crosswalk so as to prevent free passage of persons or vehicles passing over, along or across any street, sidewalk, stairway or crosswalk;

(8) Drop, throw, place, discard, dump, leave or otherwise deposit any bottles, broken glass, garbage, ashes, paper boxes, cans, dirt, rubbish, waste, refuse or other trash on any public property except in waste containers provided therefor. No such refuse or trash shall be placed in any waters contiguous to any park or planted area or left anywhere on the grounds thereof;

(9) Sleep on seats, benches, sidewalks, curbs, planters, wall or other areas;

(10) Expose or offer to sell any article or thing or station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, without first obtaining a license, except

that the governing body may exempt designated areas from this division (B) by resolution on such terms and conditions as it may prescribe; or

(11) To beg or to go from door to door of private homes or commercial and business establishments or place himself or herself in or upon any public way or public place to bet or to receive money or other things of value.

(Prior Code, § 13-30-4-02)

Penalty, see § 130.99

§ 130.07 UNLAWFUL DRIVING; DRIVING WHILE INTOXICATED OR UNDER THE INFLUENCE OF DRUGS.

(A) *Unlawful to drive while license suspended or revoked.* A person whose operator's license has been suspended or revoked as provided in this chapter or a law or ordinance similar to UCA § 41-2-28, and who drives any motor vehicle upon the highways of this municipality while that license is suspended or revoked is guilty of a crime and upon conviction shall be punished as provided in § 130.99(B).

(Prior Code, § 13-41-2-29)

(B) *Driving while under the influence of alcohol or drugs presumption arising from alcoholic content of blood; basis of percentage by weight of alcohol; criminal punishment; arrest without warrant; revocation of license.*

(1) It is unlawful and punishable as provided in this section for any person with a blood alcohol content of 0.08% or greater by weight, or who is under the influence of alcohol, or any drug or the combined influence of alcohol and any drug to a degree which renders the person incapable of safely driving a vehicle, to drive or be in actual physical control of a vehicle within this municipality. The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug does not constitute a defense against any charge of violating this section.

(2) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 cubic centimeters of blood.

(Prior Code, § 13-41-6-44)

(C) *Implied consent to chemical testing for alcohol or drug; refusal to allow; warning, report, revocation of license; court action on revocation; person incapable of refusal; results of test available; who may give test; evidence.*

(1) Any person operating a motor vehicle in this municipality shall be deemed to have given his or her consent to a chemical test or tests of his or her breath, blood or urine for the purpose of determining whether he or she was driving or in actual physical control of a motor vehicle while having a blood alcohol content statutorily prohibited, or while under the influence of alcohol, any drug, or combination of alcohol and any drug as detailed in division (B) above so long as the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been driving or in actual physical control of a motor vehicle while having a blood alcohol, content statutorily prohibited, or while under the influence of alcohol, any drug, or combination of alcohol and any drug as detailed in division (B) above. A peace officer shall determine which of the aforesaid tests shall be

administered. No person who has been requested under this section to submit to a chemical test or tests of his or her breath, blood or urine, shall have the right to select the test or tests to be administered. The failure or inability of a peace officer to arrange for any specific test is not a defense with regard to taking a test requested by a peace officer and shall not be a defense in any criminal, civil or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) If the person has been placed under arrest and has thereafter been requested by a peace officer to submit to any one or more of the chemical tests provided for in division (C)(1) above and refuses to submit to the chemical test or tests, the person shall be warned by a police officer requesting the test or tests, that a refusal to submit to the test or tests can result in revocation of his or her license to operate a motor vehicle. Following the warning, unless the person immediately requests the chemical test or tests as offered by a peace officer be administered, no test shall be given and the peace officer shall submit to the Department a sworn report, of public safety within five days after the date of the arrest, that he or she had grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle while having a blood alcohol content statutorily prohibited or while under the influence of alcohol or any drug or combination of alcohol and any drug as detailed in division (B) above and that the person had refused to submit to a chemical test or tests as set forth in division (C)(1) above.

(3) Any person who is dead, unconscious or in any other condition rendering him or her incapable of refusal to submit to any such chemical test or tests shall be deemed not to have withdrawn the consent provided for in division (C)(1) above, and the test or tests may be administered whether such person has been arrested or not.

(4) Upon the request of the person who is tested, the results of such test or tests shall be made available to him or her.

(5) Only a physician, registered nurse, practical nurse or person authorized under UCA § 26-1-30 (19), acting at the request of a peace officer can withdraw blood for the purpose of determining the alcoholic or drug content therein. This limitation shall not apply to the taking of a urine or breath specimen. Any physician, registered nurse, practical nurse or person authorized under UCA § 26-1-30(19), who, at the direction of a peace officer, draws a sample of blood from any person whom the peace officer has reason to believe is driving in violation of this chapter, or hospital or medical facility at which such sample is drawn, shall be immune from any civil or criminal liability arising therefrom, provided such test is administered according to standard medical practice.

(6) The person to be tested may, at his or her own expense, have a physician of his or her own choosing administer a chemical test in addition to the test or tests administered at the direction of the peace officer. The failure or inability to obtain such additional test shall not affect admissibility of the results of the test or tests taken at the direction of a peace officer, nor preclude nor delay the test or tests to be taken at the direction of a peace officer. Such additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested shall not have the right to consult an attorney nor shall such a person be permitted to have an attorney, physician or other person present as a condition for the taking of any test.

(8) If a person under arrest refuses to submit to a chemical test or tests under the provisions

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of this section, evidence of refusal shall be admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of alcohol or any drug or combination of alcohol or any drug. See UCA § 41-6-44-10.

(Prior Code, § 13-41-6-44-10)

(D) Operation of vehicle under the influence of liquor or drugs unlawful.

(1) It is unlawful for any person who is under the influence of intoxicating liquor or any narcotic drugs to drive or be in actual physical control of any recreation vehicle within this municipality.

(2) Violators will be subject to all procedures, implied consent, presumptions and punishments, provisions of divisions (B) and (C) above, except division (C)(3) above. It is also unlawful and punishable under division (C)(3) above for any person, after being placed under arrest for violation of this section, to refuse to submit to any one of the chemical tests provided. See UCA § 41-22-14.

(Prior Code, § 13-41-22-14)

Penalty, see § 130.99

§ 130.08 RECKLESS DRIVING.

Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(Prior Code, § 13-41-6-45) Penalty, see § 130.99

§ 130.09 RETAIL THEFT.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MERCHANDISE. Any personal property displayed, held or offered for sale by a merchant.

MERCHANT. Any owner or operator of any retail mercantile establishment where the merchandise is displayed, held or offered for sale and includes the merchants employees, servants or agents.

MINOR. Any unmarried person under 18 years of age.

PEACE OFFICER. Any Marshal, Chief of Police or police officer of this municipality.

PREMISES OF A RETAIL MERCANTILE ESTABLISHMENT. Includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking lots or areas set aside for the benefit of those patrons of the retail mercantile establishment.

RETAIL MERCANTILE ESTABLISHMENT. Any place where merchandise is displayed,

held or offered for sale to the public.

RETAIL VALUE. The merchant's stated or advertised price of the merchandise.

SHOPPING CART. Those push carts of the types which are commonly provided by grocery stores, drug stores or other mercantile establishments or markets for the use of the public in transporting commodities in stores and markets from the store in a place outside the store.

UNDER-RING. To cause the cashier or other sales recording device to reflect less than the retail value of the merchandise.

(Prior Code, § 13-76-6-601)

(B) *Retail thefts; acts constituting.* A person commits the offense of retail theft when he or she knowingly:

(1) Takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of such merchandise;

(2) Alters, transfers or removes and label, price, tag, marking, indicia of value of any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in concert with another at less than the retail value with intention of depriving the merchant of the retail value of such merchandise;

(3) Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with intentions of depriving the merchant of the retail value of such merchandise;

(4) Under-rings with intention of depriving the merchant of the retail value of the merchandise; or

(5) Removes a shopping cart from the premises of a retail mercantile establishment with intent of depriving the merchant of the possession, use or benefit or such cart.

(Prior Code, § 13-76-6-602)

(C) *Violation.* A violation of this section shall be punished according to § 133.03.

(Prior Code, § 13-76-6-606)

Penalty, see § 130.99

§ 130.10 COMPUTER FRAUD.

(A) *Title.* This section shall be known and cited as the "Computer Fraud Act."

(Prior Code, § 13-76-6-701)

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(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESS. To directly or indirectly use, attempt to use, instruct, communicate with, cause input to, cause output from, or otherwise make use of any resources of, a computer, computer system, computer network or any means of communication therewith.

COMPUTER. An electronic device or communication facility with data processing ability.

COMPUTER NETWORK. The interconnection of communication lines between computers or computers and remote terminals.

COMPUTER SYSTEM. A set of related, connected or unconnected devices, software or other computer related equipment.

FINANCIAL STATEMENT. Includes, but is not limited to, any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security.

PROPERTY. Includes, but is not limited to, electronic impulses, electronically produced data, information, financial instruments, software or programs, in either machine or human readable form, any other tangible or intangible item relating to a computer, computer system, computer network and any copies thereof.

SERVICES. Include, but are not limited to, computer time, data manipulation and storage functions.

SOFTWARE or PROGRAM. A series of instructions or statements in a form acceptable to a computer, relating to the operation of a computer, or permitting the function of a computer system in a manner designed to provide results therefrom, including, but not limited to, system control programs, application programs or any copies thereof.

(Prior Code, § 13-76-6-702)

(C) *Offenses; degree of offense.* Any person who willfully gains access to any computer, computer system, computer network, computer software, computer program or any computer property who knowingly and willfully provides false information or who causes any other person directly or indirectly to enter false information into any computer, computer system, computer network, computer software, computer program and thereby devises or executes any scheme or artifice to defraud or obtain money, property or services, including the unauthorized use of computer time, under false pretenses, representations or premises, including representations made through a computer, and thereby alters, damages or destroys any computer, computer system, computer network, computer software, computer program or an computer property is guilty of a criminal offense as follows:

(1) For value less than or equal to \$25, a Class C misdemeanor; or

(2) For value greater than \$25, but less than \$300, a Class B misdemeanor.

(Prior Code, § 13-76-6-703)

(D) *Conduct violating other ordinances.* Prosecution pursuant to this section shall not prevent any

prosecution pursuant to another law, where such conduct also constitutes a violation of the other law. No prosecution may be commenced under this section more than three years after the commission of the acts constituting a violation of this section.

(Prior Code, § 13-76-6-704)

§ 130.11 LIBRARY THEFT.

(A) *Acts constituting library theft.* A person is guilty of the crime of library theft when he or she willfully, for the purpose of converting to personal use, and to deprive the owner thereof, conceals on his or her person or among his or her belongings a book or other library materials while still on the premises of the library or willfully and without authority removes a book or other library materials from such library building with the intention of covering them to his or her own use.

(Prior Code, § 13-76-6-801)

(B) *Presumption of intent.* A person who willfully conceals a book or other library materials on his or her person or among his or her belongings while still on the premises of the library or in the immediate vicinity thereof shall be prima facie presumed to have concealed the book or other library materials with the intention of converting them to his or her own use. If a book or other library materials are found, concealed on his or her person or amount his or her belongs it shall be prima facie evidence of willful concealment.

(Prior Code, § 13-76-6-802)

(C) *Mutilation of library material as library theft.* A person is guilty of the crime of library theft when he or she or she willfully commits a witnessed or documented mutilation of a library book or other library materials in the library or its immediate vicinity.

(Prior Code, § 13-76-6-803)

(D) *Book or other library materials to find.* The terms **BOOK OR OTHER LIBRARY MATERIALS** as used in this section include book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, electronic data processing records, artifacts or other documentary, written or printed materials regardless of physical form or characteristics, belonging to or on loan to or otherwise in the custody of the following:

- (1) Any public library;
- (2) Any library of an educational or historical society;
- (3) Any museum; or
- (4) Any repository of public records.

(Prior Code, § 13-76-6-804)

(E) *Penalty.* Any person violating the provision of this section shall be punished subject to the provisions of § 133.03.

(Prior Code, § 13-76-6-805)

§ 130.12 OFFENSES AGAINST THE FAMILY.

(A) *Adultery.* A married person commits adultery when he or she voluntarily has sexual intercourse with someone other than his or her spouse. Adultery is a Class B misdemeanor.
(Prior Code, § 13-76-7-103)

(B) *Fornication.*

(1) Any unmarried person who shall voluntarily engage in sexual intercourse with another is guilty of fornication.

(2) Fornication is a Class B misdemeanor.
(Prior Code, § 13-76-7-104)

§ 130.13 RIOT.

(A) A person is guilty of riot if:

(1) Simultaneously with two or more other persons he or she engages in tumultuous or violent conduct and thereby knowingly or recklessly creates a substantial risk of causing public alarm;

(2) He or she assembles with two or more other persons with the purpose of engaging, soon thereafter, in tumultuous or violent conduct, knowing that two or more persons in the assembly have the same purpose; or

(3) He or she assembles with two or more other persons with the purpose of committing an offense against a person or property of another who he or she supposes to be guilty of a violation of law, believing that two or more in the assembly have the same purpose.

(B) Any person who refuses to comply with a lawful order to withdraw given to him or her immediately prior to, during or immediately following a violation of division (A) above is guilty of riot. It is no defense to a prosecution under this division (B) that withdrawal must take place over private property; provided, however, that no person so withdrawing shall incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.

(C) Riot is a Class B misdemeanor.
(Prior Code, § 13-76-9-101)

§ 130.14 DISORDERLY CONDUCT.

(A) A person is guilty of disorderly conduct if:

(1) He or she refuses to comply with the lawful order of the police to move from a public place or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or

(2) Intending to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

(a) He or she engages in fighting or in violent, tumultuous or threatening behavior;

(b) He or she makes unreasonable noises in a public place;

(c) He or she makes unreasonable noises in a private place which can be heard in a public place;

(d) He or she engages in abusive or obscene language or makes obscene gestures in a public place; or

(e) He or she obstructs vehicular or pedestrian traffic.

(B) **PUBLIC PLACE**, for the purpose of this section, means any place to which the public or a substantial group of the public has access. and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

(C) Disorderly conduct is a Class C misdemeanor if the offense continues after a request by a person to desist. Otherwise, it is an infraction.

(Prior Code, § 13-76-9-102) Penalty, see § 130.99

§ 130.15 DISRUPTING A MEETING OR PROCESSIONS.

(A) A person is guilty of disrupting a meeting or procession if, intending to prevent or disrupt a lawful meeting, procession or gathering, he or she obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means.

(B) This section shall not apply to a person who attempted to but was unable to leave the scene of the riot of unlawful assembly.

(C) Failure to disperse is a Class C misdemeanor.

(Prior Code, § 13-76-9-103) Penalty, see § 130.99

§ 130.16 GIVING FALSE ALARM.

(A) A person is guilty of giving a false alarm if he or she initiates or circulates a report or warning of any fire, impending bombing or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause evacuation of any building, place of assembly or facility of public transport, to cause public inconvenience or alarm or action of any sort by any official or volunteer agency organized to deal with emergencies.

(B) Giving a false alarm is a Class B misdemeanor.

(Prior Code, § 13-76-9-105) Penalty, see § 130.99

§ 130.17 TELEPHONE ABUSE.*(A) Telephone harassment.*

(1) A person is guilty of telephone harassment and subject to prosecution if, with intent to annoy or alarm another, he or she:

(a) Makes a telephone call, whether or not a conversation ensues, without purpose of lawful communication;

(b) Makes repeated telephone calls at extremely inconvenient hours or in offensively coarse language; or

(c) Insults, taunts or challenges another in a manner likely to provoke a violent or disorderly response.

(2) Telephone harassment is a Class B misdemeanor.
(Prior Code, § 13-76-9-201)

(B) Emergency telephone abuse.

(1) A person is guilty of emergency telephone abuse if he or she:

(a) Intentionally refuses to yield or surrender the use of a party line or public pay telephone to another person upon being informed that the telephone is needed to report a fire or summon police, medical or other aid in case of emergency, unless the telephone is likewise being used for an emergency call; or

(b) Asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists.

(2) Emergency telephone abuse is a Class C misdemeanor.

(3) For the purposes of this division (B), **PARTY LINE** means a subscriber's line or telephone circuit consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

(4) **EMERGENCY** means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

(Prior Code, § 13-76-9-202)

Penalty, see § 130.99

§ 130.18 OFFENSES AGAINST PRIVACY.

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EAVESDROP. To overhear, record, amplify or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical or other device.

PRIVATE PLACE. A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.

PUBLIC. Includes any professional or social group of which the victim of a defamation is a member.

(Prior Code, § 13-76-9-401)

(B) *Privacy violation.*

(1) A person is guilty of privacy violation if, except as authorized by law, he or she:

(a) Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place;

(b) Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing photographic, recording, amplifying or broadcasting sounds or events in the place or uses any such unauthorized installation; or

(c) Installs or uses outside of a private place any device for hearing, recording, amplifying or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there.

(2) Privacy violation is a Class B misdemeanor.

(Prior Code, § 13-76-9-402)

Penalty, see § 130.99

§ 130.19 COMMUNICATION ABUSE.

(A) A person commits communication abuse if, except as authorized by law, he or she:

(1) Intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of communicating privately; this division (A)(1) does not extend to:

(a) Overhearing messages through regularly installed instrument on a telephone party line or on an extension; or

(b) Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of facilities or to other normal operation and use.

(2) Divulges without consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted or if he or she learned of the message in the course of employment with an agency engaged in transmitting it.

(B) Communication abuse is a Class B misdemeanor.
(Prior Code, § 13-76-9-403) Penalty, see § 130.99

§ 130.20 CRIMINAL DEFAMATION.

(A) A person is guilty of criminal defamation if he or she knowingly communicates to any person orally or in writing any information which he or she knows to be false and knows will tend to expose any other living person to public hatred, contempt or ridicule.

(B) Criminal defamation is a Class B misdemeanor.
(Prior Code, § 13-76-9-404) Penalty, see § 130.99

§ 130.21 ABUSE OF PERSONAL IDENTITY.

(A) A person is guilty of abuse of personal identity if, for the purpose of advertising any articles of merchandise for purposes of trade or for any other advertising purposes, he or she uses the name, picture or portrait of any individual or uses the name or picture of any public institution of this state, the official title of any public officer of this state or of any person who is living, without first having obtained the written consent of the person or, if the person be a minor, the written consent of his or her parent or guardian, or, if the person is dead, without the written consent of his or her heirs or personal representatives.

(B) Abuse of personal identity is a Class B misdemeanor.
(Prior Code, § 13-76-9-405) Penalty, see § 130.99

§ 130.22 LIBEL AND SLANDER.

Any person who willfully states, conveys, delivers or transmits, by any means whatsoever, to the manager, editor, publisher, reporter or agent of any radio station, television station, newspaper, magazine, periodical or serial for publication therein, any false or libelous statement concerning any person and thereby secures actual publication of the same, is guilty of a Class B misdemeanor.
(Prior Code, § 13-76-9-500) Penalty, see § 130.99

§ 130.23 OFFENSES AGAINST THE FLAG.

(A) A person is guilty of abuse of a flag if he or she:

(1) Intentionally places any unauthorized inscription or other things upon any flag of the United States or of any state of the United States;

(2) Knowingly exhibits any such flag, knowing the inscription or other thing to be unauthorized;

(3) For purposes of advertising a product or service for sale or for distribution, affixes a representation of the flag of the United States or of a state of the United States to the product or on any display whereon the product or service is advertised; or

(4) Knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning or trampling upon it.

(B) Abuse of a flag is a Class B misdemeanor.
(Prior Code, § 13-76-9-600) Penalty, see § 130.99

§ 130.24 MISCELLANEOUS PROVISIONS.

(A) *Intoxication; release of arrested person or placement in detoxification center.*

(1) A person is guilty of intoxication if he or she is under the influence of intoxicating liquor, a controlled substance or any substance having the property of producing toxic vapors, to a degree that the person may endanger himself or herself or another, in a public place or in a private place where he or she unreasonably disturbs other persons.

(2) A peace officer or magistrate may release from custody an individual arrested under this section if he or she believes imprisonment is unnecessary for the protection of the individual or another; or a peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.

(3) An offense under this section is a Class C misdemeanor.
(Prior Code, § 13-76-9-701)

(B) *Lewdness involving person over 14.*

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse or an attempt to commit any of these offenses, performs an act of sexual intercourse or sodomy, exposes his or her genitals or private parts, masturbates, engages in trespasser voyeurism, or performs any other act of gross lewdness in a public place or under circumstance which he or she should know will likely cause a front or alarm to, on or in the presence of another who is 14 years of age or older.

(2) Lewdness is a Class B misdemeanor.
(Prior Code, § 13-76-9-702)

(C) *Lewdness involving a child.*

(1) A person is guilty of lewdness involving a child if the person under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, or an attempt to commit any of these offenses, performs an act of sexual intercourse or sodomy, exposed his or her genitals or private parts, masturbates, engages in trespasser voyeurism, or performs any other act of gross lewdness in a public place or under circumstances which he or she should know will likely cause a front or alarm to, on or in the presence of another who is under 14 years of age.

(2) Lewdness involving a child is a Class B misdemeanor.
(Prior Code, § 13-76-9-702-5)

(D) *Loitering.*

(1) A person is guilty of loitering if he or she appears at a place or at a time under circumstances that warrant alarm for the safety of persons or property in the vicinity, and upon inquiry by a law enforcement official, he or she fails to give a reasonably credible account of his or her identity, conduct or purposes.

(2) No person shall be convicted under this section if the explanation he or she gave of his or her conduct and purposes was true and, if believed by the law enforcement official at the time, would have dispelled the alarm.

(3) Loitering is a Class C misdemeanor.
(Prior Code, § 13-76-9-703)

(E) *Abuse of a corpse.*

(1) A person is guilty of abuse of a corpse if he or she intentionally and unlawfully:

- (a) Removes, conceals, dissects or destroys a corpse or any part thereof; or
- (b) Disinters a corpse that has been buried or otherwise interred.

(2) An offense under this section is a Class B misdemeanor.
(Prior Code, § 13-76-9-704)
Penalty, see § 130.99

§ 130.25 CHARITY DRIVES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHARITABLE ORGANIZATION. Any organization that is benevolent, philanthropic, patriotic or eleemosynary or one purporting to be such.

CONTRIBUTION. The promise or grant of any money or property of any kind or value.

PERSON. Any individual, organization, group, association, partnership, corporation or any combination of them;

PROFESSIONAL FUND RAISER. Any person who for compensation or any other consideration plans, conducts or manages the solicitation of contributions for or on behalf of any charitable organization or any other person or who engages in the business of, or holds himself or herself out to persons as independently engaged in the business of soliciting contributions for such purpose, but shall not include a bona fide officer or employee of a charitable organization;

PROFESSIONAL SOLICITOR. Any person who is employed or retained for compensation by a professional fund raiser to solicit contributions in this municipality for charitable purposes.
(Prior Code, § 12-76-10-601)

(B) *Use of person's name without consent for soliciting contributions prohibited; exception.* No charitable organization, professional fund raiser, or professional solicitor, seeking to raise funds for charitable purposes, shall use the name of any other person for the purpose of soliciting contributions without the written consent of the person; provided that this section shall not apply to religious corporations or organizations, charities, agencies and organizations operated, supervised or controlled by or in connection with a religious corporation or organization.
(Prior Code, § 12-76-10-602)

(C) *Use of name without consent on stationery or as one who contributed to organization prohibited.* It shall be deemed to be a violation of this section to use, without written consent, the name of a person for the purpose of soliciting contributions if the person's name is listed on any stationery, advertisement, brochure or correspondence or a charitable organization, or his or her name is listed or referred to as one who has contributed to, sponsored or endorsed the charitable organization or its activities.
(Prior Code, § 12-76-10-603)

(D) *Violations; classification of offense.* Any person who violates the provision of this section is guilty of a Class B misdemeanor.
(Prior Code, § 12-76-10-604)
Penalty, see § 130.99

§ 130.26 CORPORATION FRAUDS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BONA FIDE SHAREHOLDER OF RECORD. A shareholder of record who has acquired shares in good faith and is acting for a proper purpose reasonably related to his or her interest as a shareholder.

DIRECTOR. Any of the persons having by law the direction or management of the affairs of a corporation, by whatever name the persons are described in its charter or known by law.
(Prior Code, § 12-76-10-701)

(B) *Fraudulent signing of share subscriptions.* Every person who signs the name of a fictitious person to any subscription for, or agreement to take, shares in any corporation existing or proposed, and every person who signs to any subscription or agreement the name of any person, knowing that the person has no means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of the subscription or agreement are not to be complied with or enforced, is guilty of a Class B misdemeanor.
(Prior Code, § 12-76-10-702)

(C) *Misrepresenting person as officer, agent, member or promoter.* Every person who, without being authorized so to do, subscribes the name of another to, or inserts the name of another in, any

prospectus, circular or other advertisement or announcement of any corporation or joint stock association, existing or intended to be formed, with intent to permit it to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association, is guilty of a Class B misdemeanor.

(Prior Code, § 12-76-10-704)

(D) *Concurrence by director in dividend or division of capital in violation of law.* Every director or any corporation issuing shares except savings and loan or building and loan associations who concurs in any vote or act of the directors of the corporation or any of the them, by which it is intended either:

(1) To make any dividend except as permitted by the State Business Corporation Act; or

(2) To divide, withdraw or in any manner pay to the shareholders, or any of them, any part of the stated capital of the corporation except as permitted by the State Business Corporation Act is guilty of a Class B misdemeanor.

(Prior Code, § 12-76-10-705)

(E) *False reports.* Every director, officer or agent of any corporation or joint stock association who knowingly makes or concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false is guilty of a Class B misdemeanor.

(Prior Code, § 12-76-10-707)

(F) *Refusing inspection of books.* Every officer or agent of any corporation having or keeping an office who has in his or her custody or control the books of such corporation, and who refuses to give a bona fide shareholder of record or member of the corporation, lawfully demanding during office hours, the right to inspect or take a copy of it or of any part thereof, is guilty of a Class B misdemeanor.

(Prior Code, § 12-76-10-708)

(G) *Presumption of director's knowledge of affairs.* Every director of a corporation or joint stock association is deemed to possess a knowledge of the affairs of his or her corporation as to enable him or her to determine whether any act, proceeding or omission of its directors is a violation of this section.

(Prior Code, § 12-76-10-709)

(H) *Presumption of director's concurrence in action if present at meeting; written dissent required.* Every director of a corporation or joint stock association who is present at a meeting of the directors at which any act, proceeding or omission of the directors in violation of this section occurs is deemed to have concurred therein, unless he or she at the time causes, or in writing requires, his or her dissent therefrom to be entered in the minutes of the directors or forwards his or her dissent by registered mail to the meeting.

(Prior Code, § 12-76-10-710)

(I) *Foreign corporation subject to ordinances.* It is no defense to a prosecution for any violation of any of the provisions of this section that the corporation was one created by the laws of another state, government or country if it was the one carrying on business or keeping an office therefor within this municipality.

(Prior Code, § 12-76-10-711)

Penalty, see § 130.99

§ 130.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Penalty for driving while license is suspended or revoked.*

(1) A person convicted of a violation of § 130.07(A), other than a violation specified in division (B)(2) below, shall be punished by imprisonment for a period of not more than six months and there may be imposed, in addition thereto, a fine of not more than \$299.

(2) A person whose conviction under § 130.07(A) is based on his or her driving while his or her operator's or chauffeur's license is suspended or revoked for a violation of § 130.07(B) or a law or ordinance similar to this chapter or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or laws or ordinances similar thereto shall be punished by a fine of at least \$299, or by imprisonment for six months or by both such fine and imprisonment.
(Prior Code, § 13-41-2-30)

(3) Every person who is convicted the first time of a violation of § 130.07(B)(1) shall be punished by imprisonment for not less than 60 days nor more than six months, or by a fine of \$299, or by both such fine and imprisonment; except that if the person has inflicted a bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner, he or she shall be punished by imprisonment in the county jail for not more than one year, and, in the discretion of the court, by fine of not more than \$1,000. For the purpose of this section, the standard of negligence is that of simple negligence, the failure to exercise that degree of care which ordinarily reasonable and prudent persons exercise under like or similar circumstances.

(4) In addition to the penalties provided for in division (B)(3) above, the court shall, upon the first conviction, impose a mandatory jail sentence of not less than 48 consecutive hours nor more than ten days with emphasis on serving in the drunk tank of the jail, or require the person to work in a community-service work program for not less than two nor more than ten days and in addition to the jail sentence or the work in the community-service work program, order the person to participate in an assessment and educational series at a licensed alcohol rehabilitation facility.

(5) Upon a second conviction within five years after a first conviction under this section, the court shall, in addition to the penalties provided for in division (B)(3) above, impose a mandatory jail sentence of not less than 48 consecutive hours nor more than ten days, with emphasis on serving in the drunk tank of the jail, or require the person to work in a community-service work program for not less than ten nor more than 30 days and, in addition to jail sentence or the work in the community-service work program, order the person to participate in an assessment and educational series at a licensed alcohol rehabilitation facility and the court may, in its discretion, order the person to obtain treatment at an alcohol rehabilitation facility. No portion of any sentence imposed under § 130.07(B)(3) shall be suspended and the convicted person shall not be eligible for parole or probation until such time as any

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sentence imposed under this section has been served. Probation or parole resulting from a conviction for a violation of this section shall not be terminated and the Department of Public Safety shall not reinstate any license suspended or revoked as a result of such conviction, if it is a second or subsequent such conviction within five years, until and unless the convicted person has furnished evidence satisfactory to the Department that all fines and fees, including fees for restitution, and rehabilitation costs, assessed against the person, have been paid.

(6) The provisions in divisions (B)(4) and (B)(5) above that require a sentencing court to order a convicted person to participate in an assessment and educational series at a licensed alcohol rehabilitation facility, obtain, in the discretion of the court, treatment at an alcohol rehabilitation facility, or do any combination of those things, apply to a conviction for a violation of division (C) below that qualifies as a prior offense under division (B)(7) below, so as to require the court to render the same order regarding education or treatment at an alcohol rehabilitation facility, or both, in connection with a first, second or subsequent conviction requirements of divisions (B)(4) and (B)(5). For purposes of determining whether a conviction under § 130.08, which qualified as a prior conviction under division (B)(7) below, is a first, second or subsequent conviction under § 130.07(C), a previous conviction under either § 130.07(B) or § 130.08 is deemed a prior conviction. Any alcohol rehabilitation program and any community-based or other educational program provided for in this section must be approved by the Department of Social Services.

(7) (a) When the prosecution agrees to a plea of guilty or no contest to a charge of a violation of § 130.08 in satisfaction of, or as a substitute for, an original charge of a violation of this section, the prosecution shall state for the record a factual basis for the plea, including whether or not there had been consumption of alcohol or drugs, or a combination of both, by the defendant in connection with the offense. The statement shall be an offer of proof of the facts which show whether or not there was consumption of alcohol or drugs, or a combination of both, by the defendant, in connection with the offense.

(b) The court shall advise the defendant before accepting the plea offered under this division (B)(7) of the consequences of violation of § 130.08 as follows: if the court accepts the defendant's plea of guilty or no contest to charge of violating § 130.08, and the prosecutor states for the record that there was consumption of alcohol or drugs, or a combination of both, by the defendant in connection with the offense, the resulting conviction shall be a prior offense for the purposes of division (B)(5) above.

(c) The court shall notify the Department of Public Safety of each conviction of § 130.08 which shall be a prior offense for the purposes of division (B)(5) above.

(8) A peace officer may, without a warrant, arrest a person for a violation of this section when the violation is coupled with an accident or collision in which the person is involved and when the violation has, in fact, been committed, although not in his or her presence, if the officer has reasonable cause to believe that the violation was committed by the person.

(9) The Department of Public Safety shall suspend for a period of 90 days the operator's license of any person convicted for the first time under § 130.07(B)(1), and shall revoke for one year the license of any person otherwise convicted under this division (B), except that the Department may subtract from any suspension period the number of days for which a license was previously suspended under UCA § 41-219.6, if the previous suspension was based on the same occurrence which the record

of conviction is based upon. See UCA §§ 41-6-44, 13-41-6-44.3, 13-41-6-44.5 and 13-41-6-44.8. The provisions of UCA §§ 41-6-44.3, 41-6-44.5 and 41-6-44.8 are adopted by reference.

(Prior Code, § 13-41-6-44)

(C) *Reckless driving*. Every person convicted of reckless driving (§ 130.08) shall be punished upon a first conviction by imprisonment for a period of not less than five days nor more than six months or by a fine of not less than \$25, nor more than \$500, or by both such fines and imprisonment. On a second or subsequent conviction, the person shall be punished by imprisonment for not less than ten days nor more than six months, or by a fine of not less than \$50, nor more than \$1,000, or by both such fine and imprisonment. (See UCA § 41-6-45.)

(Prior Code, § 13-41-6-45)

CHAPTER 131: INCHOATE OFFENSES

Section

- 131.01 Attempt
- 131.02 Criminal conspiracy
- 131.03 Exemptions and restrictions

§ 131.01 ATTEMPT.

(A) *Attempt; elements of offense.*

(1) For the purpose of this section, a person is guilty of an attempt to commit any act made an offense by any ordinance of this municipality if, acting with the kind of culpability otherwise required for the commission of the offense, he or she engages in conduct constituting a substantial step towards commission of the offense.

(2) For purposes of this section, conduct does not constitute a substantial step unless it is strongly corroborative of the actor's intent to commit the offense.

(3) No defense of the offense of attempt shall arise:

(a) Because of the offense attempted was actually committed; or

(b) Due to factual or legal impossibility if the offense could have been committed had the attendant circumstances been as the actor believed them to be.

(Prior Code, § 13-76-4-101)

(B) *Attempt; classification of offenses.* Criminal attempt to commit:

(1) A Class B misdemeanor is a Class C misdemeanor;

(2) A Class C misdemeanor is an infraction; and

(3) An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

(Prior Code, § 13-76-4-102)

§ 131.02 CRIMINAL CONSPIRACY.

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(A) *Conspiracy; elements of offense.* For the purposes of this section, a person is guilty of conspiracy when he or she, intending that conduct constituting an offense under these ordinances whether he or she specifically intends to violate the ordinances or not, agrees with one or more persons to engage in or commits an overt act in pursuance of the conspiracy, except where the offense is arson, or burglary, the overt act is not required for the commission of the conspiracy.
(Prior Code, § 13-76-4-201)

(B) *Conspiracy; classification of offenses.* Conspiracy to commit:

(1) A Class B misdemeanor is a Class C misdemeanor;

(2) A Class C misdemeanor is an infraction; and

(3) An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

(Prior Code, § 13-76-4-202)

Penalty, see § 130.99

§ 131.03 EXEMPTIONS AND RESTRICTIONS.

(A) *Specific attempt or conspiracy offense prevails.* Whenever any offense specifically designates or defines an attempt or conspiracy and provides a penalty for the attempt or conspiracy other than provided in this section, the specific offense shall prevail over the provision of this section.

(Prior Code, § 13-76-4-301)

(B) *Conviction of inchoate and principal offense prohibited.* No person shall be convicted of both an inchoate and principal offense or of both an attempt to commit an offense and a conspiracy to commit the same offense.

(Prior Code, § 13-76-4-302)

Penalty, see § 130.99

CHAPTER 132: OFFENSES AGAINST PERSONS

Section

- 132.01 Assault
- 132.02 Harassment
- 132.03 Terroristic threat
- 132.04 Custodial interference
- 132.05 Unlawful detention
- 132.06 Sexual offenses

§ 132.01 ASSAULT.

(A) Assault is:

- (1) An attempt, with unlawful force or violence to do bodily injury to another; or
- (2) A threat accompanied by a show of immediate force or violence, to do bodily injury to another.

(B) Assault is a Class B misdemeanor.

(Prior Code, § 13-76-5-102) Penalty, see § 130.99

§ 132.02 HARASSMENT.

(A) A person is guilty of harassment if, with intent to frighten or harass another, he or she communicates in writing a threat to commit any violent felony.

(B) Harassment is a Class C misdemeanor.

(Prior Code, § 13-76-5-106) Penalty, see § 130.99

§ 132.03 TERRORISTIC THREAT.

(A) A person commits terroristic threat if he or she threatens to commit any offense involving violence with intent:

- (1) To cause action of any sort by an official or volunteer agency organized to deal with emergencies;

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(2) To place a person in fear of imminent serious bodily injury; and

(3) To prevent or interrupt the occupation of a place of assembly; or aircraft, automobile or other form of conveyance, but shall not include a facility of public transportation operated by a common carrier.

(B) Terroristic threat is a Class B misdemeanor.

(Prior Code, § 13-76-5-107) Penalty, see § 130.99

§ 132.04 CUSTODIAL INTERFERENCE.

(A) A person, whether a parent or other, is guilty of custodial interference if, without good cause, he or she takes, entices, conceals or detains a child under the age of 16 from his or her parent, guardian or other lawful custodian:

(1) Knowing he or she has no legal right to do so; and

(2) With intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction.

(B) A person, whether a parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of 16, pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause he or she conceals or detains the child with intent to deprive the other person of his or her lawful visitation or custody rights.

(C) A person is guilty of custodial interference if without good cause he or she takes, entices, conceals or detains an incompetent or other person under the age of 16 who has been committed by authority of law to custody of another person or institution from the other person or institution, knowing he or she has no legal right to do so.

(D) Custodial interference is a Class B misdemeanor.

(Prior Code, § 13-76-5-303) Penalty, see § 130.99

§ 132.05 UNLAWFUL DETENTION.

(A) A person commits unlawful detention if he or she knowingly restrains another unlawfully so as to interfere substantially with his or her liberty.

(B) Unlawful detention is a Class B misdemeanor.

(Prior Code, § 13-76-5-304) Penalty, see § 130.99

§ 132.06 SEXUAL OFFENSES.

(A) *Unlawful sexual intercourse.*

(1) A person commits unlawful sexual intercourse if under circumstances not amending to a violation of UCA §§ 76-5-402, 76-5-402.1 or 76-5-405, that person has sexual relations with a person, not the person's spouse, who is under 16 years of age if the actor is no more than three years older than the victim. Evidence that the actor was not more than three years older than the victim at the time of intercourse shall be raised by the defendant.

(2) Unlawful sexual intercourse is a Class B misdemeanor.
(Prior Code, § 13-76-5-401)

(B) *Sodomy.*

(1) A person commits sodomy when the actor engages in any sexual act with a person who is 14 years of age or older involving the genitals of one person in the mouth or anus of another person, regardless of the sex of either participant.

(2) Sodomy is a Class B misdemeanor.
(Prior Code, § 13-76-5-403)

(C) *Married persons' conduct exempt; limitations of actions; "penetration" or "touching" sufficient to constitute offense.*

(1) The provisions of this section shall not apply to conduct between persons married to each other; provided, however, that for purposes of this section, persons living apart pursuant to a lawful order of a court of competent jurisdiction shall not be deemed to be married.

(2) No prosecution may be instituted or maintained under this section unless the alleged offense was brought to the notice of public authority:

(a) Within three months of its occurrence; or

(b) Where the alleged victim was less than 18 years of age or otherwise incompetent to make complaint, within three months after a parent, guardian or other competent person specifically interested in the victim, other than the alleged offender, learned of the offense.

(3) In any prosecution for unlawful sexual intercourse, or sodomy, any sexual penetration or, in the case of sodomy, any touching, however slight, is sufficient to constitute the offense.

(Prior Code, § 13-76-5-407)

Penalty, see § 130.99

CHAPTER 133: OFFENSES AGAINST PROPERTY

Section

- 133.01 Property destruction
- 133.02 Burglary and criminal trespass
- 133.03 Theft

§ 133.01 PROPERTY DESTRUCTION.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HABITABLE STRUCTURE. Any building, vehicle, trailer, railway car, aircraft or water craft used for lodging or assembling persons or conducting business whether a person is present or not.

PROPERTY.

(a) Any form of real property or tangible personal property which is capable of being damaged or destroyed and includes habitable structure.

(b) That of another, if anyone other than the actor has a possessory or proprietary interest in any portion thereof.

VALUE.

(a) The market value of the property, if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value;

(b) Where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense; and

(c) If the property damaged has a value than cannot be ascertained by the criteria set forth in divisions (a) and (b) above, the property shall be deemed to have value of \$50.
(Prior Code, § 13-76-6-101)

(B) *Arson.*

(1) A person is guilty of arson if, by means of fire or explosives, a person unlawfully and intentionally damages the property of another.

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(2) Arson is a Class B misdemeanor if the damage caused exceeds \$250 and is a Class C misdemeanor if the damage is less than \$249.99.
(Prior Code, § 13-76-6-102)

(C) *Reckless burning.*

(1) A person is guilty of reckless burning if he or she damages the property of another by reckless use of fire or causing an explosion.

(2) Reckless burning is a Class B misdemeanor if the damage to property exceeds \$500 in value; and a Class C misdemeanor if the damage to property exceeds \$50 in value. Any other violation under this section shall constitute an infraction.
(Prior Code, § 13-76-6-104)

(D) *Criminal mischief.*

(1) A person commits criminal mischief if:

(a) He or she intentionally damages, defaces or destroys the property of another; or

(b) He or she recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car or caboose, whether moving or standing.

(2) Criminal mischief is defined herein as a Class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss in excess of \$250 and a Class C misdemeanor if the actor's conduct causes or is intended to cause loss of less than \$250.
(Prior Code, § 13-76-6-106) Penalty, see § 130.99

§ 133.02 BURGLARY AND CRIMINAL TRESPASS.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning. A person **ENTERS OR REMAINS UNLAWFULLY** in or upon premises when the premises or any portion thereof at the time of the entry or remaining are not open to the public and when the actor is not otherwise licensed or privileged to enter or remain on the premises or such portion thereof.
(Prior Code, § 13-76-6-201)

(B) *Manufacture or possession of instruments for burglary or theft.* Any person who manufactures or possesses any instrument, tool, device, article or other thing adapted, designed or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that some person intends to use the same in the commission of a burglary or theft is guilty of a Class B misdemeanor.
(Prior Code, § 13-76-6-205)

(C) *Criminal trespass.*

(1) For purposes of this section **ENTER** means intrusion of the entire body.

(2) A person is guilty of criminal trespass if under circumstances not amounting to burglary as defined in UCA §§ 76-2-202 through 76-2-204:

(a) He or she enters or remains unlawfully on property; and

1. Intends to cause annoyance or injury to any person thereon or damage to any property thereon;

2. Intends to commit any crime, other than theft or a felony; and/or

3. Is reckless as to whether his or her presence will cause fear for the safety of another.

(b) Knowing his or her entry or presence is unlawful, he or she enters or remains on property as to which notice against entering is given by:

1. Personal communication with the actor by the owner or someone with apparent authority to act for the owner;

2. Fencing or other enclosure obviously designed to exclude intruders; or

3. Posting or signs reasonably likely to come to the attention of intruders.

(3) A violation of division (C)(2)(b)1. above is a Class C misdemeanor unless it was committed in dwelling, in which event it is a Class B misdemeanor. A violation of division (C)(2)(b)2. above is an infraction.

(4) It is a defense to prosecution under this section:

(a) That the property was open to the public when the actor entered or remained; and

(b) The actor's conduct did not substantially interfere with the owner's use of the property.

(Prior Code, § 13-76-6-206)

Penalty, see § 130.99

§ 133.03 THEFT.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DECEPTION. Occurs when a person intentionally:

(a) Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the transaction;

(b) Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true;

(c) Prevents another from acquiring information likely to affect his or her judgment in the transaction;

(d) Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim or impediment is or is not valid or is or is not a matter of official record; or

(e) Promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be; provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

OBTAIN. In relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph or other reproduction.

OBTAIN OR EXERCISE UNAUTHORIZED CONTROL. Means, but is not necessarily limited to, conduct heretofore defined or known as common law larceny by trespasser, taking, larceny by conversion, larceny by bailee, and embezzlement.

PROPERTY. Anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writing representing or embodying rights concerning real or personal property, labor, services or otherwise containing anything of value to the owner, commodities of the public utility nature such as telecommunications, gas, electricity, steam or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him or her.

PURPOSE TO DEPRIVE. To have the conscious object:

(a) To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost;

(b) To restore the property only upon payment of a reward or other compensation; or

(c) To dispose of the property under circumstances that make it unlikely that the owner will recover it.

(Prior Code, § 13-76-6-401)

(B) *Presumptions and defenses.* The following presumptions shall be applicable to this section.

(1) Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.

(2) It is no defense under this section that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this division (B) shall not include a security interest for the repayment of a debt or obligation.

(3) It is a defense under this section that the actor:

(a) Acted under an honest claim of right to the property or service involved;

(b) Acted on the honest belief that he or she had the right to obtain or exercise control over the property or service as he or she did; or

(c) Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

(Prior Code, § 13-76-6-402)

(C) *Theft; evidence to support accusation.* Conduct denominated theft in this section constitutes a single offense embracing the separate offenses as those heretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail and receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in divisions (D) through (J), subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

(Prior Code, § 13-76-6-403)

(D) *Theft; elements.* A person commits theft if he or she obtains or exercises unauthorized control over the property of another with purpose to deprive him or her thereof.

(Prior Code, § 13-76-6-404)

(E) *Theft by deception.*

(1) A person commits theft if he or she obtains or exercises control over property of another by deception and with the purpose to deprive him or her thereof.

(2) Theft by deception does not occur, however, when there is only falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. **PUFFING** means an exaggerated commendation of wares or worth in communications addressed to the public or to a class or group.

(Prior Code, § 13-76-6-405)

(F) *Theft by extortion.*

(1) A person is guilty of theft if he or she obtains or exercises control over the property of

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another by extortion and with a purpose to deprive him or her thereof.

(2) As used in this section, extortion occurs when a person threatens to:

(a) Cause physical harm in the future to the person threatened or to any other person or to property at any time;

(b) Subject the person threatened or any other person to physical confinement or restraint;

(c) Engage in other conduct constituting a crime;

(d) Accuse any person of a crime or expose him or her to hatred, contempt or ridicule;

(e) Reveal any information or withhold testimony or information with respect to another's legal claim or defense;

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;

(g) Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding;

(h) Bring about or continue a strike, boycott or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(i) Do any other act which would not in itself substantially benefit him or her with respect to that person's health, safety, business, calling, career, financial condition, reputation or personal relationships.

(Prior Code, § 13-76-6-406)

(G) *Theft of lost, mislaid or mistakenly delivered property.* A person commits theft when:

(1) He or she obtains property of another which he or she knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and

(2) He or she has the purpose to deprive the owner of the property when he or she obtains the property or at any time prior to taking the measures designated in division (G)(1) above.

(Prior Code, § 13-76-6-407)

(H) *Receiving stolen property; duties of pawnbrokers.*

(1) A person commits theft if he or she receives, retains or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling or withholding any such property from the owner, knowing the property to be stolen, with a purpose to deprive the owner thereof.

(2) The knowledge or belief required for division (H)(1) above is presumed in the case of an actor who:

(a) Is found in possession or control of other property stolen on a separate occasion;

(b) Has received other stolen property within the year preceding the receiving offense charged; or

(c) Being a dealer in property of the sort received, retained or disposed, acquires it for consideration which he or she knows is far below its reasonable value.

(3) For the purpose of division (H), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEALER. A person in the business of buying or selling goods.

RECEIVES. Acquiring possession, control or title or lending on the security of the property.

(Prior Code, § 13-76-6-408)

(I) *Theft of services.*

(1) A person commits theft if he or she obtains services which he or she knows are available only for compensation by deception, threat, force or any other means designed to avoid the due payment thereof.

(2) A person commits theft if, having control over the disposition of services of another, to which he or she knows he or she is not entitled, he or she diverts such services to his or her own benefit or to the benefit of another who is knows is not entitled thereto.

(3) As used in this section, **SERVICES** includes, but is not necessarily limited to, labor, professional service, public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles or trailers for temporary use, telephone or telegraph service, gas, electricity, water or steam, and the like, admission to entertainment, exhibitions, sporting events or other events for which a charge is made.

(Prior Code, § 13-76-6-409)

(J) *Devices for theft of services; seizure and destruction.* It shall be unlawful for any person knowingly to:

(1) Make or possess any instrument, apparatus, equipment or device for the use of or for the purpose of, committing or attempting to commit theft as prescribed by division (I) above; or

(2) Sell, offer to sell, advertise, give, transport or otherwise transfer to another any information, instrument, apparatus, equipment or device or any information, plan or instruction for obtaining, making or assembling the same, with the intent that it be used, or caused to be used, to commit or attempt to commit theft as prescribed by division (I) above.

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(3) Any information, instrument, apparatus, equipment or device, or information, plan or instruction referred to in division (J)(1) above may be seized pursuant to a court order, lawful search and seizure, lawful arrest or other lawful process. On the conviction of any person for a violation of any provision of this section, any such information, instrument, apparatus, equipment, device, plan or instruction shall be destroyed as contraband by the Chief of Police.

(4) Any person who violates any provision of divisions (J)(1) or (J)(2) above is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-6-410)

(K) *Theft by person having custody of property pursuant to repair or rental agreement.* A person is guilty of theft if:

(1) Having custody of property pursuant to an agreement between himself or herself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of such property, he or she intentionally uses or operates it, without the consent of the owner, for his or her own purposes in a manner constituting a gross deviation from the agreed purpose; or

(2) Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

(Prior Code, § 13-76-6-411)

(L) *Theft; classification of offenses.* Theft of property and services as provided in this chapter shall be punishable as a Class B misdemeanor.

(Prior Code, § 13-76-6-413)

Penalty, see § 130.99

CHAPTER 134: FRAUD

Section

- 134.01 Forgery; “writing” defined
- 134.02 Possession of forged writing or device for writings
- 134.03 Fraudulent handling of recordable writings
- 134.04 Tampering with records
- 134.05 Issuing a bad check; presumption
- 134.06 Wrongful use of a credit card
- 134.07 Unlawful use of credit cards to acquire goods or services
- 134.08 Unlawful acquisition of credit cards
- 134.09 Unlawful receipt of credit cards
- 134.10 Unlawful conduct a misdemeanor
- 134.11 Deceptive business practices; defense
- 134.12 Bribery of or receiving bribe by person in the business of selection, appraisal or criticism of goods or services
- 134.13 Defrauding creditors
- 134.14 Using or making slugs
- 134.15 Criminal simulation
- 134.16 False or fraudulent insurance claim; punishment

§ 134.01 FORGERY; “WRITING” DEFINED.

(A) A person is guilty of forgery, if, with purpose to defraud anyone, or with knowledge that he or she is facilitating a fraud to be perpetrated by anyone, he or she:

(1) Alters any writing of another without his or her authority or utters any such altered writing; or

(2) Makes, completes, executes, authenticates, issues, transfers, publishes or utters any writing so that the writing, completion, execution, authentication, issuance, transference, publication or utterance purports to be the act of another, whether the person is existent or nonexistent, and purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed.

(B) As used in this section, **WRITING** includes printing or any other method of recording information, checks, tokens, stamps, seals, credit cards, badges, trademarks, money and any other symbols of value, right privilege or identification.

(C) Forgery is a Class B misdemeanor.

(Prior Code, § 13-76-6-501) Penalty, see § 130.99

§ 134.02 POSSESSION OF FORGED WRITING OR DEVICE FOR WRITINGS.

Any person who, with intent to defraud, knowingly possesses any writing that is a forgery as defined in § 134.01, or who with intent to defraud knowingly possesses any device for making such writing, is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-6-502) Penalty, see § 130.99

§ 134.03 FRAUDULENT HANDLING OF RECORDABLE WRITINGS.

Any person who with intent to deceive or injure anyone falsifies, destroys, removes or conceals any will, deed, mortgage, security instrument or other writing for which the law provides public recording is guilty of fraudulent handling or recordable writing is a Class B misdemeanor.

(Prior Code, § 13-76-6-503) Penalty, see § 130.99

§ 134.04 TAMPERING WITH RECORDS.

(A) Any person who, having no privilege to do so, knowingly falsifies, destroys, removes or conceals any writing, other than the writings enumerated in § 134.03, or record public or private, with intent to deceive or injure any person or to conceal any wrongdoings is guilty of tampering with records.

(B) Tampering with records is a Class B misdemeanor.

(Prior Code, § 13-76-6-504) Penalty, see § 130.99

§ 134.05 ISSUING A BAD CHECK; PRESUMPTION.

(A) Any person who issues or passes a check or draft for the payment of money for the purpose of obtaining from any person, firm, partnership or corporation, any money, property or other thing of value or paying for any services, wages, salary, labor or rent, knowing it will not be paid by the drawee and payment is refused by the drawee is guilty of issuing a bad check or draft. For purposes of this section, a person who issues a check or draft for which payment is refused by the drawee is presumed to know the check or draft would not be paid if he or she had no account with the drawee at the time of issue.

(B) Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership or corporation, any money, property or other thing of value or paying for any services, wages, salary, labor or rent, payment of which check or draft is legally refused by the drawee, is guilty of issuing a bad check or draft if he or she fails to make good and actual payment to the payee in the amount of the refused check or draft within 14 days of his or her receiving an actual notice of the check or draft's non-payment.

(C) An offense of issuing a bad check or draft is a Class B misdemeanor.

(Prior Code, § 13-76-6-505) Penalty, see § 130.99

§ 134.06 WRONGFUL USE OF A CREDIT CARD.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTOMATED BANKING DEVICE. Any machine which, when properly activated by a financial transaction card or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.

CARD HOLDER. Any person or organization named on the face of a financial transaction card to whom or for whose benefit a financial transaction card is issued by an issuer.

FINANCIAL TRANSACTION CARD.

(1) Any credit card, credit plate, bank service card, banking card, check guarantee card, debit card, telephone credit card or any other card, issued by an issuer for the use of the card holder in obtaining money, goods, services or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of the person or business; or

(2) Any instrument or device used in providing the card holder access to a demand or time deposit account for the purpose of making deposits of money or checks in the account, or withdrawing funds from the account in the form of money, money orders, travelers check or other form representing value, or transferring funds from any demand or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing in the credit card account.

ISSUER. A business organization or financial institution or its agent that issues a financial transaction card.

PERSONAL IDENTIFICATION CODE. Any numerical or alphabetical code assigned to a card holder by the issuer to permit the authorized electronic use of his or her financial transaction card.

(Prior Code, § 13-76-6-506)

§ 134.07 UNLAWFUL USE OF CREDIT CARDS TO ACQUIRE GOODS OR SERVICES.

It is unlawful for any person to:

(A) Knowingly, with intent to defraud, obtain or attempt to obtain credit or purchase or attempt to purchase goods, property or services, by the use of false, fictitious, altered, counterfeit, revoked, expired, stolen or fraudulently obtained financial transaction card by any financial transaction card credit number, personal identification code or by the use of a financial transaction card not authorized by the issuer or card holder;

(B) Use a financial transaction card, with intent to defraud, to willfully exceed the actual balance

of a demand or time deposit account;

(C) Use a financial transaction card with intent to defraud, to willfully exceed an authorized credit line by \$500 or more, or by 50% of such line, whichever is greater;

(D) Willfully, with intent to defraud, deposit to his or her or any other account by means of an automated banking device, any false, fictitious, forged, altered or counterfeit check, draft, money order or any other similar documents; or

(E) Make application for a financial transaction card to an issuer while knowingly making or causing to be made a false statement or report relative to his or her name, occupation, financial condition, assets or to willfully and substantially undervalue or underestimate any indebtedness for the purpose of influencing the issuer to issue the financial transaction card.

(Prior Code, § 13-76-6-507) Penalty, see § 130.99

§ 134.08 UNLAWFUL ACQUISITION OF CREDIT CARDS.

It is unlawful for any person to:

(A) Acquire a financial transaction card from another without the consent of the card holder or the issuer, or, with the knowledge that it has been acquired without the consent, receive financial transaction card with intent to use it in violation of § 134.07, or sell or transfer a financial transaction card to another person with the knowledge that it will be used in violation of § 134.07; or

(B) Acquire a financial transaction card that he or she knows was lost, mislaid or delivered under a mistake as to the identify or address of the card holder and retain possession with intent to use it in violation of § 134.07, or sell or transfer a financial transaction card to another person with the knowledge that it will be used in violation of § 134.07.

(Prior Code, § 13-76-6-508) Penalty, see § 130.99

§ 134.09 UNLAWFUL RECEIPT OF CREDIT CARDS.

It is unlawful for any person to receive, retain, conceal, possess or dispose of personal property, cash or other form representing value, if he or she knows or has reason to believe the property, cash or other form representing value has been obtained through unlawful conduct described in §§ 134.07 or 134.08.

(Prior Code, § 13-76-6-509) Penalty, see § 130.99

§ 134.10 UNLAWFUL CONDUCT A MISDEMEANOR.

Any person found guilty of the unlawful conduct described in §§ 134.07, 134.08 or 134.09 is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-6-510) Penalty, see § 130.99

§ 134.11 DECEPTIVE BUSINESS PRACTICES; DEFENSE.

(A) A person is guilty of a Class B misdemeanor if, in the course of business, he or she:

(1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;

(2) Sells or offers or exposes for sale or delivers less than the represented quantity or quality of any commodity or service;

(3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he or she furnishes the weight or measure;

(4) Sells, offers or exposes for sale adulterated or mislabeled commodities. **ADULTERATED** means varying from the standard of composition or quality prescribed, or pursuant to any statute or ordinance providing criminal penalties for such variance, or set by established commercial usage and **MISLABELED** means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute or ordinance providing criminal penalties for such variance, or set by established commercial usage;

(5) Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services; and

(6) Offers, by advertising or other means of communication, to the public or a substantial number of persons, property or services as part of the scheme or plan, with intent not to sell or provide the advertised property or services:

(a) At the price which he or she offered them;

(b) In the quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or

(c) At all.

(B) It is affirmative defense to prosecution under this section that the defendant's conduct was not knowing or reckless.

(Prior Code, § 13-76-6-511) Penalty, see § 130.99

§ 134.12 BRIBERY OF OR RECEIVING BRIBE BY PERSON IN THE BUSINESS OF SELECTION, APPRAISAL OR CRITICISM OF GOODS OR SERVICES.

(A) A person is guilty of a Class B misdemeanor when, without the consent of the employer or principal, contrary to the interests of the employer or principal:

(1) He or she confers, offers or agrees to confer upon the employee, agent or fiduciary of any employer or principal any benefit with the purpose of influencing the conduct of the employee, agent or

fiduciary in relating to his or her employer's or principal's affairs; or

(2) He or she as an employee, agent or fiduciary of an employer or principal, solicits, accepts or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence his or her conduct in relation to his or her employer's or principal's affairs; provided that this section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent or fiduciary.

(B) A person is guilty of violation of this section if he or she holds himself or herself out to the public as being engaged in the business of making disinterested selection, appraisal or criticism of goods or services and he or she solicits, accepts or agrees to accept any benefit to influence his or her selection, appraisal or criticism.

(Prior Code, § 13-76-6-512) Penalty, see § 130.99

§ 134.13 DEFRAUDING CREDITORS.

A person is guilty of a Class B misdemeanor if:

(A) He or she destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with the purpose to hinder enforcement of that interest; or

(B) Knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors, he or she:

(1) Destroys, removes, conceals, encumbers, transfers or otherwise deals with any property with the purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or

(2) Presents to any creditor or to any assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.

(Prior Code, § 13-76-6-513) Penalty, see § 130.99

§ 134.14 USING OR MAKING SLUGS.

(A) A person is guilty of a Class B misdemeanor if:

(1) With a purpose to defraud the supplier of property or a service offered or should by means of a coin machine, he or she inserts, deposits or uses a slug in that machine; or

(2) He or she makes, possesses or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COIN MACHINE. Any mechanical or electrical device or receptacle designed to receive a

coin or bill of a certain denomination, or a token made for the purpose, and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.

SLUG. Any object which, by virtue of its size, shape or other quality, is capable of being inserted, deposited or otherwise used in a coin machine or an improper substitute for a genuine coin, bill or token.

(Prior Code, § 13-76-6-515) Penalty, see § 130.99

§ 134.15 CRIMINAL SIMULATION.

(A) A person is guilty of criminal simulation if, with intent to defraud another:

(1) He or she makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source or authorship that it does not have;

(2) He or she sells, passes or otherwise utters an object so made or altered;

(3) He or she possesses an object so made or altered with intent to sell, pass or otherwise utter it; or

(4) He or she authenticates or certifies an object so made or altered as genuine or as different from what it is.

(B) Criminal simulation is punishable as a Class B misdemeanor.

(Prior Code, § 13-76-6-518) Penalty, see § 130.99

§ 134.16 FALSE OR FRAUDULENT INSURANCE CLAIM; PUNISHMENT.

Every person who presents, or causes to be presented, any false or fraudulent claim, or any proof in support of any such claim, upon any contract of insurance for the payment of any loss or who prepares, makes or subscribes any account, certificate of survey, affidavit or proof of loss, or other book, paper or writing, with intent to present or use the same, or to allow it to be presented or used, in support of any such claim is punishable as in manner prescribed for theft of property of like value.

(Prior Code, § 13-76-6-521) Penalty, see § 130.99

**CHAPTER 135: OFFENSES AGAINST PUBLIC HEALTH, SAFETY, WELFARE
AND MORALS**

Section

- 135.01 Cigarettes and tobacco and psychotoxic chemical solvents
- 135.02 Waters
- 135.03 Explosives

§ 135.01 CIGARETTES AND TOBACCO AND PSYCHOTOXIC CHEMICAL SOLVENTS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ENCLOSED PUBLIC PLACE. The dining rooms in hotels, restaurants, cafés and cafeterias, theaters, arenas, passenger elevators, streetcars, buses, interurban and railway passenger coaches, motor and other passenger vehicles used by common carriers, railway station waiting rooms, and state, county and town buildings; but the owner or proprietor of any hotel dining room, restaurant, café or cafeteria may designate the same as a public smoking room by a conspicuous sign at or near the entrance, and in any state, county or town building any public officer who has a private office separate and apart from his or her public office may, if he or she so desires, designate the private office as a place where smoking may be permitted, and so long as the private office is so designated, smoking therein shall not be considered in violation of this section.

PLACE OF BUSINESS. Any and all such places as shops, stores, factories, public garages, offices, theaters, recreation and dance halls, pool rooms, cafés, cabarets, restaurants, hotels, lodging houses, streetcars, buses, interurban and railway passenger coaches and waiting rooms.
(Prior Code, § 13-76-10-101)

(B) *Cigarettes and tobacco; advertising restrictions.* It is a Class B misdemeanor for any person to display on any billboard, streetcar sign, streetcar bus, placard or on any other object or place of display, any advertisement of cigarettes, any disguise or substitute of either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his or her place of business stating that he or she is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute of either, in any newspaper, magazine or periodical printed or circulating in this municipality.
(Prior Code, § 13-76-10-102)

(C) *Permitting minors to use tobacco in place of business.* It is a Class C misdemeanor for the proprietor of any place of business to knowingly permit persons under age 19 to frequent a place of

business while they are using tobacco.

(D) *Furnishing cigars, cigarettes or tobacco to minors.* Any person who sells, gives or furnishes any cigars, cigarette or tobacco in any form, to any person under 19 years of age, is guilty of a Class C misdemeanor.

(Prior Code, § 13-76-10-104)

(E) *Buying or possessing cigars, cigarettes or tobacco by minors.* Any person under the age of 19 years who buys, accepts or who has in his or her possession any cigar, cigarette or tobacco in any form is guilty of a Class C misdemeanor, or may be classified as a delinquent child and referred to the juvenile courts.

(Prior Code, § 13-76-10-105)

(F) *Use of cigars, cigarettes or tobacco in enclosed public place.* UCA § 76-10-106, as amended, is incorporated herein by reference and renumbered § 135.01(F).

(Prior Code, § 13-76-10-106)

(G) *Abuse of psychotoxic chemical solvents.*

(1) A person is guilty of abuse of psychotoxic chemical solvents if:

(a) For the purpose of causing condition of intoxication, inebriation, excitement, stupefaction or the dulling of his or her brain or nervous system, he or she intentionally:

1. Smells or inhales the fumes of any psychotoxic chemical solvent; or

2. Possess, purchases or attempts to possess or purchase any psychotoxic chemical solvent.

(b) Knowing or believing that a purchaser or another intends to use a psychotoxic chemical in violation of divisions (G)(1)(a)1. or (G)(1)(a)2. above, sells or offers to sell any psychotoxic chemical solvent.

(2) This section shall not apply to the prescribed use, distribution or sale of those substances for medical or dental purposes.

(3) Abuse of psychotoxic chemical solvents is a Class B misdemeanor.

(4) As used in this section psychotoxic chemical solvent includes any glue, cement or other substance containing one or more of the following chemical compounds: acetone, acetate, amyl nitrite or their isomers, benzene, butyl-alcohol, butyl nitrite, butyl nitrate, ethylene dichloride, isobutyl alcohol, methyl alcohol, methyl ethyl ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite, propyl nitrate or their isomer, toluene or xylene or other chemical substance capable of causing condition of intoxication inebriation, excitement, stupefaction or the dulling of the brain or nervous system as a result of inhalation of the fumes or vapors of such chemical substance. Nothing in this section shall be construed to include any control substance regulated by the provisions of UCA Title 58, Chapter 37.

(Prior Code, § 13-76-10-107)

(H) *Designated smoking areas.* UCA § 76-10-108 is incorporated herein by reference and renumbered § 135.01(H).

(Prior Code, § 13-76-10-108)

(I) *Duties of proprietor of public place.* UCA § 76-10-109 is incorporated herein by reference and renumbered § 135.01(I).

(Prior Code, § 13-76-10-109)

(J) *Violations.* UCA § 76-10-110, is incorporated herein by reference and renumbered § 135.01(J).

(Prior Code, § 13-76-10-110)

Penalty, see § 130.99

§ 135.02 WATERS.

(A) *Interference with control of Water Commissioner.* Every person who in any way interferes with or alters the flow of water in any stream, ditch or lateral while under the control or management of the Water Commissioner or Superintendent is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-201)

(B) *Taking water out of turn or excess amount; injuring facilities.* Every person who, in violation of any right of any other person, willfully turns or uses the water, or any part thereof, of any canal, ditch, pipeline or reservoir, except at a time when the use of the water has been duly distributed to the person or willfully uses any greater quantity of water than has been duly distributed to him or her, or in any way changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change, or willfully and maliciously breaks or injures any dam, canal, pipeline, watergate, ditch or other means of diverting or conveying water for irrigation or other useful purposes is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-202)

(C) *Obstruction of watergates by logs.* Every person who rafts or floats logs, timber or wood down any river or stream and allows the logs, timber or wood to accumulate at or obstruct the Watergates owned by any person or irrigation company taking or diverting the water of the river or stream for irrigation or manufacturing purposes is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-203)

(D) *Injuring bridge, dam, canal or other water-related structure.* Every person who willfully and maliciously cuts, breaks, injures or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir or other structure erected to create hydraulic power, or to drain or reclaim any swamp and overflowed or marsh land, or to conduct water for mining, manufacturing, reclamation or agricultural purposes, or for the supply of the inhabitants of municipality; or willfully or maliciously makes or causes to be made any aperture in any such dam, canal, flume, aqueduct, reservoir, embankment, levee or structure with intent to injure or destroy it; or draws up, cuts or injures any piles fixed in the ground and used for securing any lake or river bank or walls or any dock, quay, jetty or lock is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-204)

Penalty, see § 130.99

§ 135.03 EXPLOSIVES.

(A) *Unlawful handling of explosives.*

(1) Every person who makes or keeps nitroglycerin or other high explosive substances of five or more pounds of gunpowder within this municipality, or who carries it through the streets hereof, without first obtaining a permit therefore from the Clerk shall be guilty of a Class B misdemeanor.

(2) The Clerk may impose a condition of receiving and keeping a permit under this section, that the person comply with reasonable safety standards as the Chief of Police may require.
(Prior Code, § 13-76-10-301)

(B) *Marking of containers of explosives before transportation or storage.* Every person who knowingly leaves with or delivers to another, or to any express or railway company or other common carrier or to any warehouse or storehouse, any package containing nitroglycerine, dynamite, guncotton, gunpowder or other highly explosive compound, or any benzene, gasoline, phosphorus or other highly inflammable substance, or any vitriol, sulphuric, nitric, carbolic, muriatic or other dangerous acid, chemical or compound, to be handled, stored, shipped or transported, without plainly marking and indicating on such package the name and nature of the contents thereof, is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-302)

(C) *Powder houses.* Every person who builds, constructs or uses within 300 feet of any residence or traveled county road any powder house, magazine or building in which more than five pounds of gunpowder, dynamite or other explosive is kept in quantities exceeding 50 pounds is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-303)

(D) *Marking of containers of explosives held for sale or use.* It shall be a Class B misdemeanor to sell or offer for sale or take or solicit orders of sale, or purchase or use, or have on hand or in store for the purpose of sale or use, any giant, hercules, atlas, venture or any other high explosive containing nitroglycerin, unless on each box or package and wrapper containing any such high explosive there shall be plainly stamped or printed the name and place of business of the person partnership, or corporation by whom or by which it was manufactured, and the exact and true date of its manufacture, and the percentage of nitroglycerin or other high explosive contained therein.

(Prior Code, § 13-76-10-304)

(E) *Different dates on containers of explosive prohibited; reuse of containers prohibited.* It shall be a Class B misdemeanor for any person or persons, partnership or corporation to have two or more different dates on any box or package containing giant, hercules, atlas or venture, or any other high explosive containing nitroglycerin. It shall further be unlawful to use any box, package or wrapper formerly used by any other person or persons, partnership or corporation in the packing of such giant, hercules, atlas, venture or other high explosive containing nitroglycerin, and the name and date on the box or package shall be the same as on the wrapper containing the giant, hercules, atlas, venture or other explosive containing nitroglycerin.

(Prior Code, § 13-76-10-305)

(F) *“Infernal machine” defined.* An **INFERNAL MACHINE** is any box, package, contrivance, bomb or apparatus containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical or compound, or knife, loaded pistol or gun or other dangerous or harmful weapon or thing, constructed, contrived or arranged so as to explode, ignite or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled or opened, or after the lapse of time or under conditions or in a manner calculated to endanger health, life, limb or property.

(Prior Code, § 13-76-10-306)

(G) *Infernal machine; delivery to common carrier, mailing or placement on premises.* Every person who delivers or causes to be delivered to any express or railway company or other common carrier, or to any person, any infernal machine, knowing it to be such, without informing the common carrier or person of the nature thereof, or sends it through the mail, or throws or places it on or about the premises or property of another, or in any place where another may be injured thereby in his or her person or property, is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-307)

(H) *Infernal machine; construction or possession.* Every person who knowingly constructs or contrives any infernal machine or with intent to injure another in his or her person or property, has any infernal machine in his or her possession is guilty of a Class B misdemeanor.

(Prior Code, § 13-76-10-308)

Penalty, see § 130.99

CHAPTER 136: WEAPONS

Section

- 136.01 Definitions
- 136.02 When weapon deemed loaded
- 136.03 Possession of dangerous weapon by convicted person, drug addict or mentally incompetent person prohibited
- 136.04 Carrying concealed dangerous weapon
- 136.05 Carrying loaded firearm in vehicle or on street
- 136.06 Threatening with or using dangerous weapon in fight or quarrel
- 136.07 Possession of deadly weapon with intent to assault
- 136.08 Discharge of firearm from vehicle or near highway
- 136.09 Possession of dangerous weapon by minor
- 136.10 Possession of weapon authorized; permit or license not required
- 136.11 Possession of loaded weapon at residence authorized
- 136.12 License to carry concealed weapons; requirements for issuance
- 136.13 License; application form
- 136.14 Duties of Chief of Police
- 136.15 License; fee; amount and disposition
- 136.16 License; records; copies transmitted to bureau
- 136.17 Unlawful marking of pistol or revolver
- 136.18 Alteration of number or mark on pistol or revolver
- 136.19 Persons exempt from weapon laws
- 136.20 Purchase of firearms in contiguous states pursuant to federal law
- 136.21 Disposition of weapons after use for court purposes

§ 136.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUREAU. The Utah State Bureau of Criminal Identification.

CRIME OF VIOLENCE. Murder voluntary manslaughter, rape, mayhem, kidnaping, robbery, burglary, housebreaking, extortion or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, or an attempt to commit any of the foregoing offenses.

DANGEROUS WEAPON. Any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. In construing whether an item, object or thing not commonly

known as a dangerous weapon is a **DANGEROUS WEAPON**, the character of the instrument, object or thing; the character of the wound produced, if any; and the manner in which the instrument, object or thing was used shall be determinative.

FIREARMS. Pistols, revolvers, sawed-off shotguns or sawed-off rifles, and/or any device which could be used as a weapon from which is expelled a projectile by any force.

PROHIBITED AREA. Any place where it is unlawful to discharge a weapon.

SAWED-OFF SHOTGUN. A shotgun having a barrel or barrels of less than 18 inches in length, or in the case of a rifle, having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification or otherwise) if the weapon as modified has an overall length of less than 25 inches.

(Prior Code, § 13-76-10-501)

§ 136.02 WHEN WEAPON DEEMED LOADED.

For the purpose of this chapter, any pistol, revolver, shotgun, rifle or other weapon described in this chapter shall be deemed to be loaded when there is an unexpended cartridge, shell or projectile in the firing position, except in the case of pistols and revolver, in which case they shall be deemed loaded when the unexpended cartridge, shell or projectile is in a position that the manual operation of any mechanism one would cause the unexpended cartridge, shell or projectile to be fired; and a muzzle loading firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

(Prior Code, § 13-76-10-502)

§ 136.03 POSSESSION OF DANGEROUS WEAPON BY CONVICTED PERSON, DRUG ADDICT OR MENTALLY INCOMPETENT PERSON PROHIBITED.

(A) Any person who is not a citizen of the United States or any person who has been convicted of any crime of violence under this laws of the United States, the state or any other state government, or country, or who is addicted to the use of any narcotic drug, or any person who has been declared mentally incompetent shall not own or have in his or her possession or under his or her custody or control any dangerous weapon as defined in this chapter.

(B) Any person who violates this section is guilty of a Class B misdemeanor.
(Prior Code, § 13-76-10-503) Penalty, see § 130.99

§ 136.04 CARRYING CONCEALED DANGEROUS WEAPON.

(A) Any person except those described in § 136.03 and those persons exempted under § 136.10, carrying a concealed dangerous weapon, as defined as in UCA §§ 13-76-10-501 et seq., is guilty of a Class B misdemeanor, except that a firearm that contains no ammunition and is enclosed in a case, gun box or securely tied package shall not be considered a concealed weapon but, if the dangerous weapon is a firearm and contains no ammunition, he or she shall be guilty of a Class B misdemeanor.

(B) Nothing in this chapter shall prevent any person except persons described in § 136.03 from keeping within his or her place of residence, place of business or any vehicle under his or her control any firearm, except that it shall be a Class B misdemeanor to carry a loaded firearm in a vehicle. (Prior Code, § 13-76-10-504) Penalty, see § 130.99

§ 136.05 CARRYING LOADED FIREARM IN VEHICLE OR ON STREET.

Every person who carries a loaded firearm in a vehicle or on any public street or in a prohibited area is guilty of a Class B misdemeanor. (Prior Code, § 13-76-10-505) Penalty, see § 130.99

§ 136.06 THREATENING WITH OR USING DANGEROUS WEAPON IN FIGHT OR QUARREL.

Every person who, not in necessary self defense in the presence of two or more persons, draws or exhibits any dangerous weapon in any angry and threatening manner or unlawfully uses the same in any fight or quarrel is guilty of a Class B misdemeanor. (Prior Code, § 13-76-10-506) Penalty, see § 130.99

§ 136.07 POSSESSION OF DEADLY WEAPON WITH INTENT TO ASSAULT.

Every person having upon his or her person any dangerous weapon with intent to unlawfully assault another is guilty of a Class B misdemeanor. (Prior Code, § 13-76-10-507) Penalty, see § 130.99

§ 136.08 DISCHARGE OF FIREARM FROM VEHICLE OR NEAR HIGHWAY.

It shall be a Class B misdemeanor for any person to discharge any kind of firearm from an automobile or other vehicle or to discharge a firearm from, upon or across any highway. (Prior Code, § 13-76-10-508) Penalty, see § 130.99

§ 136.09 POSSESSION OF DANGEROUS WEAPON BY MINOR.

A minor under the age of 18 may not possess a dangerous weapon as defined herein unless he or she has the permission by parent or guardian to have such weapon or is accompanied by parent or guardian while he or she has such weapon in his or her possession. In any event, any minor who is under the age of fourteen years must be accompanied by a responsible adult. (Prior Code, § 13-76-10-509) Penalty, see § 130.99

§ 136.10 POSSESSION OF WEAPON AUTHORIZED; PERMIT OR LICENSE NOT REQUIRED.

Paragonah - General Offenses

Nothing in this chapter shall be construed to prohibit a citizen of the United States over the age of 18 years who resides or is temporarily within this municipality and who is not within the accepted classes as prescribed by § 136.03 from owning, possessing or keeping within his or her place of residence or place of business or any vehicle under his or her control any pistol, revolver or other firearm or dangerous weapon capable of being concealed upon the person, and no permit or license to purchase, own, possess or to keep any such firearm or weapon at this place of residence, or place of business, or any vehicle under his or her control, shall be required of him or her.
(Prior Code, § 13-76-10-510)

§ 136.11 POSSESSION OF LOADED WEAPON AT RESIDENCE AUTHORIZED.

Nothing in this chapter shall prevent any person, except person described in §§ 136.03 and 136.09 shall not apply to any of the following:

(A) Patrons firing at lawfully operated target concessions at amusement parks, piers and similar locations provided that the firearms to be used are firmly chained or affixed to the counters; or

(B) Patrons of commercial trap or skeet fields or shooting ranges during regular business hours.
(Prior Code, § 13-76-10-512)

§ 136.12 LICENSE TO CARRY CONCEALED WEAPONS; REQUIREMENTS FOR ISSUANCE.

(A) (1) The Chief of Police (Town Marshal, or other head of the Police Department), upon proof that the person applying is of good character, and upon showing that good cause exists for the issuance, may issue to such person a license to carry a concealed weapon for a period of one year from the issuance date of the license.

(2) A license may include reasonable restrictions which the town's Marshal or Chief of Police deems warranted, including, but not limited to, time, place or circumstances under which the applicant may carry the weapon.
(Prior Code, § 13-76-10-512)

(B) (1) The Chief of Police, on proof that the person applying is of good character and upon showing that good cause exists for the issuance, may issue to such person a license to carry a concealed weapon within their jurisdiction for a period of time not to exceed one year from the issuance date of the license.

(2) A license may include reasonable restrictions which the town's Marshal or Chief of Police deems warranted including but not limited to, time, place or circumstances under which the applicant may carry the weapon.
(Prior Code, § 13-76-10-513)

§ 136.13 LICENSE; APPLICATION FORM.

(Prior Code, § 13-76-10-514)

§ 136.14 DUTIES OF CHIEF OF POLICE.

The Chief of Police shall comply with the requirements of UCA § 76-10-515.
(Prior Code, § 13-76-10-515)

§ 136.15 LICENSE; FEE; AMOUNT AND DISPOSITION.

Each applicant for a license shall pay a fee of \$3 at the time of filing the application. The officer receiving the application shall also receive the \$3 fee and shall transmit one-half of the fee together with the fingerprints of the individual to the State Bureau of Criminal Identification. The remaining one-half of the fee shall be transmitted to the Town Treasurer.
(Prior Code, § 13-76-10-516)

§ 136.16 LICENSE; RECORDS; COPIES TRANSMITTED TO BUREAU.

When any license is issued a record shall be maintained in the office of the Town Clerk which shall be open to public inspection. Copies of each license issued shall be filed immediately by the Chief of Police with the State Bureau of Criminal Identification.
(Prior Code, § 13-76-10-517)

§ 136.17 UNLAWFUL MARKING OF PISTOL OR REVOLVER.

Any person who places or stamps on any pistol or revolver any number except one assigned to it by the Bureau is guilty of a Class B misdemeanor. This section does not prohibit restoration by the owner of the name of the maker, model or of the original manufacturer's number or other mark of identification when the restoration is authorized by the Bureau, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number or other mark of identification upon a new pistol or revolver.
(Prior Code, § 13-76-10-521)

§ 136.18 ALTERATION OF NUMBER OR MARK ON PISTOL OR REVOLVER.

Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's number or other marks of identification, including any distinguishing number or mark assigned by the bureau, on any pistol or revolver, without first having secured written permission from the bureau to make the change, alteration or removal, shall be guilty of a Class B misdemeanor.
(Prior Code, § 13-76-10-522)

§ 136.19 PERSONS EXEMPT FROM WEAPONS LAWS.

The provisions of this chapter shall not apply to any of the following:

(A) United States Marshals while engaged in the performance of their official duties;

(B) Federal officials required to carry firearms while engaged in the performance of their official duties;

(C) Law enforcement officials of this or any other jurisdiction while engaged in the performance of their official duties;

(D) Common carriers while engaged in the regular and ordinary transport of firearms as merchandise; and/or

(E) Nonresidents traveling in or through this municipality, provided that any firearm is unloaded and enclosed in a case, gun box or securely tied package or held securely in a gun rack or locked in the trunk of an automobile in which the nonresident is transporting the firearm.

(Prior Code, § 13-76-10-523)

§ 136.20 PURCHASE OF FIREARMS IN CONTIGUOUS STATES PURSUANT TO FEDERAL LAW.

This chapter will allow purchases of firearms and ammunition by residents in contiguous states pursuant to the Federal Fire Arms Gun Control Act of 1968, § 922, paragraph B, no. 3.

(Prior Code, § 13-76-10-524)

§ 136.21 DISPOSITION OF WEAPONS AFTER USE FOR COURT PURPOSES.

The Police Department, which has in its possession a weapon, after it has been used for court purposes, shall determine the true owner of the weapon and return it to him or her; however, if unable to determine the true owner of the weapon, or if the true owner is the person committing the crime for which the weapon was used as evidence, the Department shall confiscate it and shall revert to the Department for its use and/or disposal as the Chief of Police shall determine.

(Prior Code, § 13-76-10-525)