

ORDINANCE NO. 773

AN ORDINANCE ADOPTING BY REFERENCE THE
"AMENDMENTS THROUGH JUNE 28, 1976, TO THE
GOLDEN REVISED ORDINANCES OF 1965", RE-
PEALING ORDINANCES IN CONFLICT THEREWITH
AND SETTING PENALTIES FOR THE VIOLATION
OF THE ORDINANCES INCLUDED THEREIN.

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

Section 1. Pursuant to the authority conferred by law, there is hereby adopted the "Amendments through June 28, 1976, to the Golden Revised Ordinances of 1965" which is a published codification as a Primary Code of those ordinances of a general and permanent nature passed since the adoption of the last amendments and including ordinance No. 761 of the City of Golden.

Section 2. The purpose of the primary code is to modernize the ordinances of the City of Golden and include in the Golden Revised Ordinances of 1965 those ordinances of a general and permanent nature which have been adopted by the City Council of the City of Golden since the last amendments.

Section 3. The following sections of the "Amendments through June 28, 1976, to the Golden Revised Ordinances of 1965" contain penalty clauses which are herewith set forth in full:

1.01.113 Deferred prosecution. ... (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.

1.01.116 Deferred punishment. ... (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 Upon full compliance with such conditions by the defendant, the plea of guilty previously entered shall be withdrawn, and the action against the defendant dismissed with prejudice.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 § 16-11-206 CRS, 1973, shall apply.

4.72.120 Violations. Upon receipt of reported permit violations from the city engineer's office, the city council shall notify the operator in writing of the alleged violation and set the matter for hearing before the city council not less than thirty days after the operator receives the notice. At the hearing, the city council shall hear statements and take evidence concerning the alleged violation from the operator and other interested persons. At the conclusion of the hearing, the council shall either withdraw the notice of violation, give the operator a reasonable amount of time to correct the violation, or instruct the city attorney to institute proceedings to have the performance guarantee forfeited and/or institute a nuisance injunction action similar to that authorized in § 30-20-113 CRS, 1973. (Ord. 752 § 1 (I), 1976).

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. (Ord. 754 § 2, 1976).

8.04.040 Using force against another. It is unlawful for any person to willfully use force or violence against the person of another except in self-defense.

"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:

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

(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. (Ord. 754 §3, 1976; provision adopted as part of code).

8.04.570 Possession of open intoxicating beverage containers on public property. It is unlawful for any person to possess or to have in his control on any street, alley, sidewalk, driveway, park area, or on any other public property in the city or in any vehicle thereon any fermented malt beverage, as defined by §12-46-102, CRS, 1973, or any malt, vinous or spirituous liquor as defined by §12-47-102, CRS, 1973, in any containers of any kind which are not sealed or upon which the seal is broken. If the container as sealed for distribution to the public has been unsealed or undone in any manner, the container is deemed to be not sealed or to have a broken seal. Nothing in this section shall prohibit the drinking of or having open containers of fermented malt beverages, malt, vinous or spirituous liquors in public areas when authorized by a properly issued special events permit or when the city manager has issued a permit therefor providing that:

(1) Such permit shall be issued only for a designated area;

(2) Such permit shall be issued only for a designated time period;

(3) The city manager shall have determined that the applicant will be supervised by responsible persons who can control the number and behavior of persons involved, and that adequate provision has been made for police supervision and area maintenance. (Ord. 760 § 1, 1976).

8.04.580 Massage upon persons of the opposite sex prohibited.

... (b) The penalty for violation of this section shall be as prescribed in Section 1.01.110. The city council may, upon seven days' written notice and public hearing, suspend, revoke, deny or refuse to renew the general business license of any licensee who violates or permits the violation of any terms of this section or any statutes of the state involving prostitution, solicitation for prostitution, procuring for prostitution, pandering, lewd acts or any other offense involving moral turpitude. The written notice shall state the contemplated action, and in general the grounds therefor and be mailed to the licensee at the address contained on the license. (Ord. 761 § 1 and 2, 1976).

8.04.590 Conduct in liquor and fermented malt beverage establishments.

... (i) The penalty for violation of this section shall be as prescribed in Section 1.01.110. Notwithstanding any other penalty that may be levied hereunder, any licensee who violates the terms of this section may be subject to suspension, or revocation of his liquor or fermented malt beverage license pursuant to § 12-47-110 and 12-46-107 CRS as amended. (Ord. 758 § 1 and 2, 1976).

19.32.050 Violation - Penalty - Abatement. Any person, firm or corporation that violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of these regulations, upon conviction thereof shall be subject to the penalties provided in Section 1.01.110. Any building erected or converted, or any land or premises used in violation of any provision of these regulations or the requirements thereof is a nuisance, and such nuisance may be abated in such manner as nuisances are now or may hereafter be abated under existing law. (Ord. 748 § 7.6, 1975).

Section 4. All ordinances in conflict with the "Amendments through June 28, 1976, to the Golden Revised Ordinances of 1965" and those ordinances of a general and permanent nature passed since the previous codification which were not included in the "Amendments through June 28, 1976 to the Golden Revised Ordinances of 1965" are hereby repealed as set forth in the Table of Ordinances contained in the Primary Code.

Introduced, read and ordered published this 10th day of February, 1977.

Adopted, approved and ordered published this 24th day of February, 1977.

David C. Crawford, Mayor

Attest:

Sharon L. Bennetts, City Clerk

Approved as to form:

Russell J. Sindt, 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 10th day of February, 1977, 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 24th day of February, 1977, 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 25th day of February, A.D. 1977.

(S E A L)

Attest: _____
Sharon L. Bennetts, City Clerk of the
City of Golden, Colorado

