

ORDINANCE NO. 754

AN ORDINANCE AMENDING THE CITY OF
GOLDEN REVISED ORDINANCES OF 1965
BY ADDING SECTIONS CONCERNING DEFERRED
PROSECUTION, DEFERRED PUNISHMENT, AND
ACCESSORY TO A CRIME AND ADDING A
DEFINITION FOR THE TERM "SELF DEFENSE"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF GOLDEN, COLORADO:

Section 1: Chapter 1.01 of the Golden Revised Ordinances
of 1965 is amended by adding the following two sections:

"1.01.113 Deferred Prosecution. (a) In any case
the court may, prior to trial or entry of a plea of
guilty and with the consent of the defendant and the
city attorney, order the prosecution of the offense to
be deferred for a period not to exceed one year.
During that time the court may place the defendant on
probation.

(b) Upon the defendant's satisfactory completion
of and discharge from probation, the charge against the
defendant shall be dismissed with prejudice. If the
conditions of probation are violated, the defendant
shall be tried for the offense for which he is charged.

(c) Upon consenting to a deferred prosecution as
provided in this section, the defendant shall execute a
written waiver of his right to a speedy trial. Consent
to a deferred prosecution under this section shall not
be construed as an admission of guilt, nor shall such
consent be admitted in evidence in a trial for the
offense for which he is charged.

"1.01.116 Deferred Punishment. (a) In any case
in which the defendant has entered a plea of guilty,
the court accepting the plea has the power, with the
written consent of the defendant and his attorney of
record, if so represented, and the city attorney, to
continue the case for a period not to exceed one year
from the date of entry of such plea for the purpose of
entering judgment and punishment upon such plea of
guilty. During such time, the court may place the
defendant on probation.

(b) Prior to entry of a plea of guilty to be
followed by deferred judgment and punishment, the city
attorney, in the course of plea discussion, is authorized
to enter into a written stipulation, to be signed by
the defendant, his attorney of record, if so represented,
and the city attorney, under which the defendant
obligates himself to adhere to such stipulation. The
conditions imposed in the stipulation shall be similar
in all respects to conditions of probation. Upon full
compliance with such conditions by defendant, the plea
of guilty previously entered shall be withdrawn and the
action against the defendant dismissed with prejudice.
Such stipulation shall specifically provide that upon a
breach by the defendant of any condition regulating the
conduct of the defendant, the court shall enter judgment
and assess punishment upon such guilty plea. Whether a

breach of condition has occurred shall be determined by the court without a jury upon application of the city attorney and upon notice of hearing thereon of not less than five days to the defendant or his attorney of record. The burden of proof at such hearing shall be by a preponderance of the evidence, and the procedural safeguards required in a revocation of probation hearing as set forth in Section 16-11-206, C.R.S., 1973, shall apply.

(c) When a defendant signs a stipulation by which it is provided that judgment and punishment shall be deferred for a time certain, he thereby waives all rights to a speedy trial.

Section 2: Chapter 8.04 of the Golden Revised Ordinances of 1965 is amended by adding the following Section:

"8.04.025 Accessory. (a) A person is an accessory to crime and guilty of a misdemeanor if, with intent to hinder, delay, or prevent the discovery, detection, apprehension, prosecution, conviction, or punishment of another for the commission of a crime, he renders assistance to such person.

(b) "Render assistance" means to:

- (1) Harbor or conceal the other; or
- (2) Warn such other person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law; or
- (3) Provide such person with money, transportation, weapon, disguise, or other thing to be used in avoiding discovery or apprehension; or
- (4) By force, intimidation, or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of such person; or
- (5) Conceal, destroy, or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of such person."

Section 3: Section 8.04.040 of the Golden Revised Ordinances of 1965 is amended by adding the following sentence at the end of the Section:

"Self defense means using a degree of physical force upon another person reasonably necessary under the circumstances to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person. A person is not justified in using physical force if:

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

(b) 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

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

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Introduced, approved and ordered published this 12th day of February, 1976.

Adopted, approved and ordered published this 11th day of March, 1976.

David C. Crawford, Mayor

ATTEST:

Sharon L. Bennetts
City Clerk

APPROVED AS TO FORM:

Daniel T. Moyle, Jr.
City Attorney

I, Sharon L. Bennetts, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced and read at a regular meeting of the City Council of said City, held on the 12th day of February, 1976, and by order of said City Council was published as a proposed ordinance as the law directs more than seven days prior to its passage in the Golden Daily Transcript, legal newspaper; and that on the 11th day of March, 1976, the said proposed ordinance was read and passed by the City Council aforesaid, the said meeting being a regular meeting of said City Council and ordered published in aforesaid newspaper as the law directs.

Witness my hand and official seal of the City of Golden, Colorado, this 12th day of March, A.D., 1976.

(SEAL)

Attest:

Sharon L. Bennetts
City Clerk of the City of Golden,
Colorado