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MUNICIPAL COURT

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3.04 Municipal Court

3.04.010 Created—Powers

There is created a municipal court in and for the Town, which court shall hear and try all alleged violations of provisions of this Code, and which court shall be vested with the powers and authority and shall be subject to the restrictions provided by Colorado Municipal Court Rules of Procedure as established by the Colorado Supreme Court and by Colorado Revised Statutes as said statutes apply to municipal courts. Prosecution of any offense made punishable under any provision of this Code shall be barred one (1) year after the commission of the offense.

3.04.020 Fees

- A. Surcharges There shall be assessed against each defendant, upon conviction, a surcharge of five dollars (\$5) in all cases before the municipal court, which surcharges shall be remitted to the Town and used exclusively for the purposes of training for police officers in the performance of their duties and the purchase and/or maintenance of police equipment. In addition, there shall be assessed against each defendant a surcharge of twenty-five dollars (\$25) upon conviction of violations under Chapters 6.04 Animals Running at Large, 6.07 Vicious Animals Prohibited, 6.12 Inhumane Treatment, and 6.13 Public Nuisance of Title 6 Animals of this code, which surcharge shall be remitted to the Town and used exclusively for operation, maintenance, and improvement of the animal control shelter. Said surcharge shall also be assessed against each defendant upon conviction of violations of offenses under ; Sections 8.04.030 Throwing missiles and 8.04.040 Prohibited use of weapons of new Chapter 8.04 Offenses Relating to Safety of Title 8 Health and Safety; Chapter 9.04 Offenses Relating to Intoxicating Drugs and Alcohol; Sections 9.08.030 Petty theft, , 9.08.050 Criminal mischief, 9.08.060 Criminal trespass, 9.08.090 Fraud by check, 9.08.110 Tampering, 9.08.120 Defrauding an innkeeper, 9.08.130 Theft of rental property, and 9.08.140 Arson of new Chapter 9.08 Offenses Relating to Property; Sections 9.16.020 Harassment, 9.16.030 Assault and battery, 9.16.050 Hazing, 9.16.060 Menacing, 9.16.070 Reckless endangerment, and 9.16.090 Aiding and abetting a minor of Chapter 9.16 Offenses Relating to Public Peace and Order of Title 9 Public Peace, Morals, and Welfare; and any other offense in this Code in which the court determines that there is a victim, which surcharge shall be remitted to the Town and transferred to Rangely Victim Services, Incorporated.
- B. Court costs. Court costs shall be assessed against any defendant who pleads nolo contendere or who enters into a plea agreement or who, after trial, is found guilty. Such costs shall not exceed twenty-five dollars (\$25) for trial to the court or entry of pleas of guilty or nolo contendere and fifty-five dollars (\$55) for trial by jury.
- C. Witness fees. Each witness in a trial shall receive five dollars (\$5) per day for testifying in a trial. Such fees shall be assessed by the judge against any defendant who pleads guilty or nolo contendere or who enters into a plea agreement, or who, after trial, is found guilty.
- D. Deferred judgment fee. In all cases in which a defendant is granted a deferred judgment and sentence, the court shall assess against said defendant a fee in the amount of forty dollars (\$40) to defray the costs of preparing applicable court documents and a fee of ten dollars (\$10) per month to monitor compliance. Additional fees may be assessed if a human service agency, mental health professional, or similar agency or professional is utilized by the court to supervise the defendant's compliance with the terms of the deferred judgment.
- E. Probation fee. In all cases in which the court orders that the defendant be placed on probation, the court shall assess against said defendant a fee of twenty-five dollars (\$25). Additional fees may be

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assessed if the defendant is required to undergo counseling, treatment, or supervision by a human resources agency, mental health professional or similar agency or professional.

- F. Bench warrant fee. In all cases in which a bench warrant is issued for the arrest of a defendant for failure to appear, failure to pay penalty assessments, fines, surcharges, fees, and/or costs as ordered by the court, the court shall assess against said defendant a fee in the amount of thirty dollars (\$30) in addition to all other fees and costs due and owing.
- G. Incarceration fee. In all cases in which a defendant is sentenced to incarceration in the County jail, the court may assess against said defendant an incarceration fee equal to the costs incurred by the Town for such incarceration.
- H. Community or useful public service fee. In all cases in which a defendant is required to perform community or useful public service, the court shall assess of fee of sixty dollars (\$60) for the first time such service is required and a fee of one-hundred twenty dollars (\$120) for the second and each subsequent time.
- I. Late fee. If a defendant is late on the payment of any fee or fine, the court may assess a late fee of twenty-five dollars (\$25).
- J. Fee for failure to appear or comply. If a defendant fails to appear in court as summoned or ordered by the court or fails to comply with any orders of or conditions set by the court, the court may assess against said defendant a fee not to exceed three hundred dollars (\$300).
- K. Fee for stay of execution. In all cases in which a defendant is granted a stay of execution, the court may assess against said defendant a fee of twenty-five dollars (\$25).
- L. Supervised jail/case review fee. In all cases in which a defendant is ordered to serve a supervised jail sentence or appear before the court for review of his case, the court shall assess against said defendant a fee of ten dollars (\$10) per month.

3.04.030 Definitions

For the purposes of all criminal offenses prosecuted in the court as well as any other offenses defined and described in this Code, the following terms, phrases, words, and their derivations shall have the meaning given herein:

1. "Act". A bodily movement and includes words and possession of property.
2. "Action to abate a public nuisance". Any action brought in the municipal court or authorized by Chapter 4.08 Public Nuisances Relating to Health of Title 4 Public Nuisances to restrain, remove, terminate, prevent, abate, or perpetually enjoin a public nuisance.
3. "Building". Any dwelling, office building, store, warehouse, or structure of any kind, whether or not the building is permanently affixed to the ground upon which it is located, and any trailer, semi-trailer, mobile home, manufactured home, or any vehicle designed or used for occupancy by persons for any purpose.
4. "Conduct". An act or omission and its accompanying state of mind or, where relevant, a series of acts or omissions.
5. "Criminal negligence". A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.
6. "Culpable mental state". Intentionally, or with intent, or knowingly, or willfully, or recklessly, or with criminal negligence, as these terms are defined in this section.
7. "Custodian". Any person over the age of twenty-one (21) who is in loco parentis to a juvenile.
8. "Guardian". Any person, other than a parent, who has legal guardianship of a minor.
9. "Intentionally" or "with intent". All offenses in which the mental culpability requirement is expressed as "intentionally" or "with intent" are declared to be specific intent offenses. A

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person acts “intentionally” or “with intent” when his conscious objective is to cause the specific result proscribed by the provision of this Code defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

10. “Knowingly” or “willfully”. All offenses in which the mental culpability requirement is expressed as “knowingly” or “willfully” with respect to conduct or to a circumstance described in a provision of this Code defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts “knowingly” or “willfully” with respect to a result of his conduct when he is aware that his conduct is practically certain to cause the result.
11. “Minor” or “child”. Any person under the age of eighteen (18) years.
12. “Omission”. A failure to perform an act as to which a duty of performance is imposed by law.
13. “Parent”. The natural or adoptive parent of a minor.
14. “Public place”. Any street, alley, highway, sidewalk, park, playground, or place to which the public has access and a right to resort for business, entertainment, or other lawful purpose.
15. “Recklessly”. A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.
16. “Victim”. A person harmed by another, made to suffer from an act, circumstance, agency, or condition, or tricked, swindled, or taken advantage of.
17. “Voluntary act”. An act performed consciously as a result of effort or determination and includes the possession of or control thereof for a sufficient period to have been able to terminate it.

3.04.040 Probation

- A. Granting of probation. Upon a plea or a finding of guilt and after considering the defendant’s background and potential for rehabilitation, and, when it appears to the satisfaction of the court that the ends of justice and the best interest of the defendant will be served thereby, the court may grant the defendant probation, not to exceed twelve (12) months, and upon such terms and conditions as it deems best. In addition to such terms and conditions, the court may require the defendant to pay any fines not to exceed three hundred dollars (\$300), fees, surcharges, and/or court costs in one (1) or more installments and require the defendant to serve a period of imprisonment not to exceed ninety (90) days.
- B. Conditions of probation. Conditions of probation may include:
 1. Restitution by the defendant to the victim for any damages incurred as the result of the defendant’s conduct;
 2. Undergoing detoxification or other medical treatment at a facility determined by the court;
 3. Attendance at driver or safety classes pertaining to the conduct of which the defendant was convicted;
 4. Reporting to the court at reasonable times as directed by the court;
 5. Remaining within the jurisdiction of the court unless permission is granted to leave by the court;
 6. Refraining from alcohol, illegal narcotics, or dangerous drugs without a physician’s prescription,
 7. Payment of any costs and fees of the court action;
 8. Requiring notification to the court within ten (10) days of any change in address or employment;
 9. Performance of community or useful public service; and
 10. Satisfaction of any other conditions deemed appropriate by the court reasonably related to the defendant’s rehabilitation and the purpose of probation.
- C. Violation of probation. Violation of probation may include any violation of probation conditions or participation in criminal activity during the probation period, including a violation of any provision of

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this Code, Colorado State Statute, or federal statute. The court may authorize the arrest of a defendant for violation of probation when there is probable cause to believe the defendant has violated probation, or, if a police officer or prosecuting attorney has reason to believe that conditions of probation have been violated by any probationer, he may cause a summons to be issued requiring the probationer to appear before the court at a specified time and place to answer charges of violating the conditions of probation, which summons, unless accompanied by a copy of a complaint, shall contain a brief statement of the violation and the date and place of the violation thereof. If the court following a hearing determines that a violation of a condition of probation has been committed, it may reinstate the original sentence or either revoke or extend the probation. If the probation is revoked, the court may impose any sentence or grant any probation which may have originally been imposed or granted.

3.04.050 Deferred judgments

When the court determines that the ends of justice will be served thereby, the court may suspend the imposition of any fine or incarceration and/or stay the execution of a sentence for a period not to exceed twelve (12) months. In any case in which the defendant has entered a plea of guilty or nolo contendere, the court may continue the case for a period not to exceed one (1) year from the date of entry of such plea for the purpose of entering judgment and sentence at that time. The court may impose such terms and conditions as it deems best, and such action will be with the written consent of the defendant, his attorney, and the prosecuting attorney in the form of a stipulation. Upon a breach of terms or conditions, the prosecuting attorney shall apply to the court for entry of judgment and imposition of sentence.

3.04.060 Restitution--Useful public service

In addition to the fine and/or imprisonment as provided in this Code, the court as part of any sentence imposed by the court, upon conviction, may order the defendant to make restitution to the victim(s) for any damages incurred as a result of the defendant's conduct. The court may also require a defendant to perform community or useful public service under the direction of the Town police department or such other agency as the court may select.

3.04.070 Driver improvement school

Whenever a person has been convicted of violating any provision of Chapter 10.04 Traffic Code of Title 10 Vehicles and Traffic of this Code or other provision of this Code regulating the operation of vehicles on highways, the court, in addition to the penalty provided for the violation or as a condition of either the probation or the suspension of all or any portion of any fine or sentence of imprisonment for a violation, may require the defendant, at his own expense, if any, to attend and satisfactorily complete a course of instruction at any designated driver improvement school in the county of the defendant's residence and providing instruction in the traffic laws of this State, instruction in recognition of hazardous traffic situations, and instruction in traffic accident prevention. Unless otherwise provided by law, such school shall be approved by the court.

3.04.080 Violation of promise to appear

- A. It is unlawful for any person to fail to, or refuse to, appear in municipal court after affixing his signature to a summons and complaint as his personal recognizance and promise to appear on the date and time specified.

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- B. Violation of this section is punishable the same as the original charge, or, if there were more than one (1) original charge, the same as the most serious offense charged.

3.04.090 Juveniles--Procedure—Penalty

- A. Applicability. Any provision of this Code may be enforced upon a juvenile, and the juvenile may be issued a summons and complaint to appear in municipal court to answer the complaint. A jail sentence shall not be imposed upon a juvenile convicted of a violation of any provision of this Code, except for traffic offenses. For purposes of enforcement, a juvenile is a person who is at least ten (10) years of age or older but less than eighteen (18) years of age. No child under ten (10) years of age shall be found guilty of any offense prosecuted in the court. An offense committed by a person who, at the time of the commission of the offense, was a juvenile shall thereafter be treated as a juvenile for prosecution purposes.
- B. Persons before court. The general public shall not be excluded from any hearings before the court involving a juvenile unless the court, on its own motion or on the motion of an interested party, determines that it is in the best interests of the juvenile or the community to exclude the general public. In such event, the court shall admit only such persons as have an interest in the case or the work of the court, including persons whom the Town attorney, the juvenile, his parents or guardian, or any other custodian may wish to be present.
- C. Procedures. When individual summons and complaints are filed against more than one (1) juvenile alleging violations of any provision of this Code arising from the same criminal episode, any proceedings, including trials, may be consolidated. Juvenile cases may be heard separately from adult cases, and the juvenile or his parents, guardian, or any other custodian may be heard separately when deemed necessary by the court. The court on its motion or on the motion of any party may require the appearance of any person it deems necessary to the action, and authorize the issuance of a summons directed to such person. At all proceedings before the court involving a juvenile, it shall be required that at least one (1) of the juvenile's parents or guardians appear with the juvenile.
- D. Penalty. Upon the plea or finding of guilt, a juvenile convicted of a violation of any provision of this Code may be placed on probation at the discretion of the court. The terms and conditions of probation may include those terms and conditions as set forth in Section 3.04.040 Probation of this Chapter and also may require that the juvenile not consume or possess any alcohol or use any controlled substance without a prescription; attend school or an educational program or work regularly at suitable employment; and satisfy any other conditions deemed appropriate by the court and reasonably related to the juveniles rehabilitation and the purpose of probation. Probation may be revoked or extended in accordance with the provisions of said Section 3.04.040 Probation.

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3.08 Principles of Culpability and Responsibility

3.08.010 Applicability

This Chapter shall be applicable to all criminal offenses defined in Title 3 Municipal Court as well as any other criminal offenses prosecuted in the municipal court.

3.08.020 Requirements for criminal liability

The minimum requirements for criminal liability are the performance by a person of conduct, which includes a voluntary act or the omission to perform an act, which he is physically capable of performing.

3.08.030 Effect of ignorance or mistake

- A. A person is not relieved of criminal liability for conduct because he is engaged in that conduct under a mistaken belief of fact unless:
 - 1. It negates the existence of a particular mental state essential to commission of the offense;
 - 2. Or the provision of this Code defining the offense or any provision relating thereto expressly provides that a factual mistake or the mental state resulting therefrom constitutes a defense or exemption; or
 - 3. The factual mistake or the mental state resulting therefrom is of a kind that supports a defense of justification as defined in Chapter 3.12 Parties to Offense--Accountability of this Title 3 Municipal Court.
- B. A person is not relieved of criminal liability for conduct because he engages in that conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless the conduct is permitted by one of the following:
 - 1. A statute or provision of this Code binding in the State and/or the Town;
 - 2. An administrative regulation, order, or grant of permission by a body or official authorized and empowered to make such order or grant such permission under a provision of this Code and/or Colorado Revised Statutes;
 - 3. An official written interpretation of this Code or law relating to the offense made or issued by a public servant, agency, or body legally charged or empowered with the responsibility of administering, enforcing, or interpreting any provision of this Code, regulation, order, or law. If such interpretation is by judicial decision, it must be binding in the Town and/or the State.

3.08.040 Consent.

- A. The consent of the victim to conduct charged to constitute an offense or to the result thereof is not a defense unless the consent negates an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.
- B. When conduct is charged to constitute an offense because it causes or threatens bodily injury, consent is a defense only if the bodily injury consented to or threatened by the conduct consented to is not serious or the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport, or the consent established a justification under this Code.
- C. Unless otherwise provided by the this Code or by the law defining the offense, assent does not constitute consent if:
 - 1. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense;

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2. It is given by a person who, by reason of immaturity, mental disease or mental defect, or intoxication, is manifestly unable and is known or reasonably should be known by the defendant to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;
3. It is given by a person whose consent is sought to be prevented by the law defining the offense, or
4. It is induced by force, duress, or deception.

3.08.050 Intoxication

- A. Intoxication of the accused is not a defense to any criminal offense, except as provided in subsection B of this Section, but in any prosecution of an offense evidence of intoxication of the defendant may be offered by the defendant when it is relevant to negate the existence of a specific intent, if such intent is an element of the crime charged.
- B. A person is not criminally responsible for his conduct if, by reason of intoxication that is not self-induced at the time he acts, he lacks capacity to conform his conduct to the requirements of the law.
- C. "Intoxication" as used in this section means a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.
- D. "Self-induced intoxication" means intoxication caused by substances which the defendant knows or ought to know have the tendency to cause intoxication and which he knowingly introduced or allowed to be introduced into his body, unless they were introduced pursuant to medical advice or under similar circumstances that would afford a defense to a criminal offense.

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3.12 Parties to Offenses--Accountability

3.12.010 Applicability

This Chapter shall be applicable to all criminal offenses defined in Title 3 Municipal Court as well as to any other offenses prosecuted in the municipal court.

3.12.020 Liability based upon behavior

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

3.12.030 Behavior of another

- A. A person is legally accountable for the behavior of another person if:
1. He is made accountable for the conduct of that person by the law defining the offense or by a specific provision of this Code; or
 2. He acts with the culpable mental state sufficient for the commission of the offense in question and he causes an innocent person to engage in such behavior.
- B. As used in subsection A. 2. of this Section, an “innocent person” includes any person who is not guilty of the offense in question, despite his behavior, because of duress, legal incapacity or exemption, or unawareness of the criminal nature of the conduct in question or of the defendant’s criminal purpose, or any other factor including the mental state sufficient for the commission of the offense in question.

3.12.040 Complicity

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

3.12.050 Exemptions from liability--No defense based upon behavior of another

- A. Unless otherwise provided by the provision of this Code defining the offense, a person shall not be legally accountable for behavior of another constituting an offense if he is a victim of that offense or the offense is so defined that his conduct is inevitably incidental to its commission.
- B. It shall be an affirmative defense to a charge under Section 3.12.040 Complicity of this Chapter if, prior to the commission of the offense, the defendant terminated his effort to promote or facilitate its commission and either gave timely warning to the intended victim or gave timely warning to law enforcement authorities.

3.12.060 Liability based on behavior of another--No defense

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

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3.16 Justifications and Exemptions form Criminal Responsibility

3.16.010 Applicability

This Chapter shall be applicable to all criminal offenses defined in Title 3 Municipal Court as well as any other offenses prosecuted in the municipal court.

3.16.020 Execution of Public Duty

- A Unless inconsistent with any other provisions of this Chapter defining justifiable use of physical force, or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by law or a judicial decree binding in the Town.
- B. A “provision of law” and a “judicial decree” in subsection A of this section mean laws defining duties and functions of public servants, laws defining duties of private citizens to assist public servants in the performance of certain of their functions, laws governing the execution of legal process, laws governing the military service and conduct of war, and judgments and orders of the court.

3.16.030 Choice of evils

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

3.16.040 Use of physical force--Special relationships

The use of physical force upon another person, which would otherwise constitute an offense, is justifiable and not criminal under any of the following circumstances:

1. A parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person and a teacher or other person entrusted with the care and supervision of a minor, may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent it is reasonably necessary and appropriate to maintain discipline or promote the welfare of the minor or incompetent person;
2. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use reasonable and appropriate physical force upon that person to the extent that it is reasonably necessary to thwart the result;
3. A duly licensed physician, or a person acting under his direction, may use reasonable and appropriate physical force for the purpose of administering a recognized form of treatment which he reasonably believes to be adapted to promoting the physical or mental health of the patient if:
 - (a) the treatment is administered with the consent of the patient, or, if the patient is a minor or an incompetent person, with the consent of his patient, guardian or other person entrusted with his care and supervision; or

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

3.16.050 Duress

A person may not be convicted of an offense based upon conduct which he engaged at the direction of another person because of the use or threatened unlawful use of force upon him or another person, which force or threatened use thereof a reasonable person in this situation would have been unable to resist. The defense is not available when a person intentionally or recklessly places himself in a situation in which it is foreseeable that he will be subjected to such force or threatened use thereof. The choice of evils defense provided in this Chapter shall not be available to a defendant in addition to the defense of duress provided in this Chapter unless separate facts exist which warrants its application.

3.16.060 Use of physical force in defense of a person

- A. Except as provided in subsections B and C of this Section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.
- B. Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and
 1. The actor has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury;
 2. The other person is using or reasonably appears about to use physical force against the occupant of a dwelling or business establishment while committing or attempting to commit burglary as defined in sections 18-4-202 to 18-4-204 C.R.S.; or
 3. The other person is committing or reasonably appears about to commit kidnapping as defined in section 18-3-301 or 18-3-302 C.R.S., robbery as defined in section 18-4-301 or 18-4-302, sexual assault as set forth in section 18-3-402 or in section 18-3-4-3 as it existed prior to July 1, 2000, or assault as defined in sections 18-3-2-2 and 18-3-203 C.R.S.
- C. Notwithstanding the provisions of subsection A of this section, a person is not justified in using physical force if:
 1. With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical force by that other person,
 2. He is the initial aggressor; except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the use of unlawful physical force; or
 3. The physical force involved is the product of a combat by agreement not specifically authorized by law.

3.16.070 Use of physical force in defense of premises

A person in possession or control of any building, realty, or other premises, or a person who is licensed or privileged to be thereon, is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission of an unlawful trespass by the other person in or upon the building, realty, or premises. However, he may use deadly force only in defense of himself or

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another described in section 18-1-704 C.R.S, or when he reasonably believes it necessary to prevent what he reasonably believes to be an attempt by the trespasser to commit first-degree arson.

3.16.080 Use of physical force in defense of property

A person is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to prevent what he reasonably believes to be an attempt by the other person to commit theft, criminal mischief, or criminal tampering involving property, but he may use deadly physical force under these circumstances only in defense of himself or another as described in section 18-1-704 C.R.S.

3.16.090 Entrapment defense

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

3.16.100 Use of physical force in making an arrest or in preventing an escape

- A. Except as provided in subsection B of this Section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he believes it necessary
 - 1. To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or
 - 2. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.
- B. A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection A of this Section only when he believes that it is necessary 1. to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force, or 2. to effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon, or is attempting to escape by the use of a deadly weapon, or otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.
- C. Nothing in subsection B. 2. of this Section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.
- D. For purposes of this Section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. a peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections A and B of this Section unless the warrant is invalid and is known by the officer to be invalid.

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- E. Except as provided in subsection F of this Section, a person who has been directed by a peace officer to assist him to effect an arrest or to prevent the escape from custody is justified in using reasonable and appropriate physical force when and to the extent that he reasonably believes that force to be necessary to carry out the peace officer's direction, unless he knows that the arrest or prospective arrest is not authorized.
- F. A person who has been directed to assist a peace officer under circumstances specified in subsection D of this Section may use deadly physical force to effect an arrest or to prevent an escape only when:
 - 1. He reasonably believes that force to be necessary to defend himself or a third person from what he reasonably believes to be the use of imminent use of deadly physical force or
 - 2. He is directed or authorized by the peace officer to use deadly physical force and does not know, if that happens to be the case, that the peace officer himself is not authorized to use deadly physical force under the circumstances.
- G. A private person acting on his own account is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest, or to prevent the escape from custody of an arrested person who has committed an offense in his presence; but he is justified in using deadly physical force for the purpose only when he reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.
- H. A guard or peace officer employed in a detention facility is justified:
 - 1. In using deadly physical force when he reasonably believes it necessary to prevent the escape of a prisoner convicted of, charged with, or held for a felony or confined under the maximum security rules of any detention facility as such facility is defined in subsection I of this section; or
 - 2. In using reasonable and appropriate physical force, but not deadly physical force, in all other circumstances when and to the extent that he reasonably believes it necessary to prevent what he reasonably believes to be the escape of a prisoner from a detention facility.
- I. "Detention facility" as used in subsection H of this Section means any place maintained for the confinement, pursuant to law, of persons charged with or convicted of an offense, held pursuant to the "Colorado Children's Code", held for extradition, or otherwise confined pursuant to an order of a court.

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