ALAMOSA CITY COUNCIL
Regular Meeting Agenda

Council Chambers
300 Hunt Avenue, Alamosa, CO
May 17, 2017

As a full service municipal government, our mission is to enhance the quality of life for our residents, visitors, and businesses. We strive to provide balanced business, employment, recreational, and residential opportunities.

Any person needing reasonable accommodation to attend or participate in a public meeting, please contact the Alamosa City Clerk's office by telephone (719) 589-2593, by email cityclerk@ci.alamosa.co.us, in person at 300 Hunt Avenue, or by mail at POB 419, Alamosa, CO 81101.

Council Calendar

5:00 PM - Executive Session Pursuant to C.R.S. §24-6-402(4)(f) for Personnel Matters - Review of Municipal Judge Contract

7:00 PM - Regular Meeting

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. AGENDA APPROVAL

IV. CITIZEN COMMENT

Alamosa City Council welcomes your comments. Citizens wishing to speak may obtain and complete a speaker card through the City Clerk at the start of the meeting.

A. Audience Comments

B. Follow-Up

V. CEREMONIAL ITEMS

A. Older Americans Month Proclamation
B. Mental Health Month Proclamation
C. Police Week Proclamation
D. Life Saving Awards

VI. CONSENT CALENDAR A

The Consent Calendar allows multiple actions with one motion. Consent Calendar A contains routine items which have been recommended for action by staff or advisory boards. Council may remove a consent calendar item for separate consideration.

C.8.a. Receive April 2017 Monthly Reports
C.7.a. Approve Minutes of Meeting May 3, 2017

VII. REGULAR BUSINESS

E. Business Brought Forward by City Staff

1. Information Technology

a. Wireless Internet and Security Camera System for Cole Park

2. City Manager/Legal

a. Public Hearing and Second Reading, Ordinance No. 11-2017, An Ordinance Approving an Intergovernmental Agreement Amongst Various San Luis Valley Local Government Entities for Continuation of a Regional Planning Commission for Transportation Planning

b. First Reading, Ordinance No. 12-2017. An ordinance regulating the personal growing, cultivating, and processing of marijuana

c. First Reading, Ordinance No. 13-2017, an ordinance amending sec. 11-100 of the *Code of Ordinances of the City of Alamosa* to align the language of the ordinance concerning theft with the changes to the statute concerning theft found at C.R.S.. § 18-4-401, and deleting sections 11-104 governing theft of rental property and 11-105 governing theft by receiving, as encompassed within sec. 11-100 as amended.

F. Committee Reports

G. Staff Announcements

VIII. LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

A. CONSENT CALENDAR B

The Consent Calendar allows multiple actions with one motion. Consent Calendar B contains routine items which have been recommended for action by staff or advisory boards. Council may remove a consent calendar item for separate consideration.

1. Kiwanis Club, Ride the Rockies Special Events Permit, June 9, 2017
2. Colorado Rio Grande Restoration Foundation, Ride the Rockies Special Events Permit, June 10, 2017
3. Christian Community Services Projects, Alamosa Round-Up Rodeo Special Events Permit, June 22, 23, and 24, 2017

COUNCIL COMMENT

ADJOURNMENT

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Council Calendar

ATTACHMENTS:

	Description	Type
🗋	City Council Calendar	Cover Memo

Alamosa City Council Meetings and Events

Updated 5/11/2017

All events are held in Alamosa Colorado unless otherwise noted

CITY HALL IS LOCATED AT 300 HUNT				
Date	**Time**	**Event**	**Location**	**Additional Information**
May 12, 2017	6:00 a.m.	Breakfast Meeting with Alamosa Board of Education	IHOP	*
May 16, 2017	Noon	CML Spring Outreach Meeting	Del Norte, CO	**
May 17, 2017	4:00 p.m.	Law Enforcement Memorial	Alamosa PD	***
May 17, 2017	5:00 p.m.	Executive Session	Jury Conference Room	*****
May 17, 2017	6:00 p.m.	Work Session: Joint with Golf Board	Council Chambers	*
May 31, 2017	6:00 p.m.	Work Session: Marijuana	Council Chambers	*
June 7, 2017	5:00 p.m.	Board Applicant Interviews	Jury Conference Room	*
June 20 - 23, 2017	All Day	CML Annual Conference	Breckenridge, CO	**
July 26, 2017	4:30 p.m.	City Services Fair	Cole Park	***
August 4 - 5, 2017	All Day	Annual Retreat	Trinchera	*

* Work sessions are informal Council meetings for the purpose of discussion among Council members. No action is taken. The public is invited to attend, but public comment is generally not received unless otherwise noted.

**Sponsored by outside entity. Council members have been invited to attend. Please check with originating entity for registration information

*** Citizens are encouraged to attend this community event

**** This is a purely social event and not open to the public

*****This is a closed session and not open to the public

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Older Americans Month Proclamation

ATTACHMENTS:

	Description	Type
🗋	Proclamation	Cover Memo

OLDER AMERICANS MONTH

AGE OUT LOUD: MAY 2017

Older Americans Month 2017
A PROCLAMATION

Whereas, ALAMOSA includes older Americans who richly contribute to our community; and

Whereas, we acknowledge that what it means "to age" has changed—for the better.

Whereas, ALAMOSA is committed to supporting older adults as they take charge of their health, explore new opportunities and activities, and focus on independence; and

Whereas, ALAMOSA can provide opportunities to enrich the lives of individuals of *all ages* by:

- involving older adults in the redefinition of aging in our community;
- promoting home- and community-based services that support independent living;
- encouraging older adults to speak up for themselves and others; and
- providing opportunities for older adults to share their experiences.

Now therefore, WE of the **CITY OF ALAMOSA** do hereby proclaim May 2017 to be Older Americans Month. WE urge every resident to take time during this month to acknowledge older adults and the people who serve them as influential and vital parts of our community.

Given under my hand and seal of the City of Alamosa this 17th day of May, 2017.

_____
Josef P. Lucero, Mayor

Attest:

_____
Holly C. Martinez, City Clerk

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Mental Health Month Proclamation

ATTACHMENTS:

	Description	Type
🗋	Mental Health Month Proclamation	Cover Memo

May is Mental Health Month 2017

Proclamation

Whereas, Mental Health has been observed since 1949 to raise awareness of mental health conditions and the importance of mental health; and

Whereas, we are all affected by mental health. And one in four Coloradans experience mental health conditions or substance use disorders, or both each year; and

Whereas, 50% of all people with mental health conditions experience them by age 14, and 74% by age 24; and

Whereas, increased focus on the prevention of mental health conditions and substance use disorders among children and adolescents through screening and early intervention helps improve lives; and

Whereas, people with lived experience of mental illness and/or substance use disorders get better, live in recovery, and provide invaluable knowledge of how to improve and transform systems of care; and

Whereas, greater trauma informed care and peer support services are needed to support and facilitate recovery; and

Whereas, the stigma against mental health conditions remains one of the greatest barriers to improving the lives of all Coloradans through better mental health; and

Whereas, Colorado is dedicated to becoming the healthiest state in the nation by ending stigma and focusing on the integrated role of mental health in all our lives.

I therefore, Mayor Josef P. Lucero, and on behalf of the Alamosa City Council, do hereby proclaim May 2017 as Mental Health Month in Alamosa, Colorado. Further, I call upon citizens, government agencies, organizations, health care providers, and research institutions to raise mental health awareness and continue helping Americans live longer, healthier lives.

Given under my hand and seal of the City of Alamosa this 17th day of May, 2017.

_____
Josef P. Lucero, Mayor

_____
Holly C. Martinez, City Clerk

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Police Week Proclamation

Recommended Action:
That the Alamosa City Council and Mayor Lucero proclaim the week of May 14, 2017 Police Week and May 15, 2017 as Peace Officers Memorial Day.

Background:
In 1962, President Kennedy proclaimed May 15 as National Peace Officers Memorial Day and the calendar week in which May 15 falls, as National Police Week. Established by a joint resolution of Congress in 1962, National Police Week pays special recognition to those law enforcement officers who have lost their lives in the line of duty for the safety and protection of others.

Issue Before the Council:
To proclaim the week of May 14, 2017 Police Week and May 15, 2017 as Peace Officers Memorial Day.

Alternatives:
1) Make the proposed proclamations for 2017 Police Week and 2017 Peace Officers Memorial Day.
2) Decline to make either or both proclamations

Fiscal Impact:
No Fiscal impact

ATTACHMENTS:

	Description	Type
🗋	2017 Police Proclamation	Cover Memo

THE CITY OF ALAMOSA

Proclamation

WHEREAS, the Congress and President of the United States have designated May 15 as Peace Officers Memorial Day, and the week in which it falls as Police Week; and

WHEREAS, the members of law enforcement and the Alamosa Police Department play an essential role in safeguarding the rights and freedoms of the citizens of Alamosa; and

WHEREAS, it is important that all citizens know and understand the problems, duties and responsibilities of their police department, and that members of our police department recognize their duty to serve the people by safeguarding life and property, by protecting them against violence or disorder, and by protecting the innocent against deception and the weak against oppression or intimidation; and

WHEREAS, the City of Alamosa Police Department has grown to be a modern and scientific law enforcement agency which unceasingly provides a vital public service; and

WHEREAS, I, City of Alamosa Mayor, Josef P. Lucero, call upon all citizens of Alamosa and upon all patriotic, civil, and educational organizations to observe the week of May 14, 2017 , as Police Week with appropriate ceremonies in which all of our people may join in commemorating police officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities and, in doing so, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I, **FURTHER** call upon all citizens of Alamosa to observe Monday, May 15, 2017, as Peace Officers Memorial Day in honor of those peace officers who, through their courageous deeds, have lost their lives or have become disabled in the performance of duty.

NOW, THEREFORE, I, Josef P. Lucero, by virtue of the authority vested in me as Mayor of the City of Alamosa, do hereby honor law enforcement officers across the country and the Alamosa Police Department and proudly proclaim the week of May 14, 2017 Police Week and May 15, 2017 as Peace Officers Memorial Day.

_____

Josef P. Lucero, Mayor

Attest:

_____

Holly C. Martinez, City Clerk

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Receive April 2017 Monthly Reports

ATTACHMENTS:

	Description	Type
🗋	April 2017 Monthly Reports	Cover Memo

COUNCIL COMMUNICATION

DATE May 17, 2017	**AGENDA NO.C. 8. a**	**SUBJECT**: City Manager Monthly Report for April 2017
Department Head:		
City Manager: Heather Brooks		
PRESENTED BY: Heather Brooks		

The following reports cover the activities of the City's various departments. Below is a statement regarding major issues covered by the City Manager's Office. Additional information is provided in the bi-weekly updates from the City Manager to the Council.

April 2017 Report

- Met with County staff to discuss jointly owned Airport property
- Attended multiple VIP Branding meetings
- Attended public meeting regarding the Animal Ordinance
- Held weekly Leadership Team meetings
- Met weekly with the Mayor and City Clerk
- Lunch meeting with Dr. McClure
- Weekly economic development meeting
- Participated on the Healthcare Sector Peer Networking call
- Attended the GOCO Visit at the Rec Center regarding the Inspire Grant
- Monthly meeting with Councilor Coleman
- Attended regular Council meetings and work sessions
- Monthly meeting with Councilor Vigil
- Met with East Alamosa Water regarding augmentation plans
- Held Healthcare Workforce Committee meeting
- Held phone interviews for Parks & Recs Director
- Attended Alamosa First Friday Art Hop
- Met with County regarding municipal inmates at the jail
- Regular monthly meeting with IT Director
- Attended the Rec Board meeting
- Met with Basset Construction regarding City Hall roof
- Attended Grizzly Club Board meetings
- Met with Kale regarding advertisement in the Alamosa Map
- Met with Golf Partnership Committee
- Met with SLV Health on billing matters with the City
- Met with the sub art committee for the installation of sculptures
- Monthly meeting with Councilor Griego
- Met to discuss Enterprise Zone projects
- Met with Xcel Energy
- Met with Community Energy regarding solar projects
- Monthly meeting with Councilor Hensley

- Attended monthly ACEDC Board meeting
- Attended the joint City Council/County Commissioners dinner meeting
- Attended the Senior Citizen's Board meeting
- Held art committee meetings
- Attended the VIP Logo Unveiling public meeting
- Held Supervisor Evaluation training

City of Alamosa
Monthly Activities Report
April 2017
Public Works Department

Streets: Repaired and replaced signs as needed. Patched a total of 250 potholes with cold mix, bagged mix and patcher. Addressed calls and complaints as needed. Conducted one sanding operation the first of the month after storm. Pick up branches after the storm. Conducted a traffic count and speed study in the 700 block of Weber. Bladed gravel roads. Assisted recycling with yard waste haul. Placed gravel to fill in low spots and moved crushed glass bin at recycle center. Conducted maintenance worker I interviews. Built gravel road and parking lot at ranch for farm park grant. Began saw cutting asphalt around soft spots. Tymco demonstrated new sweeper with City personnel. Attended supervisor evaluation training.

Solid Waste: Commercial waste hauled totaled 306 T.; residential waste hauled totaled 151 T. Eleven special pick-ups were completed. One toter and two dumpsters were delivered. Five toters were repaired and four dumpsters.

Recycling: A total of sixty six bales of various materials were made. Ninety four bales (40.48 T.) were shipped. A total of 5.6 T. of glass was made. Land fill savings totaled $692.21 Eight yard waste containers were delivered.

Building Inspection: Twelve building permits were issued for a total valuation of $346,300.79. Building permit fees totaled $2,533.00 and construction use tax totaled $3,112.91. Plan review fees were $374.12 A total of 42 various inspections were conducted. Five general contractor licenses were issued and one limited license. Five certificates of occupancy were issued for single family dwellings, two for multi- family dwellings and one commercial.

Water: A total of 55,187,000 gallons of water were pumped for municipal use. Water treatment plant production was 45,519,056 gallons. Turn off /ons for occupant change and repairs totaled 34. Fifteen meters were re-read. Thirteen curb stops were cleaned out and two repaired. Water pumped at the front nine on the Golf Course totaled 2,809,000 gallons and 3,161,723 gallons for the golf course booster pump/back nine. There were six call outs after hours on water related issues. Two broken meter pits were repaired. Two new water services were installed. Continued flushing dead end water mains. Repaired a fire hydrant on the 1000 block of Railroad Ave. Did locates and pot holes and re-patched First St. form Murphy to Edgemont for upcoming street reconstruction with assistance from the Street Dept. The non-potable water system for irrigation was turned on for the north side. The meter pit was replaced at 2045 Church St. Twenty nine shut offs were done for nonpayment.

Wastewater: Total discharge for the month was 40.42 million gallons. All routine testing was completed. The uv lamps were received from Glasco to replace the lamps broken in shipping. The headworks were sprayed down, both clarifiers were cleaned and the effluent channel. Assisted with bacteriological testing. Ran the generator for one hour every Monday. Assisted with the airline repair at the water plant. Worked on the net DMR. Surveyors and engineers came to the plant for the upcoming relocation of the effluent discharge point.

East Alamosa: A total of 2,762,882 gallons of water were treated and supplied to East Alamosa. Five sanitary sewers were checked for plugs; two unplugged. Two new manholes were built, two were cleaned. There was one call out after work hours. Pumps were pulled at Price, McKinney-McQuerry and Rodeo lift stations and cleaned impellers of debris. Cleaned Sunnyside, McKinney McQuerry and Rodeo lift stations. Did standby as the county replace the culvert at the ditch on Curtis Lane to assure waterlines were not damaged. Inspected the sewer line replacement on Sunnyside Lane installed by Steffens Plumbing.

Sewer: Twenty one sewers were checked at customers' requests, eight were unplugged. Sixty eight sanitary sewers were inspected; ten blocks of sewer line were cleaned. Five sewers were cleaned and flushed and seven manholes were cleaned out. Completed flushing dead end sewer lines. Two manholes were raised. Eight new sewer services were installed. Checked all lift stations daily. Hauled off grit and cleaned the splitter box at the WWTP. Cleaned Wal Mart and Murphy lift stations. There were four call outs after hours for sewer related problems. The sludge discharge pipes were extended at the waste water treatment ponds. Boards were replaced in one of the manholes at the lagoons. Cleaned wash bay and pit south of maintenance shop with the B-10. Pulled screen and removed beaver dams on the discharge line at WWTP.

Alamosa Fire Department

Department Report for April 2017

The Alamosa Fire Department responded to 9 calls within the City Limits and 14 calls outside the City Limits. In addition to paged fire calls, Officers also responded to an additional 3 calls.

City Call Comparisons

Year	Monthly Comparison	Total City Calls Year to Date
2017	57*	283
2016	54**	206

* Includes 48 Airport Flight Standbys ** includes 37 Airport Flight Standbys

Inspections

7 Commercial Building inspections were performed

Fire Prevention/Station Tours

The Department hosted six station tours

Training:

Firefighters logged a combined total 79 hours of in house training during the month.

ALAMOSA

Incident Type Report (Summary)

Alarm Date Between {04/01/2017} And {04/30/2017} and Station = "1"

Incident Type	Count	Pct of Incidents	Total Est Loss	Pct of Losses
1 Fire				
111 Building fire	2	3.51%	$48,000	100.00%
	2	**3.51%**	**$48,000**	**100.00%**
3 Rescue & Emergency Medical Service Incident				
322 Motor vehicle accident with injuries	1	1.75%	$0	0.00%
324 Motor Vehicle Accident with no injuries	1	1.75%	$0	0.00%
	2	**3.51%**	**$0**	**0.00%**
5 Service Call				
531 Smoke or odor removal	1	1.75%	$0	0.00%
551 Assist police or other governmental agency	2	3.51%	$0	0.00%
571 Cover assignment, standby, moveup	48	84.21%	$0	0.00%
	51	**89.47%**	**$0**	**0.00%**
6 Good Intent Call				
622 No Incident found on arrival at dispatch address	1	1.75%	$0	0.00%
651 Smoke scare, odor of smoke	1	1.75%	$0	0.00%
	2	**3.51%**	**$0**	**0.00%**

Total Incident Count: 57 **Total Est Loss: $48,000**

COUNCIL COMMUNICATION

DATE May 1, 2017	**AGENDA NO.C. 8. a**	**SUBJECT**: IT Director Monthly Report for April 2017
Department Head:		
City Manager:		
PRESENTED BY: James A. Belknap		

Below is a statement regarding major issues covered by the City IT Department:

April 2017 Report

- GeoVision Camera Server:
  - Built temporary Server while awaiting all parts for final build
  - Installed cameras in the Council Chambers
- RMS
  - Upgraded server and all clients
- Clerks
  - Fix longstanding error with new cashier PC, related to Laserfiche addons in Word. This error would cause the workstation to lock up during periods of heavy utilization.
- Rec Center
  - Installed and configured radios, Access Points and cameras on the main building, scorebox and concession stand, allowing IT to place cameras on our softball fields, and test large scale public WIFI delivery systems. We will be testing this system during Ride the Rockies this year in order to see the effects of large scale usage on this particular system.
  - Worked with Director, Community Activities Director, and the Chief of Police to establish software connectivity on the new P&R cameras
- PD
  - Added APL AP to squadroom to improve WIFI in the building.
  - Add CofaAir and APL APs to server room as part of the project to improve our business WIFI.

- Fixed time on timeclocks. A Service issue was preventing the timeclocks from keeping accurate time.
- Upgraded the Police Department VuVualt server and all client computers to the latest version from Digital Ally.
- Worked with ETS eMoney (our credit card processing service), to add our new Parks and Rec Director, our new Finance Director, and to remove our previous Finance Director on the account.
- Removed Zero Handoff from 2548 AP group (per Ubiquiti recommendation) which seems to have correct an issue we were seeing in the WIFI downloads of the Police MVR systems.
- Upgraded Police vehicles 3 & 7 to the latest Digital Ally firmware.
- Listed multiple vehicles on the City auction site.
- Upgraded WIFI in police training center
    - Added two new APs (Cofa & Apl)
- Fire Station 2 network outage assistance
    - Replaced and adjusted AP/SM system from the Craft water tower to FS2. With the assistance of our Building Inspector, we were able to adjust the wireless system to reconnect Fire Station 2 to the City network.
    - Updated the Google calendar on public website
- Updated vehicle numbers and hardware in the Police Chief's and Investigators new vehicles
- Worked with the Building Inspector on the multi-purpose building IFB posting on the website.
- Sent out monthly Phishing and Virus reports to all network users.
- Reviewed the security logs created by the Security Audit system. The system allows IT to review potential physical security breach attempts of the entire network in one comprehensive location.
- Patched all City owned computers to the latest patch and vulnerability fixes from Microsoft. This monthly patching helps protect our computers from malicious software, resolve general windows issues/bugs, and provide access to new windows features.

In Monte Vista, we performed the following items:

- Watchguard
    - RMA'd 6 body camera mounts
- Council Chambers
    - Replaced audio system with new equipment

    - Install dedicated PC for court and recordings
- Trained Azarel on creating IDs
- Evidence Room
    - Install dedicated desktop for the Records Clerk. This reutilized system allow the clerk to properly utilize the wireless scanner for evidence.
- Cross trained with Azarel and CJ on CivicPlus for the public website.
- Setup and trained Azarel on the ID card system, once ID's are created we will install the new locking system in City Hall and the Police Department.
- Recorded the City Council meeting of 4/6/17 and placed the recording on YouTube.
- Recorded the City Council meeting of 4/20/17 and placed the recording on YouTube.
- Sent out monthly Phishing and Virus reports to all network users.
- Performed patch services on all existing and newly created servers. This monthly patching will help protect our servers from known vulnerabilities.

City of Alamosa: All Tickets

List of all tickets (66 items)

Generated on May 01, 2017 @ 09:53 am

Ticket #	Created By(Email)	Summary	Related to	Create Date	Close Date	Status	Priority	Days Open
4384	lmontano@ci.alamosa.co.us	online docket	pcl142	04-03-2017 @ 10:55 am	04-04-2017 @ 08:27 am	closed	Med	< 1 day
4385	bdecker@ci.alamosa.us	Membership Cards	172.16.2.96	04-03-2017 @ 04:35 pm	04-04-2017 @ 08:44 am	closed	Med	< 1 day
4386	arice@ci.alamosa.co.us	Ch 10 Rec Update		04-04-2017 @ 09:42 am	04-04-2017 @ 09:47 am	closed	Med	< 1 day
4387	hmartinez@ci.alamosa.co.us	Updates for City Website	pcl205	04-04-2017 @ 02:40 pm	04-04-2017 @ 03:41 pm	closed	Med	< 1 day
4388	tbrubacher@ci.alamosa.co.us	CD Drive	staffd-9	04-04-2017 @ 05:05 pm	04-07-2017 @ 01:58 pm	closed	Med	2 days
4389	smaestas@ci.alamosa.co.us	Memory Card Reader	staff8	04-04-2017 @ 05:11 pm	04-17-2017 @ 04:02 pm	closed	Med	12 days
4390	dchapman@ci.alamosa.co.us	Station 1 TV Room Computer	md7	04-05-2017 @ 01:45 pm	04-05-2017 @ 03:59 pm	closed	Med	< 1 day
4391	jkelloff@ci.alamosa.co.us	my email account is missing	md2	04-06-2017 @ 07:23 am	04-06-2017 @ 08:49 am	closed	Med	< 1 day
4392	jbelknap@ci.alamosa.co.us	Unable to log in to IT help desk		04-07-2017 @ 08:26 am	04-07-2017 @ 09:08 am	closed	Med	< 1 day
4393	mabeyta@ci.alamosa.co.us	New card/employee badge	pcl147	04-07-2017 @ 08:33 am	04-07-2017 @ 09:08 am	closed	Med	< 1 day
4394	sgallegos@ci.alamosa.co.us	ADD DOCKET TO WEB PAGE	mdt-8	04-07-2017 @ 10:12 am	04-07-2017 @ 11:04 am	closed	Med	< 1 day
4395	dalderton@ci.alamosa.co.us	time clock	staffd-6	04-10-2017 @ 10:59 am	04-10-2017 @ 11:23 am	closed	Med	< 1 day
4396	amckinley@ci.alamosa.co.us	Please add	md18	04-10-2017 @ 11:46 am	04-10-2017 @ 11:52 am	closed	Med	< 1 day
4397	jbelknap@ci.alamosa.co.us	Job Applicatoin		04-10-2017 @ 12:14 pm	04-10-2017 @ 03:39 pm	closed	Med	< 1 day
4398	jscott@ci.alamosa.co.us	label writer DYMO	pcl176	04-10-2017 @ 04:06 pm	04-10-2017 @ 04:15 pm	closed	Med	< 1 day
4399	wharrison@ci.alamosa.co.us	When I try to print screen nothing happens	md9	04-10-2017 @ 04:38 pm	04-10-2017 @ 04:44 pm	closed	Med	< 1 day
4400	jbelknap@ci.alamosa.co.us	Install Incode 10		04-11-2017 @ 08:34 am	04-11-2017 @ 08:45 am	closed	Med	< 1 day
4401	jscott@ci.alamosa.co.us	lost connection	pcl176	04-11-2017 @ 09:15 am	04-11-2017 @ 09:33 am	closed	Med	< 1 day
4402	lmontano@ci.alamosa.co.us	update website	pcl142	04-11-2017 @ 09:33 am	04-11-2017 @ 09:39 am	closed	Med	< 1 day
4403	amckinley@ci.alamosa.co.us	Please remove	md18	04-11-2017 @ 12:07 pm	04-11-2017 @ 04:42 pm	closed	Med	< 1 day
4404	amckinley@ci.alamosa.co.us	Please add	md18	04-11-2017 @ 05:00 pm	04-12-2017 @ 08:47 am	closed	Med	< 1 day
4405	jwebb@ci.alamosa.co.us	PSA for the website	pcl154	04-12-2017 @ 11:36 am	04-12-2017 @ 12:04 pm	closed	Med	< 1 day
4406	jwebb@ci.alamosa.co.us	Posts for the Website	pcl154	04-13-2017 @ 10:58 am	04-17-2017 @ 08:21 am	closed	Med	3 days
4407	jscott@ci.alamosa.co.us	phone check	pcl176	04-13-2017 @ 11:18 am		open	Med	17 days
4408	jwebb@ci.alamosa.co.us	Friday Update	pcl154	04-13-2017 @ 03:40 pm	04-14-2017 @ 08:15 am	closed	Med	< 1 day

City of Alamosa: All Tickets

List of all tickets (66 items)

Generated on May 01, 2017 @ 09:53 am

Ticket #	Created By(Email)	Summary	Related to	Create Date	Close Date	Status	Priority	Days Open
4409	bcooper@ci.alamosa.co.us	Body Camera 5	pcl196	04-14-2017 @ 10:22 pm	04-17-2017 @ 08:20 am	closed	Med	2 days
4410	jwebb@ci.alamosa.co.us	Website PSA	pcl154	04-17-2017 @ 08:01 am	04-17-2017 @ 08:24 am	closed	Med	< 1 day
4411	amckinley@ci.alamosa.co.us	URGENT	mdl8	04-17-2017 @ 08:57 am	04-17-2017 @ 09:15 am	closed	Med	< 1 day
4412	sgallegos@ci.alamosa.co.us	ADD DOCKET TO WEB PAGE	mdt-8	04-17-2017 @ 12:10 pm	04-17-2017 @ 04:01 pm	closed	Med	< 1 day
4413	sarchuleta2@ci.alamosa.co.us	bad connection	pcghost	04-18-2017 @ 10:04 am	04-18-2017 @ 10:13 am	closed	Med	< 1 day
4414	jwebb@ci.alamosa.co.us	Creating group contacts	pcl154	04-18-2017 @ 11:24 am	04-18-2017 @ 02:00 pm	closed	Med	< 1 day
4415	arice@ci.alamosa.co.us	Ch 10 Rec Update	pcl165	04-18-2017 @ 12:04 pm	04-18-2017 @ 02:01 pm	closed	Med	< 1 day
4416	staylor@ci.alamosa.co.us	Library Website: ILL request form	md6	04-18-2017 @ 01:55 pm	04-18-2017 @ 02:14 pm	closed	Med	< 1 day
4417	hmartinez@ci.alamosa.co.us	Phone Conference in Jury Conference Room	pcl018	04-18-2017 @ 02:05 pm	04-19-2017 @ 06:21 pm	closed	Med	1 day
4418	hmartinez@ci.alamosa.co.us	Check calendar on City Website	pcl018	04-18-2017 @ 03:28 pm	04-18-2017 @ 03:44 pm	closed	Med	< 1 day
4419	amckinley@ci.alamosa.co.us	Please add	mdl8	04-19-2017 @ 08:14 am	04-19-2017 @ 08:47 am	closed	Med	< 1 day
4420	amckinley@ci.alamosa.co.us	Please change	mdl8	04-19-2017 @ 08:24 am	04-19-2017 @ 08:47 am	closed	Med	< 1 day
4421	amckinley@ci.alamosa.co.us	Please add	mdl8	04-19-2017 @ 04:33 pm	04-19-2017 @ 08:11 pm	closed	Med	< 1 day
4422	jwebb@ci.alamosa.co.us	Press release	pcl154	04-20-2017 @ 09:25 am	04-20-2017 @ 11:40 am	closed	Med	< 1 day
4423	sgallegos@ci.alamosa.co.us	ADD DOCKET TO WEB PAGE	mdt-8	04-20-2017 @ 09:35 am	04-20-2017 @ 02:50 pm	closed	Med	< 1 day
4424	jwebb@ci.alamosa.co.us	pre	pcl154	04-20-2017 @ 10:29 am	04-20-2017 @ 11:40 am	closed	Med	< 1 day
4425	jwebb@ci.alamosa.co.us	pre	pcl154	04-20-2017 @ 10:30 am	04-20-2017 @ 11:40 am	closed	Med	< 1 day
4426	jwebb@ci.alamosa.co.us	Press release	pcl154	04-20-2017 @ 10:31 am	04-20-2017 @ 11:44 am	closed	Med	< 1 day
4427	hmartinez@ci.alamosa.co.us	FileZilla		04-20-2017 @ 10:47 am	04-24-2017 @ 05:05 pm	closed	Med	4 days
4428	jwebb@ci.alamosa.co.us	Pre	pcl154	04-20-2017 @ 12:51 pm	04-20-2017 @ 02:43 pm	closed	Med	< 1 day
4429	jwebb@ci.alamosa.co.us	Press release	pcl154	04-20-2017 @ 12:52 pm	04-20-2017 @ 03:15 pm	closed	Med	< 1 day
4430	jwebb@ci.alamosa.co.us	PSAs for the Library	pcl154	04-20-2017 @ 01:00 pm	04-20-2017 @ 03:27 pm	closed	Med	< 1 day
4431	lmontano@ci.alamosa.co.us	not able to access ccic	pcl142	04-21-2017 @ 10:24 am	04-21-2017 @ 12:02 pm	closed	Med	< 1 day
4432	lmontano@ci.alamosa.co.us	online docket	pcl142	04-21-2017 @ 03:06 pm	04-24-2017 @ 08:02 am	closed	Med	2 days
4433	jwebb@ci.alamosa.co.us	Posts for the Website	pcl154	04-24-2017 @ 08:57 am	04-24-2017 @ 04:20 pm	closed	Med	< 1 day

City of Alamosa: All Tickets

List of all tickets (66 items)

Generated on May 01, 2017 @ 09:53 am

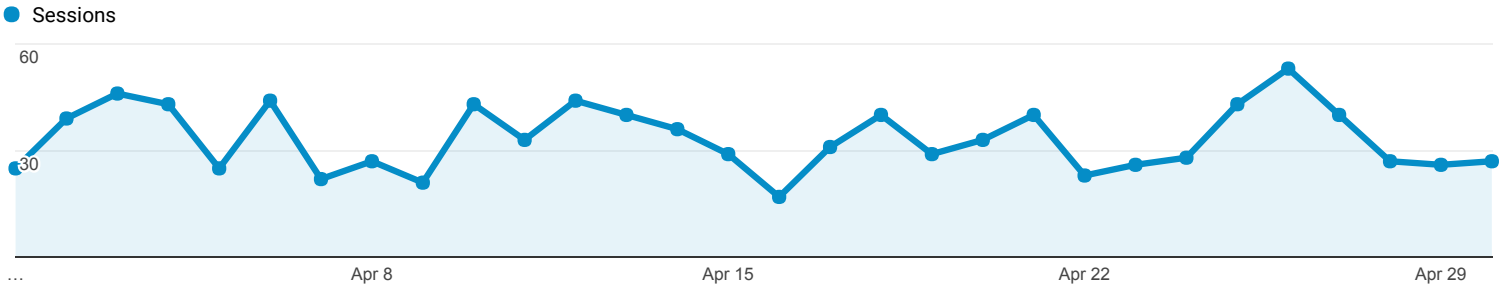
Ticket #	Created By(Email)	Summary	Related to	Create Date	Close Date	Status	Priority	Days Open
4434	amckinley@ci.alamosa.co.us	Monday May 1st	md18	04-24-2017 @ 10:29 am		open	Med	6 days
4435	lmontano@ci.alamosa.co.us	Problems with CCIC again	pcl142	04-24-2017 @ 12:20 pm	04-25-2017 @ 12:01 pm	closed	Med	< 1 day
4436	sgallegos@ci.alamosa.co.us	JAVA NEEDS UPDATE	mdt-8	04-24-2017 @ 01:11 pm	04-24-2017 @ 05:04 pm	closed	Med	< 1 day
4437	wsquires@ci.alamosa.co.us	Laptop Battery	citystaff-2	04-25-2017 @ 09:58 am	04-27-2017 @ 03:06 pm	closed	Med	2 days
4438	amckinley@ci.alamosa.co.us	Please post on the website	md18	04-25-2017 @ 10:16 am	04-25-2017 @ 11:59 am	closed	Med	< 1 day
4439	osanchez@ci.alamosa.co.us	Meetpro2	pcl151	04-25-2017 @ 11:40 am	04-26-2017 @ 08:10 am	closed	Med	< 1 day
4440	jscott@ci.alamosa.co.us	PC/ZBA meeting	pcl176	04-26-2017 @ 08:19 am	04-27-2017 @ 10:33 am	closed	Med	1 day
4441	jwebb@ci.alamosa.co.us	PSA for the website	pcl154	04-26-2017 @ 08:47 am	04-26-2017 @ 08:57 am	closed	Med	< 1 day
4442	jwebb@ci.alamosa.co.us	PSA for the website	pcl154	04-26-2017 @ 09:28 am	04-26-2017 @ 09:32 am	closed	Med	< 1 day
4443	tbrubacher@ci.alamosa.co.us	Openfox issues	staffd-9	04-26-2017 @ 10:18 am	04-26-2017 @ 01:58 pm	closed	Med	< 1 day
4444	hreynolds@ci.alamosa.co.us	Post ASAP	vpn	04-27-2017 @ 09:47 am	04-27-2017 @ 10:33 am	closed	Med	< 1 day
4445	lmontano@ci.alamosa.co.us	CCIC	pcl142	04-27-2017 @ 09:59 am	04-27-2017 @ 02:49 pm	closed	Med	< 1 day
4446	sgallegos@ci.alamosa.co.us	ADD DOCKET TO WEB PAGE	mdt-8	04-27-2017 @ 12:54 pm	04-27-2017 @ 03:31 pm	closed	Med	< 1 day
4447	jscott@ci.alamosa.co.us	scan info	pcl176	04-28-2017 @ 09:35 am	04-28-2017 @ 01:13 pm	closed	Med	< 1 day
4448	jwebb@ci.alamosa.co.us	Friday Update	pcl154	04-28-2017 @ 01:18 pm	04-28-2017 @ 01:40 pm	closed	Med	< 1 day
4449	amckinley@ci.alamosa.co.us	please remove	md18	04-28-2017 @ 04:45 pm		open	Med	2 days

Audience Overview

Apr 1, 2017 - Apr 30, 2017

All Users
100.00% Sessions

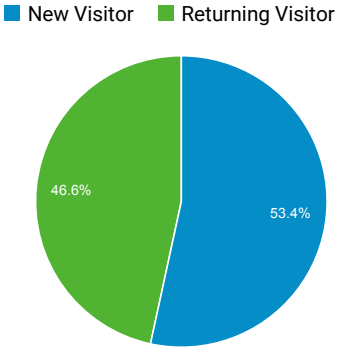
Overview



Sessions	Users	Pageviews
1,000	665	1,971

Pages / Session	Avg. Session Duration	Bounce Rate
1.97	00:01:21	62.50%

% New Sessions
53.40%



	Language	Sessions	% Sessions
1.	en-us	941	94.10%
2.	en-gb	27	2.70%
3.	pt-br	9	0.90%
4.	ru	3	0.30%
5.	(not set)	2	0.20%
6.	en-au	2	0.20%
7.	en-ca	2	0.20%
8.	ar	1	0.10%
9.	bn	1	0.10%
10.	c	1	0.10%

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http://www.cityofalamosa.org
www.cityofalamosa.org

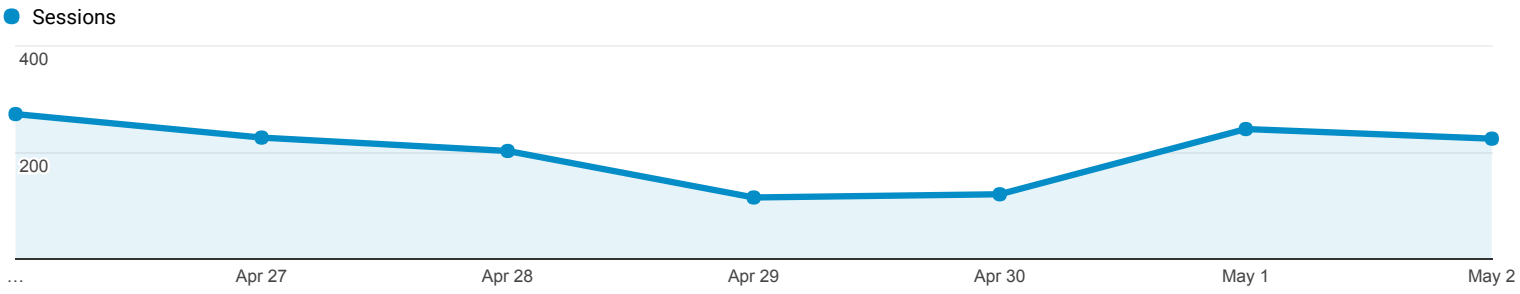
GO TO REPORT

Audience Overview

Apr 26, 2017 - May 2, 2017

All Users
100.00% Sessions

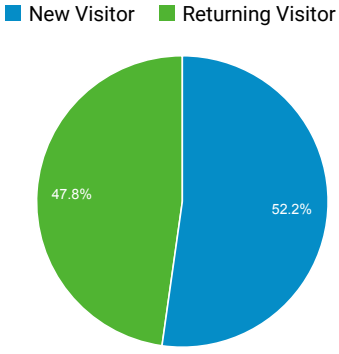
Overview



Sessions	Users	Pageviews
1,411	1,069	3,303

Pages / Session	Avg. Session Duration	Bounce Rate
2.34	00:01:44	53.22%

% New Sessions
52.23%



	Language	Sessions	% Sessions
1.	en-us	1,382	97.94%
2.	fr-fr	8	0.57%
3.	es-419	5	0.35%
4.	en	4	0.28%
5.	fr	3	0.21%
6.	de	2	0.14%
7.	en-gb	2	0.14%
8.	(not set)	1	0.07%
9.	cs	1	0.07%
10.	en-ca	1	0.07%

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Device Activity Report

Report Generation Info

Date Created: 05/01/2017 9:51 AM Created By: jbelknap Machine Name: PC1156

	Total		Brakes		Collision		Continuation		Lights		Record Button		Siren		Untriggered		Vehicle Speed		VuLink		Wire
Total	1133	100%	79	7%	2	0%	25	2%	290	26%	48	4%	4	0%	455	40%	17	2%	212	19%	

Device Name	Total		Brakes		Collision		Continuation		Lights		Record Button		Siren		Untriggered		Vehicle Speed		VuLink		Wire
Car Unit 17	85	8%	29	34%	0	0%	2	2%	27	32%	7	8%	0	0%	0	0%	5	6%	15	18%	
Car Unit T2-23	79	7%	0	0%	0	0%	0	0%	26	33%	5	6%	0	0%	0	0%	2	3%	46	58%	
Car Unit 10	73	6%	12	16%	0	0%	0	0%	36	49%	14	19%	0	0%	0	0%	3	4%	8	11%	
Bodycam Unit 23	68	6%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	68	100%	0	0%	0	0%	
Bodycam Unit 17	67	6%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	67	100%	0	0%	0	0%	
Bodycam Unit 4	65	6%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	65	100%	0	0%	0	0%	
Car Unit T1-12	64	6%	22	34%	0	0%	0	0%	33	52%	0	0%	2	3%	0	0%	0	0%	7	11%	
Bodycam Unit 24	59	5%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	59	100%	0	0%	0	0%	
Car Unit 24	56	5%	0	0%	0	0%	0	0%	24	43%	2	4%	0	0%	0	0%	0	0%	29	52%	
Car Unit 4	51	5%	0	0%	0	0%	0	0%	7	14%	4	8%	0	0%	0	0%	0	0%	40	78%	
Car Unit 15	48	4%	9	19%	0	0%	13	27%	22	46%	3	6%	0	0%	0	0%	1	2%	0	0%	
Bodycam Unit 10	43	4%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	43	100%	0	0%	0	0%	
Bodycam Unit 12	41	4%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	41	100%	0	0%	0	0%	
Car Unit 7	38	3%	0	0%	0	0%	1	3%	36	95%	1	3%	0	0%	0	0%	0	0%	0	0%	
Bodycam Unit 3	31	3%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	31	100%	0	0%	0	0%	
Car Unit 3	31	3%	0	0%	0	0%	0	0%	11	35%	0	0%	0	0%	0	0%	0	0%	20	65%	
Car Unit 8	23	2%	0	0%	0	0%	0	0%	11	48%	0	0%	0	0%	0	0%	1	4%	11	48%	
Bodycam Unit 9	23	2%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	23	100%	0	0%	0	0%	
Car Unit 65	21	2%	0	0%	0	0%	0	0%	9	43%	4	19%	0	0%	0	0%	0	0%	8	38%	
Car Unit 9	19	2%	0	0%	0	0%	0	0%	5	26%	0	0%	0	0%	0	0%	0	0%	14	74%	
Car Unit 16	17	2%	2	12%	0	0%	0	0%	9	53%	1	6%	2	12%	0	0%	3	18%	0	0%	
Car Unit 6	17	2%	0	0%	0	0%	1	6%	4	24%	3	18%	0	0%	0	0%	0	0%	9	53%	
Bodycam Unit 65	13	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	13	100%	0	0%	0	0%	
Bodycam Unit 63	12	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	12	100%	0	0%	0	0%	
Car Unit 19	12	1%	0	0%	0	0%	0	0%	11	92%	1	8%	0	0%	0	0%	0	0%	0	0%	
Car Unit 63	12	1%	5	42%	0	0%	0	0%	6	50%	1	8%	0	0%	0	0%	0	0%	0	0%	
Car Unit T1-14	10	1%	0	0%	2	20%	8	80%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	
Bodycam Unit 8	9	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	9	100%	0	0%	0	0%	
Bodycam Unit 7	9	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	9	100%	0	0%	0	0%	
Car Unit T2-20	7	1%	0	0%	0	0%	0	0%	5	71%	2	29%	0	0%	0	0%	0	0%	0	0%	
Bodycam Unit 19	5	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	5	100%	0	0%	0	0%	
Car Unit 5	5	0%	0	0%	0	0%	0	0%	2	40%	0	0%	0	0%	0	0%	0	0%	3	60%	
Car Unit 2	4	0%	0	0%	0	0%	0	0%	2	50%	0	0%	0	0%	0	0%	2	50%	0	0%	

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0	0%
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0	0%

Device Name	Total		Brakes		Collision		Continuation		Lights		Record Button		Siren		Untriggered		Vehicle Speed		VuLink		Wire
Car Unit 168	4	0%	0	0%	0	0%	0	0%	3	75%	0	0%	0	0%	0	0%	0	0%	1	25%	
Bodycam Unit 168	4	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	4	100%	0	0%	0	0%	
Car Unit 42	2	0%	0	0%	0	0%	0	0%	1	50%	0	0%	0	0%	0	0%	0	0%	1	50%	
Bodycam Spare	2	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	2	100%	0	0%	0	0%	
Bodycam Unit 2	1	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	1	100%	0	0%	0	0%	
Bodycam Unit 6	1	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	1	100%	0	0%	0	0%	
Bodycam Unit 20	1	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	1	100%	0	0%	0	0%	
Bodycam Unit 16	1	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	1	100%	0	0%	0	0%	

eless Microphone	
0	0%
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0	0%
0	0%

City Clerk/Municipal Court
Monthly Report
April 2017

Prepared and distributed 6 birthday cards.

Liquor Licensing:

- Renewals processed:
    - Nino's Del Sol

- Special Events Permits:
    - American Legion
    - Alamosa Round-Up Rodeo

Municipal Court:

- Hosted Monte Vista Clerks during a court session so they could shadow and see how our process for Municipal Court is ran here.
- Met with County representatives and County representatives including Sheriff Jackson, County Attorney Jason Kelly, County Administrator Gigi Dennis, Captain Kristi Duarte, Judge Powell, City Manager Heather Brooks, Chief Oakes, and City Prosecutor Gene Farish to discuss the jail issues.
- Held meeting with CRP staff, Judge Powell, and Court Clerks to discuss parameters of adult diversion program.
- Met with City staff to address county jail options.
- Met with Luke Yoder to discuss JAG Grant continuation funding presentation, which will be presented May 2nd.

Training:

- Attended CMJA/CAMCA Conference in Vail, Colorado.

Other:

- Attended weekly meetings with Mayor and City Manager.
- Attended weekly Leadership Team meetings.
- Attended work sessions and regular Council meetings.

MUNICIPAL COURT REPORT - FILED CASES

CITY OF ALAMOSA Page: 1

Report For April 1, 2017 Thru April 30, 2017 FILEDST

Violations by Filed Date...

CITY ORDINANCE	47	
TRAFFIC	68	
PARKING	11	
Total Filed Violations		126

Completed Cases...

Paid Fine...

CITY ORDINANCE	10	
TRAFFIC	44	
PARKING	7	
Total Paid Fines		61

Before Judge...

CITY ORDINANCE	19	
TRAFFIC	5	
PARKING	0	
Total Before Judge		24
Total Completed		85

Other Completed...

DISMISSED BY COMPLAINTANT

CITY ORDINANCE	2	
TRAFFIC	0	
PARKING	0	
Total		2

DISMISSED/PRESENTED INSURANCE

CITY ORDINANCE	0	
TRAFFIC	3	
PARKING	0	
Total		3

DISMISSED BY JUDGE

CITY ORDINANCE	6	
TRAFFIC	0	
PARKING	0	
Total		6
Total Other Completed		11
Grand Total Completed		96
Net Difference Filed/Complete		30

Report For April 1, 2017 Thru April 30, 2017 FILEDST

Warrants...

Issued...

CITY ORDINANCE	45	
TRAFFIC	1	
PARKING	0	
Total Violations		46
Total Warrants Issued		46

Cleared...

CITY ORDINANCE	38	
TRAFFIC	2	
PARKING	0	
Total Violations		40
Total Warrants Cleared		40

Change in Total Warrants 6

Other Paid Cases...

Paid Fine...

Total Other Paid Fines 69

FINE	FINE	$10,811.84
TP	SERVICE CHARGE	$257.66
LATE	LATE FEE	$253.39
REST	RESTITUTION	$81.76
CCOST	COURT COSTS	$1,450.68
VA	VICTIMS ASSISTANCE	$551.34
WF	WARRANT FEE	$530.86
PD SUR	PD SURCHARGE	$1,381.43
DEFER	DEFERRED FEE	$61.36
BF	BOND FORFEITURE	$1,458.57
DF	DISMISSAL FEE	$0.11
DFLT	DFLT JUDGMENT	$90.00

Total Fees/Fines Paid $16,929.00

HUMAN RESOURCES MONTHLY REPORT

April 2017

New Employees:

Toledo Domingo *went from PT to FT*	Maint Worker I	PW-Streets
Sloan Foster	Soccer Ref	Parks and Rec
Brooke Trujillo	Soccer Ref	Parks and Rec
Zack Chamblee	Soccer Ref	Parks and Rec
Payton Billingham	Soccer Ref	Parks and Rec
Nina Mody-Bailey	Soccer Ref	Parks and Rec

Exiting Employees:

Robert Solomon Mondragon	WWW Tech I	PW-Water
Matt Shaeffer	Maint Worker I	PW-Streets
Matt Davidson	Police Officer	Police Department

Workers Compensation:

1

Alamosa Police Department

April 2017 Month End Report

Part 1 Crime Category	Feb-17	Mar-17	Apr-17	Apr-16	Raw # Change	Year to Date
Part 1 Violent Crimes						
Homicide	0	0	0	0	0	0
Sexual Assaults	0	0	1	0	1	1
Robbery	0	1	1	0	1	2
Aggravated Assault	2	4	1	2	-1	16
Total Violent Crimes	2	5	3	2	1	19
Part 1 Property Crimes						
Burglary	4	4	8	5	3	17
Larceny	50	47	50	61	-11	192
Vehicle Theft	2	1	1	0	1	4
Total Property Crimes	56	52	59	66	-7	213
Total Part 1 Crimes	58	57	62	68	-6	232
Miscellaneous Offenses						
Domestic Violence	10	11	10	9	1	41
Simple Assault	13	16	12	8	4	56
Drug Related	6	15	11	7	4	41
Liquor Laws	2	1	3	1	2	7
Harassment	12	12	10	11	-1	43
DUI/DWAI/DUID	5	9	8	3	5	28
Arson	0	0	0	0	0	1
Traffic Related						
Traffic Accidents	27	27	27	28	-1	113
Fatal	0	0	0	0	0	0
Injury	3	7	4	4	0	15
Property Damage	24	20	23	24	-1	98
Community Service Ofc						
Dogs picked up	12	7	14	15	-1	43
Animal Bites	4	0	2	3	-1	9
Barking Dog Complaints	0	7	3	1	2	10
Wildlife Calls	10	7	1	9	-8	34
Weed/Trash Removal	0	5	2	0	2	7
Snow Removal	1	0	0	0	0	5
Junk Vehicles	0	0	0	1	-1	1
Abandoned Vehicles	2	8	2	2	0	13
Summons Issued	24	4	17	14	3	54
Calls for Service	169	172	157	171	-14	651

Submitted by:Duane Oakes, Chief of Police

THE CITY OF ALAMOSA
Parks and Recreation|Library
CREATING COMMUNITY THROUGH PEOPLE, PARKS, AND PROGRAMS

PARKS/CEMETERY

- **Cemetery Activities**

	April	Total 2017	Total 2016
Graves opened & closed	4	21	22
Graves set up services	4	21	22
Graves raised to grade	28	36	19
Cemetery single spaces sold	4	13	15
Stones leveled	0	0	0
Columbarium Niches sold	1	1	0
Disinterment	0	0	0

- **Tree Related Activities**

	April	Total 2017	Total 2016
Trees Pruned/Trimmed	5	7	27
Tress Planted	16	16	12
Dead Trees Removed	5	5	2
Trees Moved	0	0	0

- **Park Activities**
  - Worked accomplished:
    - Parks
      - Weekly check and maintenance of play equipment; get playground log and spraying log up to date
      - Daily trash pickup of parks, cemetery, fairgrounds, ballfields, and City Hall
      - Replace bad sprinklers in parks and adjust
      - Charge up irrigation at Carroll, Diamond, Lee Fields, and Friends Park
      - Work on irrigation valve in sand pit
      - Plant 3 trees in Cole, 3 trees in Boyd, 2 trees in Jardin, and 8 trees in the Cemetery
    - Carroll Park
      - Build small set of soccer goals
      - Mark and line soccer fields
      - Remove old volleyball poles and haul off
    - Cole Park
      - Remove large broken tree branches
    - Lee Fields
      - Work on ball fields
      - Put in post at Lee 4 concession stand for IT
      - Unload score board at garage
    - Other
      - Funerals and grave digging, locates for public and stone setters, sodded 18 winter graves, rake and pickup piles, and work on cemetery records
      - Take equipment in for services and repairs
      - Snow removal
      - Raise and lower flags; put up and take down banners

- Attend pruning class
- Water young trees and bushes several times a week
- Move gym equipment to rec center from storage
- Take in golf cart for new batteries
- Weed spraying
- Build other 165 gallon spray tank for back of truck
- Put anti slip on stage ramp
- Charge up drip systems
- Replace bad heads at fire stations

Recreation

Tons of Spring and Summer Programming is Open for Registration!

Basketball Fundamentals, Gymnastics, Softball, Tennis, Rocketry and Climbing, Crafts, Drawing and Painting, and Pottery are all open for registration!

All the details at www.alamosarec.org; some with different sessions to work around your summer travels

Alamosa Youth Football

Tackle football is now open for registration for the 2017 fall season as well. Pick up the registration forms at Alamosa Recreation Center. Questions; contact Jarred Gardner 719-588-2398.

Challenger Soccer Camp

CHALLENGER SPORTS™ YOUR TOTAL SOCCER SOLUTION.

Sign Up Now!

British Soccer Camps will be coming back to our community this summer!

Local Program: Alamosa Parks and Recreation
Dates: 6/5/2017 - 6/9/2017
Location: Carroll Park

Improve your game with the most popular soccer camp in the USA and Canada!

Have a question? Contact us on Email, Phone, Facebook, Twitter. We're here to help.

Your Local Regional Director:	Email:	Phone:
Kate Gedzielewski	kateg@challengersports.com	720-575-0434

Adult Sports

Softball Games begin May 15! Avoid having your players miss a game or team forfeits by reminding your players to pay their player fees online or at the AFRC well before their first game!

Youth Swimming Lessons

Both Splashland and Sand Dunes Swimming Pool are gearing up for the Summer Season!
Visit Splashland on Facebook here: https://www.facebook.com/Splashland-231889880158446/?fref=ts
Sand Dunes Information can be found at: www.sanddunespool.com.

Volleyball Tournaments

Two local tournaments are coming up; the 13th Annual Spring Thaw Coed 4s Indoor Tournament on Saturday May 13 at Alamosa High School. Contact Amber Ullery for more information: 580-3085 or aullery@alamosa.k12.co.us.
While a new Coed 4s Grass Tournament (Fun in the Sun Coed 4s) has also been planned for Saturday, June 3rd at the Cole Park Baseball Field during the Summerfest on the Rio! Both tournaments will benefit the Alamosa High School Volleyball Team. Contact Annie Rice at 590-0938 or arice@alamosa.k12.co.us for more information on the Fun in the Sun tournament. Both tournaments are $60/team and all levels of play are welcome!

The City of Alamosa and the National Park Trust have declared May 20th as Kids to Parks Day!

This national movement engages children and families with parks and healthy outdoor play just as we do here at the Alamosa Parks and Recreation Department. Come out to Carroll Park all morning long to watch hundreds of kids enjoy youth soccer and Carroll Park!

More Upcoming Community Events

Spring in the Valley Rodeo Series (May 7, May 14, May 21)

- Performances @ 2PM
- Adults $5, Children Under 6 are FREE
- Food & Beer Concessions
- Location: Ski Hi Park, 2335 Sherman Ave., Monte Vista
- More Info: 719-588-9979

Alamosa HS Coed Softball Slow Pitch Tournament at Lee Fields (May 20)

- Contact Roxy Vigil at 303 902-6512 or roxi.delorenzo@gmail.com for more information

Memorial Day Living History Encampment at Fort Garland Museum (May 27-28)

- A Festival of Fine Arts & Dining with Culinary Contests on Creede's Historic Main Street! Contests of culinary aspect and displays of a variety of artistic creations. Art displays and demonstrations with auction on Sunday. Dine with us at 8,852'!
- Website: www.museumtrail.org/fort-garland-museum.html
- More Info: 719-379-3512

Taste of Creede (May 27-28)

- Activities begin at 9am Saturday with the Flag Raising Ceremony. Through the weekend the Fort Garland Memorial Regiment and the Artillery Company of New Mexico will present activities and display that depict 19th century garrison life at Fort Garland.
- Website: www.creede.com/taste-of-creede.html
- Email: office@creede.com
- More Info: 719-685-2374

15th Annual Alamosa Artwalk & Alamosa ArtScape Sculpture Unveiling! – June 2 & 3 – Downtown Alamosa

- This 2-day event is a fun and easy opportunity for showing artists' work and even demonstrating their working technique to every-one who will be downtown enjoying the artwork, performances, music and popular tastes of the Valley.
- Many Valley residents and summer visitors will already be in town that weekend for the Alamosa Artscape, which will feature the unveiling of 17 sculptures in the downtown area.

Summerfest on the Rio (June 2-4)

- Everyone's favorite summertime festival is back! The Summerfest on the Rio is held in the beautiful Cole Park on the banks of the Rio Grande River. Enjoy children's activities, food and beer vendors, arts and craft booths, and live music. Admission is free.
- Website: www.summerfestontherio.org
- Location: Cole Park
- Email: info@summerfestontherio.org
- More Info: 719-480-4806

Hot Rod Dirt Drags (June 2-4)

- Presented by Nicks Garage - The event is centered around the Movie Manor in Monte Vista. Movie Manor is one of America's original drive-in movie theaters, featuring two screens, a full restaurant and bar onsite.
- General Admission $10. All Weekend Car Show Parking $50.
- Dirt Drags Registration – Online
- Friday Night Kickoff Party
- Dirt Drags Sat & Sun at 10am
- Drive-In Movies & Live Music - Great Food & BBQ
- Website: hotroddirtdrags.com

Gog for Geoffrey – June 3, AFRC; Registration at www.alamosarec.org

CHSCA All State Games (June 6-10)

- See the best high school athletes compete against one another in the 59th Annual Colorado High School Coaches Association All State Games! See these athletes as they fight for the top spot in football, boys & girls basketball, volleyball, wrestling, and softball & cross country!
- Website: www.chscaallstategames.org
- Location: Adams State University

Rockies Skills Challenge@ Lee Fields; June 8 @ 12pm – Registration opens May 2nd

Great Northern Carnival (June 8-11)

- The Mattfeldt Family Carnival "a Great Northern A'Fair", offering 7-12 amusement rides, 6-12 game/concessions, confections and traditional fare. Have a blast on the Space Shuttle, hop on the Spinning Apple and enjoy the fun, and when it gets too hot cool off under one of our tents.
- Website: greatnortherncarnival.com
- Location: Alamosa Family Rec Center

Ride the Rockies (June 9-11)

- The 32nd Tour will showcase the communities of Alamosa, Pagosa Springs, Durango, Ridgway (supported by Ouray), Montrose, Gunnison, and Salida.
- Beginning in Alamosa, the 'Gateway to Colorado's Great Sand Dunes', the ride will traverse through some of the same mountain passes made famous by the historic Denver and Rio Grande Western Railroad.
- From Alamosa, cyclists will cover 447 miles and ascend over 32,000' vertical feet, all the way around to the 'Heart of the Rockies' in Salida.
- Website: www.ridetherockies.com
- Location: Alamosa Family Rec Center

CPW Youth Fishing Day at Blanca Vista Park – June 15 (Thursday) 9am – 2pm

The Rio Grande Farm Park is sponsoring a Weekend of Walks set for May 12th-14th organized by Walk2Connect and the Alamosa partner Caminos del Valle. The full schedule of community walks is below. The founder of Walk2Connect, Jonathon Stalls, will be in town to help lead walks and train walking group leaders. Community members will lead several themed walks throughout the weekend such as bird watching, dog walking, and runner training. There will also be a Mother's Day outdoor story time for kids with a walk to follow. For more information call 719-937-2319.

caminosdelvalle

Mother's Day Weekend Walking Program KICK-OFF!

Be a part of our community walking program in and around Alamosa! Join walks, get trained as a walking leader, connect to new people, become a champion for health, be a steward for neighborhood safety and so much more. Bring your friends, colleagues, and family! All ages welcome.

Friday, May 12

11:00 AM - 1:00 PM | Walking Movement Leader Training | 412 State Street (bring sack lunch)
Limited to 12 people. Please RSVP to Bryce below!
4:00 PM - 5:00 PM | Boys & Girls Club Walk w/Chris | 1115 10th Street
5:00 - 6:00 PM | Walk with Wisdom w/Mary | Senior Center East Parking Lot

Saturday, May 13

7:00 AM - 8:00 AM | Bird Lover's Walk w/Lance | Rio Grande Farm Park
8:30 AM - 9:30 AM | Dog Shelter Walk w/Amber | Valley Humane League (next to Alpine Vet)
8:30 AM - 10:00 AM | High Valley Runner's 5K w/Donna | Body Tune-Up
11:00 - 1:00 PM | Walking Movement Leader Training | 412 State Street (bring sack lunch)
2:00 PM - 3:00 PM | Rio Grande Corridor Visioning Walk w/Julie | Cole Park by Pedestrian Bridge
Limited to 12 people. Please RSVP to Julie below!

Sunday, May 14 (Mother's Day!)

7:00 AM - 7:45 AM | Sunrise Mother's Blessing Walk w/Jonathon | Rio Grande Farm Park
11:00 AM - 12:00 PM | Storytime Mother's Day Walk w/Renee | Rio Grande Farm Park
1:00 PM - 2:00 PM | Wild Alamosa! w/David | Alamosa City Ranch (Meet at Disc Golf Course)

JOIN OUR MEETUP!

Sign-up on our new Caminos del Valle Meetup to get updates, share photos, and build community around upcoming walking events! www.meetup.com/caminosdelvalle

Questions & RSVP: Bryce Hostetler & Julie Mordecai
Julie Phone: (719) 580-0379 Email: brycehostetler@gmail.com & director.rgfp@gmail.com

<u>Rec Center Current Hours</u> *(effective May 1)*
Monday – Thursday: 6am – 9pm
Friday: 6am – 6pm
Saturday: 7am – 3pm
Sunday: CLOSED

HAVE YOU TRIED THE NEW ELLIPTICALS AND TREADMILLS!!! Stop by today and check them out!

Upcoming Rec Center Closures

- Memorial Day – Monday, May 29

Rec Center Revenue

	April	March	February	January	December
Courses	$20,462.50	$11,435.00	$8,280.00	$2,437.00	$1,762.00
Facility Rentals	$1,505.00	$2,470.00	$1,312.50	$420.00	$200.80
Membership	$4,042.97	$5,775.43	$7,309.97	$6,958.30	$6,546.76
Merchandise	$5,937.12	$5,541.47	$8,510.40	$13,614.50	$3,003.75
	$31,947.59	$25,131.90	$25,412.87	$123,429.80	$11,513.31

Rec Center Door Count

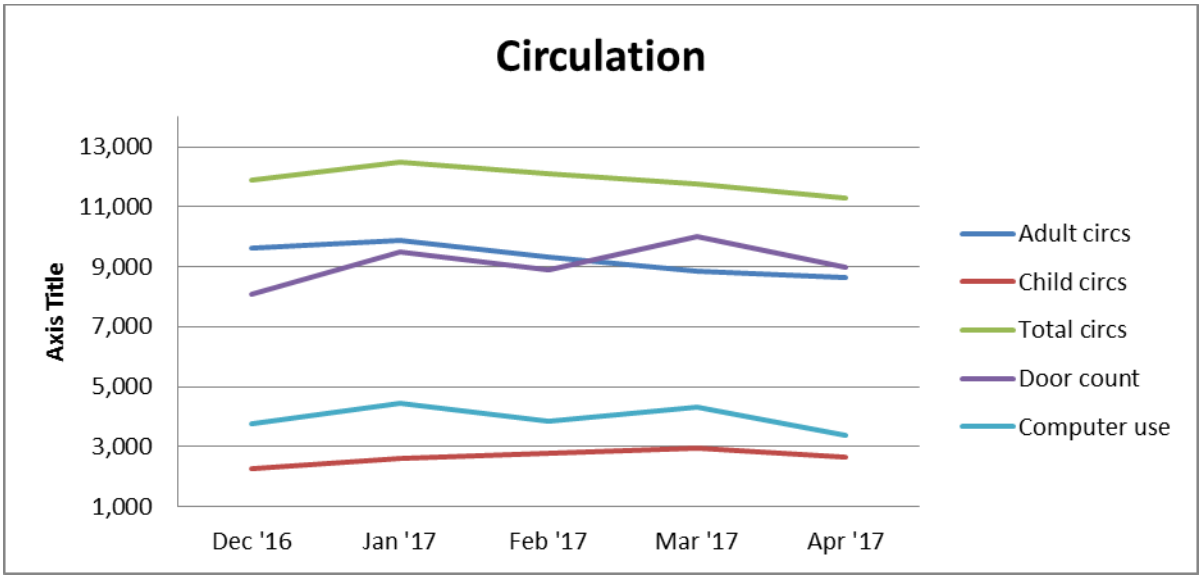
January 2016	18,048	January 2017	29,114
February 2016	24,453	February 2017	22,218
March 2016	11,180	March 2017	16,985
April 2016	8,976	April 2017	11,967
May 2016	7,535		
June 2016	7,542		
July 2016	6,789		
August 2016	6,572		
September 2016	5,299		
October 2016	7,413		
November 2016	10,391		
December 2016	10,123		
	114,498		**60,284**
Average per Month:	10,382	Average per Month:	15,071

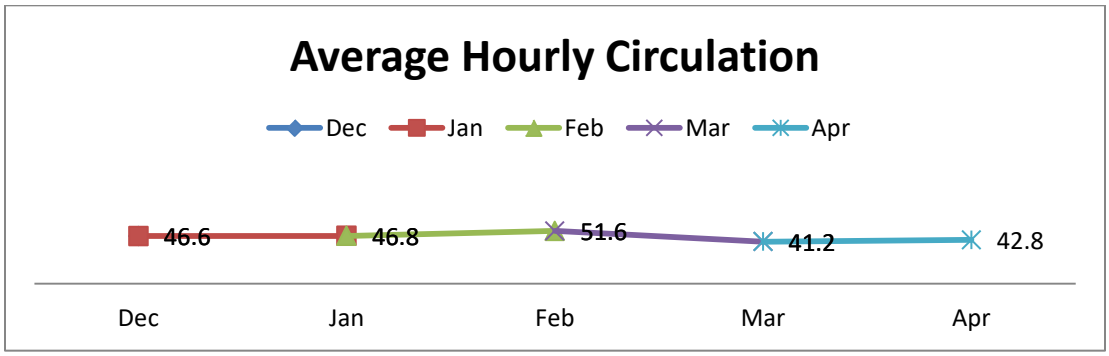
Library Manager Report – April 2017

Library Stats

Website Counter					
	April	March	February	January	December
Page views	1,971	2,361	1,922	2,253	n/a
Sessions	1,000	1,072	941	1,098	n/a
1st Time Visitors	352	378	362	440	n/a
Returning Visitors	313	322	284	305	n/a

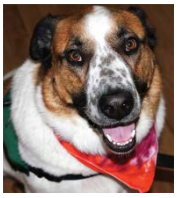
MONTHLY	STATISTICS	SUMMARY			
	Apr ‘17	Mar ‘17	Feb ‘17	Jan ‘17	Dec ‘16
Adult Circs	8,632	8,848	9,304	9,880	9,618
Child Circs	2,669	2,934	2,780	2,611	2,271
Total Circs	11,301	11,782	12,084	12,491	11,889
Hours Open	264	286	234	267	255
Circs per hour	42.8	41.2	51.6	46.8	46.6
CLC Circs	2,113	2,62	2,259	2,280	2,284
Door Count	8,979	10,012	8,889	9,473	8,065
Computer Use	3,371	4,306	3,832	4,462	3,775
Aspen e-books	211	184	207	203	229
TumbleBooks	1	104	2	3	3
FindIT CO Queries	59	128	87	52	32





Collection Development:
Staff added 298 new materials to the library collection: 121 books, 75 magazines, 15 audiobooks, 35 music CDs and 52 DVDs. This process includes purchasing, cataloging, and material processing. 153 materials were discarded.

Staff announcements.
Volunteers: A total of 22 volunteer hours this month.

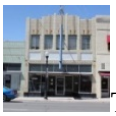

MOOSE, a therapy and Pet Partners dog returned to the library March 1st, 2017 to help local children read. In April 10 children read to him between 3:00-5:00 pm. When each child reads 4 times to MOOSE they will receive a free book. He will be coming the first Wednesday each month through June 2017.

Community Involvement

-

Movie Night – "Storks" – 15 children and parents were at the showing.

- The local Fiber group met in the Story Room. Usual attendance is 10-15 fiber enthusiasts. The group knits, weaves, spins, and crafts all things fiber. They share and teach each other new techniques and ideas. Planning for charity projects or events is also done at these meetings. The next meeting will be April 12, 2017. We welcome anyone interested in any type of fiber arts.

-  The Historic Preservation Advisory Committee meets the second Tuesday each month in the Local History Room.

- People First group had their meeting in our Local History room. 12 members attended.

- San Luis Valley Origami workshop at the library was April 8, 2017 with 10 participants. Next workshop will be May 20, 2017.

- We have 7 Little Free Libraries in Alamosa, sponsored by the Alamosa Public Library and the Friends of the Library.
  Food Bank – WCC added 70 books; **La Puente** – FOL (Friends of the Library) refilled with 70 books; **Zapata Park** –Jan Oen & Don Thompson refilled with 20 books; **Senior Center** – KREBS 10 books; **Nancy Cutters Office** (Optimist) – no changes; **SLV Immigrant Resource Center** (Optimist) – no changes;
  Cole Park (library staff) was filled with a donation from someone.

- Our Partners from the Family History Center, Dr. and Mrs. Kelly, are providing a six week series of one hour beginner genealogy classes. A new series will start April 4, 2017 and end May 9, 2017. They have had 7-8 students.

Friends of Alamosa Public Library

- The Friends are collecting donations for the upcoming book sales 1x month at Spines.
- Friend's meeting was April 18, 2017. Next regular meeting is scheduled for May 16, 2017.
- A National Rotary grant was awarded to our local Rotary club for literacy projects with Friends of the Library. The plans have been to build more book shelves in the Book Nook in the library, Mural on the book shed, and possibly a book bike.
- The first book sale for 2017 will be May 6, 2017.

2017 Summer Reading Program

June 7 - Building Challenge

Come ready to use your imagination and get messy! In addition to registering for "Build a Better World" taking place all through June and July, you can get your hands dirty with 5 different building challenges!

June 14 - Salida Circus

Joanie Balonie and Coach Mellow wonder just what it means to Build a better world! Our friends from Salida will amaze and entertain!

June 21 - Building Community

What makes community? Come see firetrucks, construction equipment, community helpers, and much more for a Building Community Fair!

June 28 - Ann Lincoln - Build a Better You!

Magic, Comedy, and fun all rolled into one!

Build a Better YOU (Comedy, Magic & Juggling) Show

LEARN SOMETHING, DO SOMETHING, AND HELP SOMEONE

July 5 - Rocky Mountain Puppets

Ventriloquist, Meghan Casey and the Rocky Mountain Puppets will reveal how to dig deep and create a strong FOUNDATION so that your personal structure can stand tall!

July 12 - Indiana Bones

Emmy Award Winning Storyteller, Mike McCartney a.k.a. Indiana Bones is in search of a "Better World." Will he find it? Join the fun as we delve into the mysterious world of Indiana Bones!

July 19 - STEVE WEEKS MUSIC!

Come join national family music performer Steve Weeks for an interactive family romp filled with music, humor and games as he performs his hit songs. Come prepared to laugh. Come prepared to sing ...and bring those dancing shoes!

July 26 - Purly Gates

Join Purly as she uses her old west ways and interactive music to encourage us to Build a Better World!

Your Connection to the World

Alamosa PUBLIC LIBRARY

Children's Services Monthly Report
April, 2017

APRIL OVERVIEW: This month, we changed out the StoryWalk, had our 115th Anniversary Celebration, gave a tour and storytime for a preschool, launched our 6th annual One Book 4 Colorado, celebrated Earth Day in Storytime, attended the CLiC Spring Workshops in Pueblo, firmed up contracts for summer reading performers, presented Growing Readers Together at Kiwanis, celebrated the Week of the Young Child with our early literacy partner, Save the Children, and probably more!

➢ **Storytime Fridays** - We had a special Earth Day Storytime on the 21st. We had about 5 new families come to Preschool Storytime on the 28th! A couple of our families have moved away and wanted some way to see Storytime, so I've played around with going live on facebook with mixed results due to my cell phone, but the families loved it! It would be nice to find a way to live stream Storytime on a regular basis.

DATE	BOOKBUBS	PRESCHOOL	TOTAL
4/7/17	14k, 9a; 23t	10k, 6a; 16t	49
4/14/17	9k, 6a; 15t	24k, 8a; 32t	47
4/21/17	5k, 4a; 9t	24k, 14a; 38t	47
4/28/17	10k, 9a; 19t	11k, 8a; 19t	38
		TOTAL	181

TOTAL LIBRARY VISITS FOR CHILDREN'S SERVICES IN APRIL, 2017: 214

➢ **Special Visit** - Little Treasures Preschool from La Jara came for a tour and storytime, we've done it for a couple of years now, always a great group! There were **23 kids and 10 adults, 33 total.**

➢ **Partnerhips**

- The Alamosa Literacy Council switched out the StoryWalk on the 1st, just in time for our anniversary celebration. The new story is Andreae Giles' "Giraffes Can't Dance."

- While changing out the StoryWalk, I had the opportunity to work with Taleetha, who is the coordinator for the in-home early literacy training program that Save the Children does for parents of young children. The great thing about working with her is discovering our shared passion for early literacy. What her program does for parents is exactly the kind of thing Growing Readers Together strives to do for non-parental caregivers of young children. It's possible in future years of the GRT grant that we could contract a person like Taleetha to go into the homes of these FFN's (family, friends, and neighbors as caregivers,) training caregivers and promoting early literacy.

➢ **Displays**

- In promotion of One Book 4 Colorado, I made a "Mouse's I Spy" display on the back of the board book bookshelf.

Children's Services Monthly Report
April, 2017

- I also made a library anniversary display in the Story Room window. See photos below.

➢ **Growing Readers Together** – Pat from Public Works helped me with mapping out the sizes and shapes for the sensory/busy boards that will go in The PAD. On the 20th, I presented this project as a possible way for Kiwanis to help us in creating these boards. They loved the idea and will be taking it over for me, allowing me creative direction. See photo below.

Origami Monster Bookmark activity during the anniversary celebration.

Rendering of the shapes/colors for the sensory boards in The PAD

Becky and Taleetha cleaning the plastic cover on a StoryWalk post.

Storytime History

Children's Services Monthly Report
April, 2017

- **Summer Reading** – ***Build a Better World***
  - **2017 Line Up:**
    - **June 7 - Kick-Off Celebration with Community Building -** this will be a sort of creative building fair with 7 activity stations:
      1. Registration (all 5 of the kid's computers)
      2. Window Decoration - coloring pages
      3. Wafer Cookie Tower Build
      4. Cardboard Mini-City Construction
      5. Rolled Newspaper Structures
      6. Sprout House Seed Activity
      7. Clay Hand-Building
    - **June 14 - Salida Circus**
    - **June 21 - Building Community** – this will be a fair of sorts with Fire, PD, Public Works, Habitat for Humanity, and whoever else I can get to come for an hour that would relate to "building."
    - **June 28 - Ann Lincoln**
    - **July 5 - Rocky Mountain Puppets**
    - **July 12 - Indiana Bones**
    - **July 19 - Steve Weeks**
    - **July 26 - Purly Gates**

Becky Steenburg
Children's Librarian

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Approve Minutes of Meeting May 3, 2017

ATTACHMENTS:

	Description	Type
🗋	Minutes of Meeting May 3, 2017	Cover Memo

ALAMOSA CITY COUNCIL
Regular Meeting Minutes

Council Chambers
300 Hunt Avenue, Alamosa, CO
May 3, 2017

As a full service municipal government, our mission is to enhance the quality of life for our residents, visitors, and businesses. We strive to provide balanced business, employment, recreational, and residential opportunities.

Any person needing reasonable accommodation to attend or participate in a public meeting, please contact the Alamosa City Clerk's office by telephone (719) 589-2593, by email cityclerk@ci.alamosa.co.us, in person at 300 Hunt Avenue, or by mail at POB 419, Alamosa, CO 81101.

7:00 PM - Regular Meeting

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Regular Meeting of the Alamosa City Council was called to order on the above date by Mayor Josef Lucero at 7:00 p.m. The Pledge of Allegiance was recited.

II. ROLL CALL

Present at roll call: Mayor Josef Lucero, Councilors Jan Vigil, Liz Hensley, Ty Coleman, Charles Griego, Kirstina Daniel, and Michael Stefano. Also present: City Manager Heather Brooks, City Attorney Erich Schwiesow, and City Clerk Holly Martinez.

III. AGENDA APPROVAL

Councilor Griego moved, seconded by Councilor Vigil to approve the agenda as presented. The motion carried unanimously.

IV. CITIZEN COMMENT

Alamosa City Council welcomes your comments. Citizens wishing to speak may obtain and complete a speaker card through the City Clerk at the start of the meeting.

A. Audience Comments

Alan Taylor spoke and introduced the Boy Scouts of America that were in the audience tonight to earn their citizen in the community merit badges.

B. Follow-Up

Council thanked the Boy Scouts for attending the meeting.

V. CEREMONIAL ITEMS

A. Kids to Parks Day Proclamation

Heinz Bergann presented information regarding this proclamation to Council.

Mayor Lucero read the proclamation and Council presented it to Heinz Bergann, Parks & Rec Director.

B. Recognition of National Drinking Water Week

Pat Steenburg presented information to Council.

Council thanked and extended their appreciation to everyone in the Water department for all that they do to keep our water clean.

Mayor Lucero read the proclamation and Council presented it to Pat Steenburg, Farron Hall, Paul Henry, Troy Fritz, Roy Sanchez, Randy Martinez, and Daniel Montano.

C. Municipal Clerks Week Proclamation

Mayor Lucero read the proclamation and Council presented it to City Clerk Holly Martinez, Deputy Clerk Lachelle Montano, and Deputy Clerk Susanna Gallegos.

Council extended their thanks and appreciation to the Clerks for all that they do.

VI. CONSENT CALENDAR A

The Consent Calendar allows multiple actions with one motion. Consent Calendar A contains routine items which have been recommended for action by staff or advisory boards. Council may remove a consent calendar item for separate consideration.

Councilor Vigil moved, seconded by Councilor Stefano to approve Consent Calendar A as presented. The motion carried unanimously.

C.7.a. Approve Minutes of Meeting April 19, 2017

VII. REGULAR BUSINESS

D. Business Brought Forward by City Staff

1. Parks and Recreation

a. Award of Bid – Rodeo Bucking Chutes

Heinz Bergann presented information to Council. The City released an Invitation for Bids (IFB) to replace all six rodeo bucking chutes at the City Fairgrounds. The existing chutes are in significant disrepair and in need of replacement both for functionality and safety. Staff researched various brands available resulting in the approval of three brands for venders to bid on. The City received three bids from three vendors including: W-W Manufacturing Company (Oklahoma) for $22,552.50 (padding included), Priefert Manufacturing Company for $23,274 (plus $1,950 for padding) and Monte Vista Coop (Alamosa) for $28,813.98 (padding included).

While the local preference policy does not apply to this type of project, staff did evaluate the percentage difference between the low bidder and the local bidder and the 28% difference is far outside the adopted policy. It is recommended that the award of bid be givento W-W Manufacturing Company.

Councilor Griego moved, seconded by Council Vigil to approve the selection of W-W Manufacturing Company for the purchase of six bucking chutes in the amount of $22,552.50. The motion carried unanimously.

b. Motion to Approve the Nine Hole Expansion of the Disc Golf Course

Heinz Bergann, Parks and Recreation Director and Justin Davis, of the SLV Disc Golf Association, presented information to Council.

Justin Davis (SLV Disc Golf Association) presented the Recreation Advisory Board with a proposed expansion to the disc golf course. Other than the land, expansion would need nine additional baskets which will come to about $3,000. SLVDGA already has half that amount in their budget from collecting on tournament fees that they were saving for the expansion. Additionally, they have volunteers that are willing to do brush cleanup and anything else that would be needed to move forward. New signage ($1,000) and half of the baskets ($1,500) are able to be funded by the Parks & Rec Department using savings realized in the Conservation Trust Fund.

The Rec Advisory Board at their April 11, 2017 meeting unanimously expressed their support of staff and SLVDGA pursuing with City Council the prospect of expanding the current disc golf course by nine holes.

Councilor Vigil and Councilor Coleman acknowledged Justin Davis for all the work he has done and put in to this project.

Councilor Daniel extended her appreciation to Justin Davis for the

amount of research he has done on this and that Council values all that he has done.

Mayor Lucero echoed the previous comments.

Councilor Vigil moved, seconded by Councilor Daniel to approve the request by SLVDGA to expand the disc golf course by nine holes at the Oxbow Recreation Area.

Councilor Daniel asked if the contribution needed to be included in the motion. Heather Brooks stated that the motion could be amended to include that.

Councilor Vigil amended his motion to approve the request by SLVDGA to expand the disc golf course by nine holes at the Oxbox Recreation Area and to include the contribution funding from the City of $2,500. Councilor Daniel seconded the amended motion. The motion carried unanimously.

2. City Manager/Legal

a. Wildfire Academy Support

Jamie Greeman presented information to Council. The Wildfire Academy brings 200-250 firefighters and family to Alamosa. The Academy fills up the hotels and businesses see an increase during this time. The Academy will be here the week of June 5th. The last time Alamosa hosted the event, the Marketing District sponsored a train ride for participants that was very popular and most likely a draw in bringing them back to Alamosa. The Marketing District would once again like to provide a train ride and is soliciting support from partners to make it feasible. Ms. Greeman shared that the cost of the meal on the train ride will run between $500-$1,000.

Council further discussed this agenda item with Ms. Greeman.

Councilor Griego moved, seconded by Councilor Vigil to sponsor the meal cost for Wildfire Academy train ride estimated at $500-$1000. The motion carried unanimously.

b. Endorsement Letter Recommending Councilor Hensley to serve on the CML Executive Board.

Heather Brooks presented information to Council. In July of 2017, City Council voted to endorse Councilor Hensley's interest in serving on the CML Executive Board through a vacancy created by a resignation for the population category of 8,000 - 60,000. The position was a one-year term and Councilor Hensley is now running again for election to the

Board in June at the CML Conference in Breckenridge. Requirements to apply for this position include a formal endorsement from the city or town.

Councilor Hensley address Council stating that she has enjoyed this experience and feels that she can contribute more now that she has served in this capacity for a while now.

Councilor Vigil moved, seconded by Councilor Coleman to authorize the Mayor to sign the endorsement letter recommending Councilor Hensley to serve on the CML Executive Board. The motion carried unanimously.

c. First Reading, Ordinance No. 11-2017, An Ordinance Approving an Intergovernmental Agreement Amongst Various San Luis Valley Local Government Entities for Continuation of a Regional Planning Commission for Transportation Planning

Heather Brooks presented information to Council. Over 20 years ago the communities in the valley signed an IGA that created the Regional Transportation Planning Commission. Each county and municipality is asked to be a part of the planning commission and participate in meetings. There is no financial commitment required. This IGA is simply updated since the one adopted 20 years ago

Councilor Vigil asked what the goal of this group was. Ms. Brooks stated that she believes the primary focus is for CDOT to have an organized way to collect local information and this IGA creates a regional way to do so.

Councilor Daniel moved, seconded by Councilor Stefano to approve Ordinance No. 11-2017 on first reading.

Councilor Daniel amended her motion, seconded by Councilor Stefano to approve Ordinance No. 11-2017 on first reading and set for a public hearing on Wednesday, May 17, 2017 or as soon thereafter as the matter may be heard. The motion carried unanimously.

E. Committee Reports

Councilor Vigil reported on the Rio Grande Farm Park meeting that he attended.

Councilor Hensley reported on the Golf Board meeting she attended. She also reported on the branding committee for the San Luis Valley and that the logo has been approved.

Mayor Lucero reported on the Housing Authority meeting that he attended.

F. Staff Announcements

Heather Brooks updated Council of the following upcoming events:

- Public Meeting next Wednesday regarding marijuana home grow regulations.
- 6:00 a.m. meeting with Alamosa Board of Education next Friday.
- Spring outreach meeting is on the 16th in Del Norte.
- Next meeting for City Council will be on the 17th and starts at 5:00 p.m.

She also informed Council of the inspire initiative grant and updated council regarding the financial reports and when they would be coming before Council. They will be presented at the first meetings of the month for the previous months rather than the second meeting of the month.

Councilor Griego asked for an update on the multi purpose facility. Ms. Brooks stated the bids close on Friday.

VIII. LOCAL LIQUOR LICENSING AUTHORITY ACTIONS

A. Decision, New Application, Beer and Wine License, JK, LLP d/b/a The Wet Paintbrush

Counselor Schwiesow informed Council that as is their practice, he has prepared the draft findings with regards to The Wet Paintbrush, one providing the granting of the license, and one providing for the denial of the license. He reminded Council that they can modify the proposed findings as they deem appropriate.

Councilor Vigil moved, seconded by Councilor Stefano to adopt the proposed findings of granting the license without modification. The motion carried unanimously.

Council further discussed the procedure in which decisions are made based on liquor licenses. Counselor Schwiesow confirmed that it will be an issue brought up to Council at a later date to determine if there's a better process to handle the timing of accepting and approving licenses.

COUNCIL COMMENT

Councilor Daniel thanked Councilor Hensley for wanting to continue on with the CML Executive Board. She also mentioned the concerns she has heard regarding the roundabout.

Councilor Hensley congratulated Councilor Vigil's mother-in-law for receiving an award. She also mentioned that Trinidad State and Adams State will have their upcoming graduations and congratulated all those who are graduating.

Councilor Vigil stated that this week is also Teacher Appreciation Week and thanked all those educators. He also asked if there is any movement on railroad.

EXECUTIVE SESSIONS

Councilor Daniel moved, seconded by Councilor Stefano to move into Executive Session (8:13 p.m.) pursuant to C.R.S. §24-6-402(4)(f) for Personnel Matters - Evaluation of the City Clerk. The motion carried unanimously.

1. Executive Session pursuant to C.R.S. §24-6-402(4)(f) for Personnel Matters - Evaluation of City Clerk

ADJOURNMENT

The meeting adjourned immediately following the executive session.

_____ _____

Holly C. Martinez, City Clerk Josef P. Lucero, Mayor

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Wireless Internet and Security Camera System for Cole Park

Recommended Action:
It is the recommendation of staff to adopt alternative 1, authorizing staff to spend IT fund savings for a Wireless Internet and Security Camera System for Cole Park.

Background:
IT would like to create a wide area Wireless Internet and Security Camera System in Cole Park this summer. IT has been notified for many years that the vendors and guests at the many events in Cole Park would greatly appreciate an extension of the wireless service we have provided in the Alamosa Public Library since 2001 into our most-used public park. Because the City has provided free wireless service from our Public Library prior to 2005 this extension would not be subject to the SB152 restrictions, see C.R.S. § 29-27-304.

We were expecting a local Internet Service Provider (ISP) to install a system as a test this spring, however, that ISP notified us at the beginning of May that they would be unable to perform this test this year.

IronFest has authorized us to utilize the $1,000 donation the City had been retaining for several years for a P.A. system for this project, along with an additional commitment of $500 in September.

This system would provide an opportunity to install Cameras at some of the more sensitive areas of the park in order to assist in deterring crime.

The total cost for the system would be $7,500, and does not increase the monthly costs of our current internet service.

Issue Before the Council:
Does City Council wish to allow Staff to spend the $1,500 IronFest donation and an additional $6,000 from the IT fund savings to install a Wireless Internet and Security Camera System in Cole Park?

Alternatives:
1. Authorize staff spend the $1,500 IronFest donation and an additional $6,000 from the IT fund savings to install this Wireless Internet and Security Camera System in Cole Park.
2. Decline to act on this proposal at this time and provide staff further direction.

Fiscal Impact:
The IT Fund savings over the past 3 years has reached over $75,000. The recommendation

would allow Staff to spend 6,000 that has been previously identified for IT projects and spend the $1,500 IronFest donation as well.

Legal Opinion:
The City Attorney will be present for any comments. Exceptions to the restrictions of SB-152 are found at C.R.S. § 29-27-304 for municipal services pre-dating 2005, and the fact that local ISPs have failed to provide the service falls under the statutory exception at C.R.S. § 29-27-202.

Conclusion:
In conclusion, allowing IT to place this system in place will provide our guests and vendors at Cole Park a more robust experience. Vendors would be able to access the network to provide credit card services without utilizing cellular data, and guests would have access to the internet while enjoying the park. The city would gain the ability to place cameras within the park to help protect City-owned assets.

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Public Hearing and Second Reading, Ordinance No. 11-2017, An Ordinance Approving an Intergovernmental Agreement Amongst Various San Luis Valley Local Government Entities for Continuation of a Regional Planning Commission for Transportation Planning

Recommended Action:
Staff recommends that Council conduct the public hearing and unless evidence to the contrary is presented adopt Ordinane No. 11-2017, approving the IGA establishing the Regional Transportation Planning Commission.

Background:
Over 20 years ago the communities in the valley signed an IGA that created the Regional Transportation Planning Commission. Each county and municipality is asked to be a part of the planning commission and participate in meetings. There is no financial commitment required. The attached IGA is simply updated since the one adopted 20 years ago.

Issue Before the Council:
Does Council wish to enact an ordinance approving the IGA establishing the Regional Transportation Planning Commission?

Alternatives:
Council can approve the attached ordinance, request changes to the IGA or provide further direction to staff.

Fiscal Impact:
none

Legal Opinion:
The City Attorney will be present for questions.

Conclusion:
The attached IGA is updated from the one adopted approximately 20 years ago and simply establishes the Regional Transportation Planning Commission for purposes of transportation planning.

ATTACHMENTS:

Description	Type
Ordinance approving RPC IGA	Ordinance
2017 Regional Planning Commission IGA	Backup Material

ORDINANCE NO. __ - 2017

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT AMONGST VARIOUS SAN LUIS VALLEY LOCAL GOVERNMENTAL ENTITIES FOR CONTINUATION OF A REGIONAL PLANNING COMMISSION FOR TRANSPORTATION PLANNING

WHEREAS, the parties to this Agreement have the authority pursuant to Article XIV, Section 18 of the Colorado Constitution and Section 29-1-201, et seq., Colorado Revised Statutes, to enter into intergovernmental agreements for the purpose of providing any service or performing any function which they can perform individually, and;

WHEREAS, Section 43-1-1101 C.R.S. recognizes Regional Planning Commissions as the proper forum for transportation planning, and;

WHEREAS, Section 43-1-1102(5) C.R.S. requires that Regional Planning Commissions formed for the purpose of transportation planning must be formed pursuant to Section 30-28-105 C.R.S., and;

WHEREAS, the parties to this Agreement desire to cooperate in developing and maintaining a long range Regional Transportation Plan, the purpose of which is to identify the mobility needs of the San Luis Valley Transportation Planning Region, and prepare a plan for addressing the needs, and;

WHEREAS, Section 43-1-1103 C.R.S. requires that any Regional Planning Commission formed for the purpose of transportation planning is responsible for regional transportation planning for said region, and;

WHEREAS, the San Luis Valley Transportation Planning Region, consisting of the areas within the counties of Alamosa, Chaffee, Conejos, Costilla, Mineral, Rio Grande, and Saguache was designated in the Rules for the Statewide Transportation Planning Process (2 CCR 604-2) as adopted by the Transportation Commission of Colorado and effective December 15, 2012, and;

WHEREAS: Article XIV, Section 18 of the Colorado Constitution; C.R.S. Section 29-1-201, *et seq*., and Art. III, Sec. 21 of the Charter of the City of Alamosa encourage, permit and authorize intergovernmental agreements to accomplish mutually beneficial objectives such as the transportation coordination envisioned by the San Luis Valley Regional Planning Commission,

NOW, THEREFORE, BE IT ORDAINED by the City Council of Alamosa as follows:

Section 1. Approval of Intergovernmental Agreement. The Intergovernmental Agreement between and amongst the governmental entities named in the Agreement attached to

this Ordinance is hereby adopted and approved, and the Mayor is directed to execute Agreement on behalf of the City of Alamosa, with a retroactively effective date of May 4, 2017;

Section 2. General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

Section 3. Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

Section 4. Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

Section 5. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

INTRODUCED, READ AND APPROVED on first reading the 2nd day of November, 2016, and ordered published by title and reference as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 16th day of November, 2016, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

APPROVED, AND ADOPTED after public hearing the 17th day of May, 2017.

CITY OF ALAMOSA

By _____
Josef P. Lucero, Mayor

ATTEST:

_____
Holly C. Martinez, City Clerk

INTERGOVERNMENTAL AGREEMENT
FOR A
REGIONAL PLANNING COMMISSION FOR TRANSPORTATION PLANNING
San Luis Valley Transportation Planning Region

THIS AGREEMENT made this 4th day of May, 2017, by and among the following local governments in the San Luis Valley Transportation Planning Region:

Alamosa County	Town of Blanca	City of Monte Vista
Chaffee County	Town of Buena Vista	Town of Poncha Springs
Conejos County	Town of Center	Town of Romeo
Costilla County	Town of Creede	Town of Saguache
Mineral County	Town of Crestone	City of Salida
Rio Grande County	Town of Del Norte	Town of San Luis
Saguache County	Town of Hooper	Town of Sanford
City of Alamosa	Town of La Jara	Town of South Fork
Town of Antonito	Town of Manassa	
Town of Bonanza	Town of Moffat	

Participation in this agreement by each aforementioned party is made only upon execution of a Certificate of Participation.

This Agreement is thereby executed in multiple Certificates of Participation, each of which shall constitute an original, but all of which, taken together, shall constitute the same document.

WHEREAS, the parties to this Agreement have the authority pursuant to Article XIV, Section 18 of the Colorado Constitution and Section 29-1-201, et seq., Colorado Revised Statutes, to enter into intergovernmental agreements for the purpose of providing any service or performing any function which they can perform individually, and;

WHEREAS, Section 43-1-1101 C.R.S. recognizes Regional Planning Commissions as the proper forum for transportation planning, and;

WHEREAS, Section 43-1-1102(5) C.R.S. requires that Regional Planning Commissions formed for the purpose of transportation planning must be formed pursuant to Section 30-28-105

C.R.S., and;

WHEREAS, the parties to this Agreement desire to cooperate in developing and maintaining a long range Regional Transportation Plan, the purpose of which is to identify the mobility needs of the San Luis Valley Transportation Planning Region, and prepare a plan for addressing the needs, and;

WHEREAS, Section 43-1-1103 C.R.S. requires that any Regional Planning Commission formed for the purpose of transportation planning is responsible for regional transportation planning for said region, and;

WHEREAS, the San Luis Valley Transportation Planning Region, consisting of the areas within the counties of Alamosa, Chaffee, Conejos, Costilla, Mineral, Rio Grande, and Saguache was designated in the Rules for the Statewide Transportation Planning Process (2 CCR 604-2) as adopted by the Transportation Commission of Colorado and effective December 15, 2012, and;

WHEREAS, the parties to this Agreement are governing bodies or officials having charge of public improvements within their jurisdictions in San Luis Valley Transportation Planning Region.

NOW THEREFORE, the parties hereby mutually agree as follows:

1. Designation of Regional Planning Commission. The parties to this Agreement shall have one representative each on the Regional Planning Commission for the San Luis Valley Transportation Planning Region.

2. Responsibilities of Regional Planning Commission. The Regional Planning Commission shall be responsible, in cooperation with the state and other governmental agencies, for carrying out necessary continuing, cooperative, and comprehensive transportation planning for the San Luis Valley Transportation Planning Region; for creating, amending and updating Regional Transportation Plans pursuant to all applicable federal and state laws and rules or regulations including public participation provisions; for recommending the priority for any transportation improvements planned for the region; and for participating in the State Transportation Improvement Program development process. The Regional Planning commission shall keep records of its resolutions, transactions, contractual undertakings, findings, and determinations, which records shall be public records.

3. Chairperson and Officers. The Regional Planning Commission shall elect its Chairperson, whose term shall be one year, with eligibility for reelection. The Chairperson, or their designee, shall be the representative of the San Luis Valley Transportation Planning Region on the State Transportation Advisory Committee.

4. Contracting. The Regional Planning Commission may, with the consent of the parties to this Agreement, contract the services of other eligible individuals or entities to carry out all or any portion of the responsibilities assumed by the Regional Planning Commission under this Agreement.

5. Distribution of state or federal funds. The Regional Planning Commission may, through contracts or Memoranda of Agreement, receive and expend state or federal funds designated for regional transportation planning.

6. Terms of this Agreement. This Agreement shall remain in full force and effect for so long as the parties to this Agreement consider necessary to complete and maintain Regional Transportation Plans for the San Luis Valley Transportation Planning Region and for periodic updates or amendments as may be required. Any party to this Agreement may, however, terminate its participation in this Agreement six months after providing written notice of such termination to the other parties of this Agreement. This Agreement may be terminated at any time by agreement of all parties to this Agreement unless a grant contract is in effect with the State. In this case, the State must approve such termination and arrangements for completing the project.

7. Modification and Changes. The terms of this Agreement may be modified at any time by agreement of all parties to this Agreement.

CERTIFICATE OF PARTICIPATION
IN THE
INTERGOVERNMENTAL AGREEMENT
FOR A
REGIONAL PLANNING COMMISSION FOR TRANSPORTATION PLANNING
San Luis Valley Transportation Planning Region

THIS is to certify that the City of Alamosa, Colorado, has agreed to participate in this Intergovernmental Agreement for the San Luis Valley Regional Planning Commission.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first written above on page 1.

_____ Date: _____
Josef P. Lucero, Mayor
City of Alamosa

ATTEST:

_____ Date: _____
Holly C. Martinez, City Clerk

Seal:

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
First Reading, Ordinance No. 12-2017. An ordinance regulating the personal growing, cultivating, and processing of marijuana

Recommended Action:
Approve Ordinance No. 12-2017 on first reading and set for public hearing on June 7, 2017, at 7:00 p.m. or as soon thereafter as the matter may be heard.

Background:
Article XVIII, Sections 14 and 16 of the Colorado Constitution (Amendment 20 and 64, respectively), authorize persons to grow limited amounts of marijuana for personal use, or assist others in growing marijuana for their personal use. The constitution cedes general authority to local government to prohibit the operation of commercial marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores, but does not permit local government to prohibit non-commercial unlicensed individual grow operations.

State regulations existing to date pertaining to Commercial Marijuana Operations are generally not directed toward non-commercial unlicensed individual grow operations. This circumstance can result in a proliferation of non-licensed and unregulated marijuana grow operations that present significant health and public safety concerns with multiple and persistent violations of City building, electrical, mechanical, plumbing, and fire codes. This includes potential fire danger from lighting systems and processing methods, moisture and mold issues, and odor and other impacts on surrounding properties and public spaces.

Council has held two work sessions on this issue, and has considered a draft of this ordinance most recently at the work session held on April 5, 2017. A few minor changes were made to the ordinance draft following that work session, primarily removing a limitation on the size of accessory buildings that can be used for personal growing of marijuana.

Additionally, Council held a public meeting on May 10, 2017, to receive public input on the proposed ordinance. Comments at that public meeting included comments about allowing outdoor growing, the permit requirement for accessory structures, the prohibition on high temperature lighting, the area and volume limitations, and the plant count limits.

The state is considering measures to address the diversion of marijuana to the illegal market in HB 17-1220, a copy of which is attached. It was approved by both chambers on May 2, and has been sent to the Governor. It would limit the number of plants in residences to 12, unless a medical marijuana patient or primary caregiver has a license for more, in which case they can have 24, if allowed by local law (i.e. local limitations would prevail over that 24 plant count authorization). It does not otherwise regulate the manner of growing marijuana for personal consumption.

There are a number of issues that have been raised with respect to some of the other provisions of the proposed ordinance that Council should consider. Many, but not all, of those are highlighted in the section concerning alternatives.

Issue Before the Council:
Does Council wish to approve the Ordinance regulating how personal marijuana grows may be conducted, and set it for public hearing to be held on June 7, 2017?

Alternatives:
1) Approve the Ordinance on first reading and set for public hearing.
2) Approve the Ordinance with changes such as to the following provisions:
    a) increase or decrease the 12 plant limit
    b) increase or decrease (or eliminate) the area and volume grow space limits, currently at 100 square feet and 1000 cubic feet of dripline area and volume respectively
    c) allow outdoor grows so long as in a locked enclosure of sufficient height and visual density to provide a visual barrier, and so long as compliant with odor limitations
    d) allow for growing in multi-family dwellings, just not in common areas thereof.
    e) remove the requirement for permits for accessory structures, or prohibit the use of accessory structures, as does Douglas County.
    f) modify the lighting restrictions.
3) Decline to approve the Ordinance in whole or in part, and give staff further direction.

Fiscal Impact:
None.

Legal Opinion:
The City Attorney will be present for comment at the meeting.

Conclusion:
Approval of this Ordinance would provide guidance and regulation for the growing of marijuana for personal consumption within the City of Alamosa.

ATTACHMENTS:

	Description	Type
	Ordinance 12-2017 Regulating Personal Marijuana Grows	Ordinance
	HB 17-1220 (awaiting Governor's signature)	Backup Material

ORDINANCE NO. __-2017

AN ORDINANCE REGULATING THE PERSONAL GROWING, CULTIVATING, AND PROCESSING OF MARIJUANA

WHEREAS, Article XVIII, Sections 14 and 16 of the Colorado Constitution (Amendment 20 and 64, respectively), authorize persons to grow limited amounts of marijuana for personal use, or assist others in growing marijuana for their personal use; and

WHEREAS, Amendment 20 cedes general authority to local government to prohibit the operation of commercial marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores ("Commercial Marijuana Operations"); and

WHEREAS, neither Amendment 20 nor Amendment 64 permit local government to prohibit non-commercial unlicensed individual grow operations; and

WHEREAS, State regulations pertaining to Commercial Marijuana Operations are generally not directed toward non-commercial unlicensed individual grow operations; and

WHEREAS, this circumstance can result in a proliferation of non-licensed and unregulated marijuana grow operations that present significant health and public safety concerns with multiple and persistent violations of City building, electrical, mechanical, plumbing, and fire codes; and

WHEREAS, the City Council is authorized pursuant to Article I, Section 2 of the City Charter, and C.R.S. § 31-15-401(1)(b) and (c) "to make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease [and] to declare what is a nuisance and abate the same;" and

***WHEREAS*,** Council is further authorized pursuant to Article XIV, Section 4 of the Charter of the City of Alamosa to zone the City and to make appropriate regulations and restrictions concerning land uses within the City of Alamosa; and

WHEREAS, Council is further authorized pursuant to C.R.S. § 9-7-113 to ban the use of compressed flammable gas in the extraction of THC or other cannabinoids in a residential setting; and

WHEREAS, Council has determined that the adoption of regulations governing the growing, cultivating, and processing of marijuana is necessary and desirable for the health, safety, and welfare of the citizens of Alamosa; and

WHEREAS, this Ordinance does not unreasonably impair or impede the exercise of rights afforded citizens under Amendments 20 and 64;

NOW THEREFORE BE IT ORDAINED by the City Council of Alamosa as follows:

Section 1. Addition of new Code ARTICLE VI. The *Code of Ordinances of Alamosa, Colorado* is hereby amended to add a new Article VI to Chapter 4, to read as follows:

ARTICLE VI GROWING OF MARIJUANA FOR PERSONAL USE

Sec. 4-170. Scope. This Ordinance applies to the growing, cultivating, and processing of marijuana on any lot, parcel, or tract of land by any person, including but not limited to patients, primary caregivers, or persons for personal use.

Sec. 4-171. **Definitions:** The definitions contained in Article XVIII, Sections 14 and 16 of the Colorado Constitution, the Colorado Medical Marijuana Code (C.R.S. § 12-43.3-101 *et seq.*) and the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101 *et seq.*), as amended from time to time, are incorporated into this Ordinance by reference, including but not limited to, definitions of Marijuana, Medical Marijuana, Patient, and Primary Caregiver. All other applicable definitions are as stated herein.

(a) "Accessory Structure" means: A subordinate structure detached from but located on the same lot as the primary residence, the use of which is incidental and accessory to that of the primary residence.
(b) "Accessory Use" means: A use incidental to and subordinate to a primary residence.
(c) "Primary Residence" means: A residence where a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation and partaking of meals, regular mail delivery, vehicle registration, or credit, water and utility billing. A person shall have only one primary residence.
(d) "Primary Use" means: The main use of a structure or land, as distinguished from an accessory use.

Sec. 4-172. Growing, Cultivating, and Processing of Marijuana:

(a) Accessory Use to Primary Residence

Marijuana may only be grown, cultivated, or processed as an accessory use at the primary residence of the person conducting such activity, and only for such person's own use, or by a primary caregiver on behalf of a patient.

(b) Location of Growing, Cultivating, and Processing of Marijuana

1. Marijuana may only be grown, cultivated, or processed in a primary residence where residential use is the primary use of the structure or in an accessory structure to the primary residence on the same property. Other provisions of this Article notwithstanding, a permit is required for an accessory structure used for growing marijuana.
2. The space used for the growing, cultivating, or processing of marijuana shall be limited to a total area of 100 square feet and a total volume of 1000 cubic feet. The area shall be measured to the projected outer dripline of the plants when considered as a unit, and calculated based upon the most reasonably appropriate and easily calculated geometric shape encompassing that dripline (typically a rectangle, right triangle, or circle). The volume shall be calculated as the area calculated as set forth above, multiplied by the height of the tallest plant.
3. Marijuana shall not be grown, cultivated, or processed within any multi-family dwelling.
4. Any area used for the growing, cultivating, and processing of marijuana shall be fully enclosed and locked ensuring accessibility only by the person growing, cultivating or processing the marijuana for medical or personal use and to prevent access by children, visitors, casual passersby, or anyone not authorized to possess marijuana.
5. Any area used for the growing, cultivating, or processing of marijuana shall comply with all applicable building and fire codes, as amended and adopted, including plumbing, electrical and mechanical.
6. Nonresidential buildings or structures that are not accessory to a primary residence shall not be used for the growing, cultivating, or processing of marijuana.
7. It is unlawful to use a kitchen, bathroom or primary bedrooms for the indoor cultivation of marijuana.
8. Marijuana shall not be grown, cultivated, or processed

outdoors[ES1].

(c) Compliance with Building Codes:

It is unlawful to cultivate marijuana in any structure without complying with applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including but not limited to lot coverage, setback and height requirements.

Sec. 4-173. Marijuana Plant Limits

At any given time, no more than 12 marijuana plants, in any stage of maturity, may be grown, cultivated or processed at a primary residence, including any accessory structure.

Sec. 4-174. Lighting Restrictions and Prohibition on Use of Compressed Flammable Gas Products or Flammable Liquids

It is unlawful to use any grow lighting system for the indoor cultivation of marijuana other than light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or fluorescent lighting. All high-intensity discharge (HID) lighting, including but not limited to mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, are prohibited.

No compressed flammable gas (e.g. butane) or flammable liquid may be used in the growing, cultivating, or processing of marijuana. For purposes of this paragraph, "flammable liquid" means a liquid that has a flash point below one hundred degrees (100°) Fahrenheit, and includes all forms of alcohol and ethanol.

Sec. 4-175. Cannot be Perceptible

The growing, cultivating, or processing of marijuana shall not be perceptible from the exterior of the structure in which such activities occur, including, but not limited to:

(a) Common visual observation.
(b) Light pollution, glare, or brightness that disturbs the peace of another.
(c) Undue vehicular or foot traffic, including unusually heavy parking in front of the primary residence.
(d) The smell or odor of marijuana growing, cultivating, or processing at a primary residence shall not be detectable by a person with a normal sense of smell from any adjoining lot, parcel, tract, public right-of-way, or building unit.

Sec. 4-176. Ventilation Requirements

Any indoor marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the property line for detached single-family residential dwelling, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence. This shall include, at a minimum, a system meeting the requirements of the current, adopted edition of the International Residential Code.

Sec. 4-177. Penalty for Violations – Declaration of Nuisance: It shall be unlawful for any person to violate any provision of this ordinance. Any person found to have violated a provision of this ordinance shall be fined in accordance with the City's schedule of fines, but in no event shall any fine for violation of section 4-175 be less than $100, and for violation of any of sections 4-172 , 4-173, 4-174, and 4-176 be less than $500. In addition, violation of this ordinance shall constitute a nuisance, and may be abated by the City in the same manner dangerous buildings are abated.

Sec. 4-178. Additional Remedies The remedies provided in this ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order or regulation.

Section 2. Severability: Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same

shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 3. General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

Section 4. Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

Section 5. Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

Section 6. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

INTRODUCED, READ AND APPROVED on first reading the 17th ____ day of May, _____ 2017, and ordered published by title and reference as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 7th ____ day of June, _____ 2017, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

APPROVED, AND ADOPTED after public hearing the 7th day of June, 2017 ____ day of February, _____.

CITY OF ALAMOSA

By _____

Josef P. Lucero, Mayor

ATTEST:

_____

Holly C. Martinez, City Clerk

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 17-1220

BY REPRESENTATIVE(S) Becker K. and Wist, Carver, Esgar, Landgraf, Lawrence, Pabon, Thurlow, Van Winkle, Young, Arndt, Beckman, Covarrubias, Garnett, Ginal, Liston, Lundeen, McKean, Navarro, Nordberg, Pettersen, Ransom, Sias, Willett, Wilson, Gray, Hamner, Hooton, Kennedy, Kraft-Tharp, Neville P., Valdez, Williams D., Duran; also SENATOR(S) Gardner and Fields, Priola, Cooke, Court, Crowder, Hill, Holbert, Lambert, Martinez Humenik, Neville T., Smallwood, Tate, Todd, Williams A., Grantham.

CONCERNING MEASURES TO STOP DIVERSION OF LEGAL MARIJUANA TO THE ILLEGAL MARKET.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Through citizen-initiated measures, Colorado provided its citizens protections for the cultivation and use of medical marijuana in 2000 and recreational marijuana in 2012;

(b) One of the reasons behind these citizen-initiated measures was to erode the black market for marijuana in Colorado;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) The constitutional provisions for both medical marijuana and recreational marijuana provide protections for personal marijuana cultivation, but these provisions are silent on the question of where marijuana plants may be grown or processed for medical or recreational use;

(d) Although the authority for marijuana cultivation for both medical and recreational marijuana is generally limited to six plants per person, some provisions allow individuals to grow more plants. In the medical marijuana code, a patient can grow an "extended plant count" if his or her physician, who makes the medical marijuana recommendation, also determines the patient has a medical necessity for more than six plants. As well, a primary caregiver can grow medical marijuana for each of the patients that he or she serves.

(e) The extended plant count and primary caregiver provisions have created a situation in which individuals are cultivating large quantities of marijuana in residential homes;

(f) These large-scale cultivation sites in residential properties create a public safety issue and are a public nuisance. A site in a residential property can overburden the home's electrical system, resulting in excessive power use and creating a fire hazard that puts first responders at risk. A site can also cause water damage and mold in the residential property. A site in a residential property can produce a noxious smell that limits the ability of others who live in the area to enjoy the quiet of their homes. Often the site is a rental home, and the renters cause significant damage to the home by retrofitting the home to be used as a large-scale cultivation site. When residential property is used for a large-scale cultivation site, it often lowers the value of the property and thus the property value of the rest of the neighborhood. Finally, a site in a residential property can serve as a target for criminal activity, creating an untenable public safety hazard.

(g) Large-scale, multi-national crime organizations have exploited Colorado laws, rented multiple residential properties for large-scale cultivation sites, and caused an influx of human trafficking and large amounts of weapons as well as the potential for violent crimes in residential neighborhoods;

(h) Large-scale cultivation sites in residential properties have been used to divert marijuana out of state and to children.

(2) Therefore, the general assembly determines that it is necessary to impose reasonable limits on residential marijuana cultivation that do not encroach on the protections afforded Colorado citizens in the Colorado constitution.

SECTION 2. In Colorado Revised Statutes, 18-18-406, **amend** (3)(a); and **add** (3)(c) as follows:

18-18-406. Offenses relating to marijuana and marijuana concentrate - definition. (3) (a) (I) It is unlawful for a person to knowingly cultivate, grow, or produce a marijuana plant or knowingly allow a marijuana plant to be cultivated, grown, or produced on land that the person owns, occupies, or controls.

(II) (A) REGARDLESS OF WHETHER THE PLANTS ARE FOR MEDICAL OR RECREATIONAL USE, IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY CULTIVATE, GROW, OR PRODUCE MORE THAN TWELVE MARIJUANA PLANTS ON OR IN A RESIDENTIAL PROPERTY; OR TO KNOWINGLY ALLOW MORE THAN TWELVE MARIJUANA PLANTS TO BE CULTIVATED, GROWN, OR PRODUCED ON OR IN A RESIDENTIAL PROPERTY.

(B) EXCEPT AS PROVIDED IN SECTION 25-1.5-106 (8.5)(a.5)(I) OR SECTION 25-1.5-106 (8.6)(a)(I.5) FOR A MEDICAL MARIJUANA PATIENT OR A PRIMARY CAREGIVER WITH A TWENTY-FOUR-MARIJUANA-PLANT-COUNT EXCEPTION TO SUBSECTION (3)(a)(II)(A) OF THIS SECTION, IT IS NOT A VIOLATION OF SUBSECTION (3)(a)(II)(A) OF THIS SECTION IF A COUNTY, MUNICIPALITY, OR CITY AND COUNTY LAW EXPRESSLY PERMITS THE CULTIVATION, GROWTH, OR PRODUCTION OF MORE THAN TWELVE MARIJUANA PLANTS ON OR IN A RESIDENTIAL PROPERTY AND THE PERSON IS CULTIVATING, GROWING, OR PRODUCING THE PLANTS IN AN ENCLOSED AND LOCKED SPACE AND WITHIN THE LIMIT SET BY THE COUNTY, MUNICIPALITY, OR CITY AND COUNTY WHERE THE PLANTS ARE LOCATED.

(III) A person who violates the provisions of ~~this subsection (3)~~ SUBSECTION (3)(a)(I) OF THIS SECTION commits:

~~(I)~~ (A) A level 3 drug felony if the offense involves more than thirty

plants;

~~(II)~~ (B) A level 4 drug felony if the offense involves more than six but not more than thirty plants; or

~~(III)~~ (C) A level 1 drug misdemeanor if the offense involves not more than six plants.

(IV) A PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (3)(a)(II)(A) OF THIS SECTION COMMITS:

(A) A LEVEL 1 DRUG PETTY OFFENSE FOR A FIRST OFFENSE IF THE OFFENSE INVOLVES MORE THAN TWELVE PLANTS, AND, UPON CONVICTION, SHALL BE PUNISHED BY A FINE OF UP TO ONE THOUSAND DOLLARS;

(B) A LEVEL 1 DRUG MISDEMEANOR FOR A SECOND OR SUBSEQUENT OFFENSE IF THE OFFENSE INVOLVES MORE THAN TWELVE BUT NOT MORE THAN TWENTY-FOUR PLANTS; OR

(C) A LEVEL 3 DRUG FELONY FOR A SECOND OR SUBSEQUENT OFFENSE IF THE OFFENSE INVOLVES MORE THAN TWENTY-FOUR PLANTS.

(V) PROSECUTION UNDER SUBSECTION (3)(a)(II)(A) OF THIS SECTION DOES NOT PROHIBIT PROSECUTION UNDER ANY OTHER SECTION OF LAW.

(c) FOR PURPOSES OF THIS SUBSECTION (3):

(I) "FLOWERING" MEANS THE REPRODUCTIVE STATE OF THE CANNABIS PLANT IN WHICH THERE ARE PHYSICAL SIGNS OF FLOWER BUDDING OUT OF THE NODES IN THE STEM.

(II) "PLANT" MEANS ANY CANNABIS PLANT IN A CULTIVATING MEDIUM WHICH PLANT IS MORE THAN FOUR INCHES WIDE OR FOUR INCHES HIGH OR A FLOWERING CANNABIS PLANT REGARDLESS OF THE PLANT'S SIZE.

(III) "RESIDENTIAL PROPERTY" MEANS A SINGLE UNIT PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES FOR ONE OR MORE PERSONS, INCLUDING PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING, AND SANITATION. "RESIDENTIAL PROPERTY" ALSO INCLUDES THE REAL PROPERTY SURROUNDING A STRUCTURE, OWNED IN COMMON WITH

THE STRUCTURE, THAT INCLUDES ONE OR MORE SINGLE UNITS PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES.

SECTION 3. In Colorado Revised Statutes, 25-1.5-106, **amend** (7)(e)(I)(A); and **add** (2)(e.3), (8.5)(a.5), (8.5)(b.5), (8.6)(a)(I.5), and (8.6)(a)(I.6) as follows:

25-1.5-106. Medical marijuana program - powers and duties of state health agency - rules - medical review board - medical marijuana program cash fund - subaccount - created - repeal. (2) **Definitions.** In addition to the definitions set forth in section 14 (1) of article XVIII of the state constitution, as used in this section, unless the context otherwise requires:

(e.3) "RESIDENTIAL PROPERTY" MEANS A SINGLE UNIT PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES FOR ONE OR MORE PERSONS, INCLUDING PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING, AND SANITATION. "RESIDENTIAL PROPERTY" ALSO INCLUDES THE REAL PROPERTY SURROUNDING A STRUCTURE, OWNED IN COMMON WITH THE STRUCTURE, THAT INCLUDES ONE OR MORE SINGLE UNITS PROVIDING COMPLETE INDEPENDENT LIVING FACILITIES.

(7) **Primary caregivers.** (e) (I) (A) In order to be a primary caregiver who cultivates medical marijuana for his or her patients or transports medical marijuana for his or her patients, he or she shall also register with the state licensing authority AND COMPLY WITH ALL LOCAL LAWS, REGULATIONS, AND ZONING AND USE RESTRICTIONS. A person may not register as a primary caregiver if he or she is licensed as a medical marijuana business as described in part 4 of article 43.3 of title 12 ~~C.R.S.,~~ or a retail marijuana business as described in part 4 of article 43.4 of title 12. ~~C.R.S.~~ An employee, contractor, or other support staff employed by a licensed entity pursuant to article 43.3 or 43.4 of title 12, ~~C.R.S.,~~ or working in or having access to a restricted area of a licensed premises pursuant to article 43.3 or 43.4 of title 12, ~~C.R.S.,~~ may be a primary caregiver.

(8.5) **Encourage patient voluntary registration - plant limits.** (a.5) (I) UNLESS OTHERWISE EXPRESSLY AUTHORIZED BY LOCAL LAW, IT IS UNLAWFUL FOR A PATIENT TO POSSESS AT OR CULTIVATE ON A RESIDENTIAL PROPERTY MORE THAN TWELVE MARIJUANA PLANTS REGARDLESS OF THE

NUMBER OF PERSONS RESIDING, EITHER TEMPORARILY OR PERMANENTLY, AT THE PROPERTY; EXCEPT THAT IT IS UNLAWFUL FOR A PATIENT TO POSSESS AT OR CULTIVATE ON OR IN A RESIDENTIAL PROPERTY MORE THAN TWENTY-FOUR MARIJUANA PLANTS REGARDLESS OF THE NUMBER OF PERSONS RESIDING, EITHER TEMPORARILY OR PERMANENTLY, AT THE PROPERTY IF A PATIENT:

(A) LIVES IN A COUNTY, MUNICIPALITY, OR CITY AND COUNTY THAT DOES NOT LIMIT THE NUMBER OF MARIJUANA PLANTS THAT MAY BE GROWN ON OR IN A RESIDENTIAL PROPERTY;

(B) REGISTERS PURSUANT TO THIS SUBSECTION (8.5) WITH THE STATE LICENSING AUTHORITY'S REGISTRY; AND

(C) PROVIDES NOTICE TO THE APPLICABLE COUNTY, MUNICIPALITY, OR CITY AND COUNTY OF HIS OR HER RESIDENTIAL CULTIVATION OPERATION IF REQUIRED BY THE JURISDICTION. A LOCAL JURISDICTION SHALL NOT PROVIDE THE INFORMATION PROVIDED TO IT PURSUANT TO THIS SUBSECTION (8.5)(a.5)(I)(C) TO THE PUBLIC, AND THE INFORMATION IS CONFIDENTIAL.

(II) A PATIENT WHO CULTIVATES MORE MARIJUANA PLANTS THAN PERMITTED IN SUBSECTION (8.5)(a.5)(I) OF THIS SECTION SHALL LOCATE HIS OR HER CULTIVATION OPERATION ON A PROPERTY, OTHER THAN A RESIDENTIAL PROPERTY, WHERE MARIJUANA CULTIVATION IS ALLOWED BY LOCAL LAW AND SHALL COMPLY WITH ANY APPLICABLE LOCAL LAW REQUIRING DISCLOSURE ABOUT THE CULTIVATION OPERATION. CULTIVATION OPERATIONS CONDUCTED IN A LOCATION OTHER THAN A RESIDENTIAL PROPERTY ARE SUBJECT TO ANY COUNTY AND MUNICIPAL BUILDING AND PUBLIC HEALTH INSPECTION REQUIRED BY LOCAL LAW. A PERSON WHO VIOLATES THIS SUBSECTION (8.5)(a.5) IS SUBJECT TO THE OFFENSES AND PENALTIES DESCRIBED IN SECTION 18-18-406.

(b.5) A PATIENT WHO CULTIVATES HIS OR HER OWN MEDICAL MARIJUANA PLANTS SHALL COMPLY WITH ALL LOCAL LAWS, REGULATIONS, AND ZONING AND USE RESTRICTIONS.

(8.6) **Primary caregivers plant limits - exceptional circumstances.** (a) (I.5) UNLESS OTHERWISE EXPRESSLY AUTHORIZED BY LOCAL LAW, IT IS UNLAWFUL FOR A PRIMARY CAREGIVER TO POSSESS AT OR CULTIVATE ON A RESIDENTIAL PROPERTY MORE THAN TWELVE MARIJUANA

PLANTS REGARDLESS OF THE NUMBER OF PERSONS RESIDING, EITHER TEMPORARILY OR PERMANENTLY, AT THE PROPERTY; EXCEPT THAT IT IS UNLAWFUL FOR A PRIMARY CAREGIVER TO POSSESS AT OR CULTIVATE ON OR IN A RESIDENTIAL PROPERTY MORE THAN TWENTY-FOUR MARIJUANA PLANTS REGARDLESS OF THE NUMBER OF PERSONS RESIDING, EITHER TEMPORARILY OR PERMANENTLY, AT THE PROPERTY IF A PRIMARY CAREGIVER:

(A) LIVES IN A COUNTY, MUNICIPALITY, OR CITY AND COUNTY THAT DOES NOT LIMIT THE NUMBER OF MARIJUANA PLANTS THAT MAY BE GROWN ON OR IN A RESIDENTIAL PROPERTY;

(B) IS REGISTERED PURSUANT TO THIS SUBSECTION (8.6) WITH THE STATE LICENSING AUTHORITY'S REGISTRY; AND

(C) PROVIDES NOTICE TO THE APPLICABLE COUNTY, MUNICIPALITY, OR CITY AND COUNTY OF HIS OR HER RESIDENTIAL CULTIVATION OPERATION IF REQUIRED BY THE JURISDICTION. A LOCAL JURISDICTION SHALL NOT PROVIDE THE INFORMATION PROVIDED TO IT PURSUANT TO THIS SUBSECTION (8.6)(a)(I.5) TO THE PUBLIC, AND THE INFORMATION IS CONFIDENTIAL.

(I.6) ANY PRIMARY CAREGIVER WHO CULTIVATES MORE MARIJUANA PLANTS THAN PERMITTED IN SUBSECTION (8.6)(a)(I.5) OF THIS SECTION SHALL LOCATE HIS OR HER CULTIVATION OPERATION ON A PROPERTY, OTHER THAN A RESIDENTIAL PROPERTY, WHERE MARIJUANA CULTIVATION IS ALLOWED BY LOCAL LAW AND SHALL COMPLY WITH ANY APPLICABLE LOCAL LAW REQUIRING DISCLOSURE ABOUT THE CULTIVATION OPERATION. CULTIVATION OPERATIONS CONDUCTED IN A LOCATION OTHER THAN A RESIDENTIAL PROPERTY ARE SUBJECT TO ANY COUNTY AND MUNICIPAL BUILDING AND PUBLIC HEALTH INSPECTION REQUIRED BY LOCAL LAW. A PERSON WHO VIOLATES SUBSECTION (8.6)(a)(I) OF THIS SECTION IS SUBJECT TO THE OFFENSES AND PENALTIES DESCRIBED IN SECTION 18-18-406.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2018; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the

governor.

(2) Section 2 of this act applies to offenses committed on or after the applicable effective date of this act.

Crisanta Duran SPEAKER OF THE HOUSE OF REPRESENTATIVES	Kevin J. Grantham PRESIDENT OF THE SENATE
Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	Effie Ameen SECRETARY OF THE SENATE

APPROVED_____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
First Reading, Ordinance No. 13-2017, an ordinance amending sec. 11-100 of the *Code of Ordinances of the City of Alamosa* to align the language of the ordinance concerning theft with the changes to the statute concerning theft found at C.R.S.. § 18-4-401, and deleting sections 11-104 governing theft of rental property and 11-105 governing theft by receiving, as encompassed within sec. 11-100 as amended.

Recommended Action:
Approve Ordinance No. 13-2017 on first reading and set for public hearing on June 7, 2017, at 7:00 p.m., or as soon thereafter as the matter may be heard.

Background:
The Colorado legislature in 2013 amended C.R.S. § 18-4-401 governing theft to incorporate theft of rental property and theft by receiving into the general theft statute, and to adjust the categories of theft (from petty offense to class 2 felony) based on amounts stolen. C.R.S. § 18-4-401(8) gives municipalities concurrent jurisdiction to prohibit theft by ordinance where the amount stolen is less than $1,000. A copy of C.R.S. § 18-4-401 is included as background material.

The *Code of Ordinances of Alamosa, Colorado*, contains a definition of theft at Section 11-100, mirroring, for the most part, that contained in C.R.S. § 18-4-401. The City endeavors, where possible, to have its ordinances use the same terms and concepts as state statutes that govern the same subject matter so that there is consistency in interpretation of the statutes and ordinances.

While State law classifies theft into varying categories of theft depending upon the amount at issue (from petty offense through class 1 misdemeanor), the City ordinances classify theft in any amount as a simple ordinance violation, so those categories are not carried forward in the ordinance.

This ordinance changes the definition of theft in Section 11-100 to mirror the state statute, and deletes Sections 11-104 and 11-105 as covered in the new 11-100. There was a portion of 11-104 not included in the new state statute, and that has been preserved as the new 11-100(e).

Issue Before the Council:
Does Council wish to approve the Ordinance aligning the City's theft ordinance with state statute on first reading and set it for public hearing to be held on June 1, 2017?

Alternatives:
1) Approve the Ordinance on first reading and set for public hearing
2) Approve the Ordinance with changes such as not retaining Sec. 11-100(e)
3) Decline to approve the Ordinance in whole or in part, and give staff further direction.

Fiscal Impact:

None.

Legal Opinion:
City Attorney will be available for comment if necessary.

Conclusion:
Approval of this Ordinance would align Alamosa's theft ordinance with similar provisions in state statute.

ATTACHMENTS:

	Description	Type
	Ordinance __-2017 amendment of theft ordinance	Ordinance
	C.R.S. § 18-4-401	Backup Material
	Existing theft ordinances 11-100 to 11-106	Backup Material

ORDINANCE NO. __-2017

AN ORDINANCE AMENDING SEC. 11-100 OF THE *CODE OF ORDINANCES OF THE CITY OF ALAMOSA* TO ALIGN THE LANGUAGE OF THE ORDINANCE CONCERNING THEFT WITH THE CHANGES TO THE STATUTE CONCERNING THEFT FOUND AT C.R.S. § 18-4-401, AND DELETING SECTIONS 11-104 GOVERNING THEFT OF RENTAL PROPERTY AND 11-105 GOVERNING THEFT BY RECEIVING, AS ENCOMPASSED WITHIN SEC. 11-100 AS AMENDED.

WHEREAS, The Colorado legislature recently amended C.R.S. § 18-4-401 governing theft; and

WHEREAS, The *Code of Ordinances of Alamosa, Colorado*, contains a definition of theft at Section 11-100, mirroring, for the most part, that contained in C.R.S. § 18-4-401; and

WHEREAS, The new State statute incorporates theft of rental property, which was previously codified in in the *Alamosa Code* as Section 11-104, and theft by receiving, which was previously codified in in the *Alamosa Code* as Section 11-105, into the general definition of theft found at C.R.S. § 18-4-401; and

WHEREAS, The City endeavors, where possible, to have its ordinances use the same terms and concepts as state statutes that govern the same subject matter so that there is consistency in interpretation of the statutes and ordinances;

WHEREAS, State law classifies theft into varying categories of theft depending upon the amount at issue (from petty offense through class 1 misdemeanor), while the City ordinances classify theft in any amount as an ordinance violation, but distinctions in amount involved are significant when considering appropriate punishment for violations of the ordinance, and the categories set forth in State law are useful in defining where those break points reside; and

WHEREAS, Council desires to align the City ordinance with State law and with the current practice of the City;

NOW THEREFORE BE IT ORDAINED by the City Council of Alamosa as follows:

Section 1. Repeal and Replacement of Chapter 11, ARTICLE VI, Section 11-100. Section 11-100 of The *Code of Ordinances of Alamosa*, *Colorado* is hereby amended to read in its entirety as follows:

Sec. 11-100. -Theft.

(1) A person commits theft when he or she knowingly obtains, retains, or exercises control over anything of value of another without authorization or by threat or deception; or receives, loans money by pawn or pledge on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen, and:

(a) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(b) Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;

(c) Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use or benefit;

(d) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person;

(e) Obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or

(f) Knowingly retains the thing of value more than seventy-two hours after the agreed-upon time of return in any lease or hire agreement.

(2) For the purposes of this section, a thing of value is that of "another" if anyone other than the defendant has a possessory or proprietary interest therein.

Section 2. Repeal of Chapter 11, ARTICLE VI, Section 11-104 and 11-105, and renumbering of remaining sections. Sections 11-104 and 11-105 of The *Code of Ordinances of Alamosa*, *Colorado* are hereby repealed, and the remaining sections 11-106 and 11-107 renumbered correspondingly to 11-104 and 11-105

Section 3. Severability: Should any section, clause, sentence, or part of this Ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 4. General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

Section 5. Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

Section 6. Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

Section 7. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

INTRODUCED, READ AND APPROVED on first reading the 17th day of May, 2017, and ordered published by title and reference as provided by law with notice of a public hearing to

be held for consideration of the adoption of said ordinance on the 7th day of June, 2017, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

APPROVED, AND ADOPTED after public hearing the 7th day of June, 2017.

CITY OF ALAMOSA

By _____

Josef P. Lucero, Mayor

ATTEST:

_____

Holly C. Martinez, City Clerk

§ 18-4-401. Theft.

Colorado Statutes

Title 18. CRIMINAL CODE

Article 4. Offenses Against Property

Part 4. THEFT

Current through Chapter 174 of the 2017 Legislative Session (with the exception of Chapters 153 and 162-168)

§ 18-4-401. Theft

(1) A person commits theft when he or she knowingly obtains, retains, or exercises control over anything of value of another without authorization or by threat or deception; or receives, loans money by pawn or pledge on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen, and:

(a) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(b) Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;

(c) Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use or benefit;

(d) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person; or

(e) Knowingly retains the thing of value more than seventy-two hours after the agreed-upon time of return in any lease or hire agreement.

(1.5) For the purposes of this section, a thing of value is that of "another" if anyone other than the defendant has a possessory or proprietary interest therein.

(2) Theft is:

(a) (Deleted by amendment, L. 2007, p. 1690, §3, effective July 1, 2007.)

(b) A class 1 petty offense if the value of the thing involved is less than fifty dollars;

(b.5) Repealed.

(c) A class 3 misdemeanor if the value of the thing involved is fifty dollars or more but less than three hundred dollars;

(d) A class 2 misdemeanor if the value of the thing involved is three hundred dollars or more but less than seven hundred fifty dollars;

(e) A class 1 misdemeanor if the value of the thing involved is seven hundred fifty dollars or more but less than two thousand dollars;

(f) A class 6 felony if the value of the thing involved is two thousand dollars or more but less than five thousand dollars;

(g) A class 5 felony if the value of the thing involved is five thousand dollars or more but less than twenty thousand dollars;

(h) A class 4 felony if the value of the thing involved is twenty thousand dollars or more but less than one hundred thousand dollars;

(i) A class 3 felony if the value of the thing involved is one hundred thousand dollars or more but less than one million dollars; and

(j) A class 2 felony if the value of the thing involved is one million dollars or more.

(3) and (3.1) Repealed.

(4)

(a) When a person commits theft twice or more within a period of six months, two or more of the thefts may be aggregated and charged in a single count, in which event the thefts so aggregated and charged shall constitute a single offense, the penalty for which shall be based on the aggregate value of the things involved, pursuant to subsection (2) of this section.

(b) When a person commits theft twice or more against the same person pursuant to one scheme or course of conduct, the thefts may be aggregated and charged in a single count, in which event they shall constitute a single offense, the penalty for which shall be based on the aggregate value of the things involved, pursuant to subsection (2) of this section.

(5) Theft from the person of another by means other than the use of force, threat, or intimidation is a class 5 felony without regard to the value of the thing taken.

(6) In every indictment or information charging a violation of this section, it shall be sufficient to allege that, on or about a day certain, the defendant committed the crime of theft by unlawfully taking a thing or things of value of a person or persons named in the indictment or information. The prosecuting attorney shall at the request of the defendant provide a bill

of particulars.

(7) Repealed.

(8) A municipality shall have concurrent power to prohibit theft, by ordinance, where the value of the thing involved is less than one thousand dollars.

(9) (a) If a person is convicted of or pleads guilty or nolo contendere to theft by deception and the underlying factual basis of the case involves the mortgage lending process, a minimum fine of the amount of pecuniary harm resulting from the theft shall be mandatory, in addition to any other penalty the court may impose.

(b) A court shall not accept a plea of guilty or nolo contendere to another offense from a person charged with a violation of this section that involves the mortgage lending process unless the plea agreement contains an order of restitution in accordance with part 6 of article 1.3 of this title that compensates the victim for any costs to the victim caused by the offense.

(c) The district attorneys and the attorney general have concurrent jurisdiction to investigate and prosecute a violation of this section that involves making false statements or filing or facilitating the use of a document known to contain a false statement or material omission relied upon by another person in the mortgage lending process.

(d) Documents involved in the mortgage lending process include, but are not limited to, uniform residential loan applications or other loan applications; appraisal reports; HUD-1 settlement statements; supporting personal documentation for loan applications such as W-2 forms, verifications of income and employment, bank statements, tax returns, and payroll stubs; and any required disclosures.

(e) For the purposes of this subsection (9):

(I) "Mortgage lending process" means the process through which a person seeks or obtains a residential mortgage loan, including, without limitation, solicitation, application, or origination; negotiation of terms; third-party provider services; underwriting; signing and closing; funding of the loan; and perfecting and releasing the mortgage.

(II) "Residential mortgage loan" means a loan or agreement to extend credit, made to a person and secured by a mortgage or lien on residential real property, including, but not limited to, the refinancing or renewal of a loan secured by residential real property.

(III) "Residential real property" means real property used as a residence and containing no more than four families housed separately.

Cite as C.R.S. § 18-4-401

History. Amended by 2013 Ch. 373, §1, eff. 6/5/2013.

L. 71: R&RE, p. 428, § 1. C.R.S. 1963: § 40-4-401 . L. 75: IP(1), (2), and (3) amended and (3.1) added, pp. 618, 619, §§ 9, 10, effective July 1. L. 77: (4) amended, p. 972, § 1, effective May 27; (2) R&RE, (3) and (3.1) repealed, and (4) amended, pp. 973, 976, §§ 1, 2, 9, effective July 1. L. 81: (7) added, p. 987, § 1, effective July 1. L. 83: (8) added, p. 665, § 7, effective July 1. L. 84: (7)(a) and (7)(b) amended, p. 541, § 1, effective April 12; (2)(b), (2)(c), (4), (7)(a), and (8) amended, p. 536, §§5, 6, effective July 1, 1985. L. 85: (7)(a) amended, p. 1360, § 13, effective June 28. L. 87: (2)(b), (2)(c), and (4) amended, p. 352, § 3, effective March 16; (1.5) added and (7)(a) amended, pp. 615, 606, §§5, 13, effective July 1. L. 92: (2), (4), and (7)(a) amended, p. 433, § 1, effective April 10; (8) amended, p. 439, § 1, effective June 1. L. 93: (7) repealed, p. 1742, § 42, effective July 1. L. 97: (2)(b) and (2)(c) amended, p. 1548, § 23, effective July 1. L. 98: (4) and (8) amended, p. 1437, § 10, effective July 1; (4) amended, p. 793, § 1, effective July 1. L. 2006: (9) added, p. 1327, § 2, effective July 1. L. 2007: (2), (4), and (8) amended, p. 1690, § 3, effective July 1. L. 2009: (4) amended, (HB09-1334), ch. 244, p. 1099, §2, effective May 11. L. 2013: (1), (2)(b), (2)(c), (2)(d), and (4) amended, (2)(b.5) repealed, and (2)(e), (2)(f), (2)(g), (2)(h), (2)(i), and (2)(j) added, (HB13-1160), ch. 373, p. 2195, §1, effective June 5.

Case Notes:

ANNOTATION

I. GENERAL CONSIDERATION.

Law reviews. For note, "Larceny, Embezzlement and False Pretenses in Colorado -- A Need for Consolidation", see 23 Rocky Mt. L. Rev. 446 (1951). For article, "The Meaning of 'Theft' in Automobile Insurance", see 29 Dicta 119 (1952). For article, "Commitment of Misdemeanants to the Colorado State Reformatory", see 29 Dicta 294 (1952). For note, "False Pretenses, Confidence Game, and Short Check in Colorado", see 25 Rocky Mt. L. Rev. 325 (1953). For article, "Highlights of the 1955 Legislative Session - Criminal Law and Procedure", see 28 Rocky Mt. L. Rev. 69 (1955). For article, "Criminal Law", see 32 Dicta 409 (1955). For article, "One Year Review of Criminal Law and Procedure", see 36 Dicta 34 (1959). For article, "One Year Review of Criminal Law and Procedure", see 39 Dicta 81 (1962). For article, "One Year Review of Constitutional Law", see 40 Den. L. Ctr. J. 134 (1963). For article, "Mens Rea and the Colorado Criminal Code", see 52 U. Colo. L. Rev. 167 (1981). For article, "Lending to a Debtor-in-Possession", see 11 Colo. Law. 2382 (1982).

Annotator's note. (1) Since § 18-4-401 is similar to former § 40-5-2, C.R.S. 1963, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

(2) Annotations appearing below from cases decided prior to 1978 were decided under the version of this section in effect prior to the 1975 amendment to this section.

Common-law offenses. Embezzlement is common-law larceny extended by statute to cover cases where the stolen property comes originally into the possession of the defendant without a trespass. The word implies a fraudulent or

unlawful intent. Phenneger v. People, 85 Colo. 442, 276 P. 983 (1929); Lewis v. People, 109 Colo. 89, 123 P.2d 398 (1942).

Larceny by bailee was not a common-law offense. Helser v. People, 100 Colo. 371, 68 P.2d 543 (1937).

Embezzlement was not recognized at common law and the corollary offense, larceny, embraced only those thefts which were accompanied by trespass in the original acquisition and possession. It was first recognized in England when parliament enacted the statute so as to embrace nontrespass thefts. It was enacted in Colorado with the same object. Gill v. People, 139 Colo. 401, 339 P.2d 1000 (1959).

Former theft statute held not unconstitutionally vague. Peters v. People, 151 Colo. 35, 376 P.2d 170 (1962); People v. Lewis, 180 Colo. 423, 506 P.2d 125 (1973).

This section is constitutional. People v. Edmonds, 195 Colo. 358, 578 P.2d 655 (1978).

This section is not unconstitutional despite the fact that it does not require a specific allegation of intent in an information or indictment for its violation. Edwards v. People, 176 Colo. 478, 491 P.2d 566 (1971).

This section clearly delineates four acts which, if done with the intent specified, constitute the crime of theft, so that any person of common intelligence can readily comprehend the meaning and application of the unambiguous words used by the general assembly in drafting this section. Howe v. People, 178 Colo. 248, 496 P.2d 1040 (1972).

Statute gives a fair description of the proscribed conduct, and persons of common intelligence can readily appreciate the statute's meaning and application. People v. Hucal, 182 Colo. 334, 513 P.2d 454 (1973).

Control in theft statute does not have vague and ambiguous meaning so as to be unconstitutional. People v. Hucal, 182 Colo. 334, 513 P.2d 454 (1973).

Intent is not inconsistent with different methods of deprivation. Where what varies in different crimes is the method used to achieve the deprivation, there is no inconsistency between the words used to describe the methods of deprivation with the intent to permanently deprive a person of a thing of value and the words "unlawfully taking". Howe v. People, 178 Colo. 248, 496 P.2d 1040 (1972).

In enacting § 18-4-410, general assembly intended to reach distinct group of wrongdoers. The class includes those persons who receive, retain, or dispose of property received from another person with the knowledge or reasonable belief that the property has been stolen. People v. Jackson, 627 P.2d 741 (Colo. 1981).

The purpose of this section is to remove distinctions and technicalities which previously existed in the pleading and proof of acquisition crimes. Hucal v. People, 176 Colo. 529, 493 P.2d 23 (1971).

In enacting the theft statute, the general assembly intended to define one crime of theft which would incorporate all crimes involving the taking or obtaining of personal property without physical force and to eliminate distinctions and technicalities which previously existed in the pleading and proof of such crimes. Maes v. People, 178 Colo. 46, 494

P.2d 1290 (1972); People v. Terranova, 38 Colo. App. 476, 563 P.2d 363 (1976); People v. Hopkins, 40 Colo. App. 568, 584 P.2d 84 (1978).

It is consolidation of former separate crimes. Prior to 1967 the various felonies of larceny, embezzlement and the like were separately defined throughout the criminal statutes. The 1967 general assembly consolidated these formerly separately defined crimes under one broad, enumerated crime designated as theft. White v. People, 172 Colo. 271, 472 P.2d 674 (1970).

It was the purpose of our general assembly to cover every conceivable unlawful conversion by an agent or servant. Gill v. People, 139 Colo. 401, 339 P.2d 1000 (1959).

The intent of this section is to bring together in one statute most of the crimes formerly known by several different names, for each of these former crimes has as a material element the unlawful depriving of a person of his property. Howe v. People, 178 Colo. 248, 496 P.2d 1040 (1972).

Theft is not a lesser included offense of robbery. People v. Moore, 184 Colo. 110, 518 P.2d 944 (1974).

The enactment of § 12-44-102 does not preclude prosecution for theft pursuant to this section because § 12-44-102 does not present a comprehensive regulatory scheme intended to limit prosecution under the general theft statute. People v. Sharp, 104 P.3d 252 (Colo. App. 2004).

This section includes as the objects of theft those means or muniments by which the right and title to property, real and personal, might be ascertained. Beasley v. People, 168 Colo. 286, 450 P.2d 658 (1969).

Promissory note, being subject to ownership, is personal property even in the hands of the maker, and so is within the purview of this section. Knepper v. People, 63 Colo. 396, 167 P. 779 (1917).

This section includes choses in action, chattels, effects, or any other valuable thing. Miller v. People, 72 Colo. 375, 211 P. 380 (1922).

Dogs are by statute the subject of larceny. Thiele v. City & County of Denver, 135 Colo. 442, 312 P.2d 786 (1957).

A "thing of value", as used in the former short check felony statute, is a phrase of sufficient generic import to encompass clearly within its meaning an executed lien waiver. Beasley v. People, 168 Colo. 286, 450 P.2d 658 (1969).

Mechanics' and materialmen's liens are security for the costs of materials and labor furnished. As security, the lien is clearly a "thing of value" to a materialman and by giving it up in exchange for a worthless check, there is a loss of a thing of value. Beasley v. People, 168 Colo. 286, 450 P.2d 658 (1969).

Stolen checks are a "thing of value" within the meaning of the statutes. People v. Marques, 184 Colo. 262, 520 P.2d 113 (1974).

"Thing of value" is defined to include "real property". People v. Parga, 188 Colo. 413, 535 P.2d 1127 (1975).

Real property may be the subject of theft. People v. Parga, 188 Colo. 413, 535 P.2d 1127 (1975).

Although funds from a "Ponzi scheme" were obtained by theft, the subsequent transfer of these funds by the debtor represented the transfer of an "interest of the debtor in property" for purposes of a chapter 7 bankruptcy action. In Re M & L Business Mach. Co., Inc., 160 Bankr. 851 (Bankr. D. Colo. 1994), aff'd, 167 Bankr. 219 (Bankr. D. Colo. 1994).

Where the information charged defendant with theft of money, rather than theft of a check, negotiation of the check was the necessary "last act" to begin the running of the statute of limitations under § 16-5-401. The date the check was issued was immaterial for purposes of determining the statute of limitations. People v. Chavez, 952 P.2d 828 (Colo. App. 1997).

Colorado courts have jurisdiction over the offense of theft which originated in the state of New Mexico. People v. Martinez, 37 Colo. App. 71, 543 P.2d 1290 (1975).

Where defendant exercised control over stolen goods in this state. Where there was evidence presented that defendant exercised control over stolen chain saws in Colorado without authorization, the offense of theft was "committed partly within this state" as contemplated by § 18-1-201(2), and, therefore, in accordance with § 18-1-201(1)(a), defendant "is subject to prosecution in this state" for that offense. People v. Martinez, 37 Colo. App. 71, 543 P.2d 1290 (1975).

Court retains jurisdiction of defendant extradited under former section. Although defendant was arrested out of state on a warrant charging larceny and returned to Colorado, and the crime of larceny was subsequently redesignated as theft, defendant's contention that the warrant charged a nonexistent crime and therefore the trial court had no jurisdiction, was without merit. Habbord v. People, 175 Colo. 417, 488 P.2d 554 (1971).

Scope of municipal jurisdiction over theft offenses. Larceny, the subject of statute and of statewide concern, is distinguished from a local and municipal matter in which municipalities may exercise jurisdiction, and a municipal ordinance purporting to cover such field is invalid. Gazotti v. City & County of Denver, 143 Colo. 311, 352 P.2d 963 (1960).

Municipal courts are particularly adaptable to the handling of the crime of shoplifting of articles of relatively small value and this type of theft should be combated not only by state authorities in state courts but by police departments in municipal courts. Quintana v. Edgewater Municipal Court, 179 Colo. 90, 498 P.2d 931 (1972).

When a municipal shoplifting ordinance does not limit shoplifting to goods not exceeding $100 in value, and thereby goes beyond a municipal or local matter, and contains no severable operative provisions, and when plaintiff allegedly takes articles valued over $100, the ordinance cannot be constitutionally applied to petty theft. Quintana v. Edgewater Municipal Court, 179 Colo. 90, 498 P.2d 931 (1972).

This section is the counterpart to the Longmont municipal code theft ordinance which is comprised of identical elements except for the value of the property. Bradford v. Longmont Municipal Court, 830 P.2d 1135 (Colo. App. 1992).

Corporation, rather than stockholder, is victim of theft of value of stock. It is well settled that a shareholder in a corporation, once having obtained his stock, is only entitled to the profits in the corporation, not the divisible assets of the corporation. From this proposition it necessarily follows that a stockholder's loss of the value of his stock, however attributable to defendant, is not a theft of value from the stockholder. If there be a crime committed under these facts, it was a theft from the corporation, not from the shareholder. The money which defendant allegedly stole was the property of the corporation. People v. Westfall, 185 Colo. 110, 522 P.2d 100 (1974).

Theft and theft by receiving are two separate and distinct crimes. The penalty for each is the same, but conviction of one would not support a conviction of the other. People v. Griffie, 44 Colo. App. 46, 610 P.2d 1079 (1980).

Participant in theft cannot be convicted of both crimes. A person who has actively participated in a theft cannot be convicted of both theft and theft by receiving of the stolen property. People v. Jackson, 627 P.2d 741 (Colo. 1981).

A partner cannot be charged with theft of partnership property under this section because partnership property is not a thing of value of another. People v. Clayton, 728 P.2d 723 (Colo. 1986) (decided prior to 1987 enactment of subsection (1.5)).

Conduct constituting receiving stolen property is the same conduct punishable by this section where defendant stole property in Colorado and took it to another jurisdiction, and prosecution under this section is therefore barred as double jeopardy where defendant was previously tried for receiving the stolen property in the other jurisdiction. People v. Morgan, 785 P.2d 1294 (Colo. 1990).

Section 18-4-402 distinguished. Section 18-4-402 clearly applies to an unlawful temporary deprivation of rental property as distinguished from a permanent deprivation of property generally as required by this section. People v. Trigg, 184 Colo. 78, 518 P.2d 841 (1974).

Distinguished from § 26-4-114. There are reasonable distinctions which can be drawn between this section and the penal provisions of the medical assistance act, § 26-4-114, as the latter deals only with property unlawfully received in a special way from a specific source, as distinguished from the deprivation of property generally. People v. Donahue, 41 Colo. App. 70, 578 P.2d 671 (1978).

Criminal mischief distinguished. The gravamen of criminal mischief is the knowing causation of damage to another's property with resulting economic loss to the owner or possessor of the property. The crime of theft, in contrast, is a crime of misappropriation or wrongful taking with no added element of damage or destruction to the property taken. People v. Dunoyair, 660 P.2d 890 (Colo. 1983).

Because the conduct prohibited by this section is distinct from the conduct prohibited by § 8-81-101(1)(a),

prosecution under one such statute as opposed to the other does not violate a defendant's constitutional rights. People v. Chesnick, 709 P.2d 66 (Colo. App. 1985).

Aider/abettor tried as principal. Where appellant knew items were stolen and on this basis agreed to cash checks as an integral part of an overall scheme to acquire and sell stolen goods, he could be properly tried and convicted as an aider and abettor to theft-receiving and thus, as a principal. People v. Silvola, 190 Colo. 363, 547 P.2d 1283, cert. denied, 429 U.S. 886, 97 S. Ct. 238, 50 L. Ed. 2d 167 (1976).

The stealing of several articles of property at the same time and place, as one continuous act or transaction, may be prosecuted as a single offense, although the several articles belong to several different owners. People v. District Court, 192 Colo. 355, 559 P.2d 1106 (1977).

Ongoing, continuous scheme of embezzlement pursuant to a single criminal impulse with the same victim throughout does not have to be severed into separate counts or dismissed. People v. Stratton, 677 P.2d 373 (Colo. App. 1983).

The general assembly did not proscribe the same conduct in § 42-5-104 and this section. Section 42-5-104 requires that the thing stolen be a part of, or contained in, an automobile, and there is no such requirement under this section. People v. Czajkowski, 193 Colo. 352, 568 P.2d 23 (1977).

Theft statute held not to violate guaranty of equal protection. People v. Cowden, 735 P.2d 199 (Colo. 1987).

Prosecutor's election to prosecute under general intent theft statute did not violate due process even though defendant was precluded from using affirmative defense of impaired mental condition. People v. Quick, 713 P.2d 1282 (Colo. 1986).

Theft statute which imposes penalties according to the value of the thing taken and which contains alternative culpable mental state elements of "knowingly" and "with intent" represents a legitimate legislative decision regarding the nature of the crime and does not raise an equal protection issue of punishing the same conduct with two different sanctions. People v. Quick, 713 P.2d 1282 (Colo. 1986).

Elements of two crimes of theft and motor vehicle theft are clearly different, and therefore it does not violate equal protection to prosecute under the latter rather than the former. People v. Wastrum, 624 P.2d 1302 (Colo. 1981).

Second degree aggravated motor vehicle theft is not a lesser included offense of theft. Therefore conviction of the former should not merge into a conviction of the latter. People v. Meads, 58 P.3d 1137 (Colo. App. 2002), aff'd, 78 P.3d 290 (Colo. 2003).

Debt arising out of stipulation to entry of judgment for civil theft under this section and deceit based on fraud is nondischargeable under 11 U.S.C. § 523(a)(4) of the federal bankruptcy code. Under 11 U.S.C. § 523(a)(4), a debtor is not discharged from any debt for embezzlement or larceny. The statutory intent in § 18-4-403 indicates that the word "theft" includes embezzlement and larceny, among other crimes. In re Hauck, 466 B.R. 151 (Bankr. D. Colo.

2012), aff'd, 489 B.R. 208 (D. Colo. 2013).

Attorney's theft requires disbarment. An attorney's misuse of his professional status to accomplish the felonious theft of his clients' funds requires disbarment. People v. Buckles, 673 P.2d 1008 (Colo. 1984).

Applied in In re Pratte, 19 Colo. 138, 34 P. 680 (1893); Murray v. People, 49 Colo. 109, 111 P. 711 (1910); Wheeler v. People, 49 Colo. 402, 113 P. 312 (1911); James v. Phoenix Assurance Co., 75 Colo. 209, 225 P. 213 (1924); Critchfield v. People, 91 Colo. 127, 13 P.2d 270 (1932); Sanders v. People, 109 Colo. 243, 125 P.2d 154 (1942); Conyers v. People, 113 Colo. 230, 155 P.2d 988 (1945); Casados v. People, 119 Colo. 444, 204 P.2d 557 (1949); Thurman v. People, 120 Colo. 77, 208 P.2d 927 (1949); People v. Austin, 162 Colo. 10, 424 P.2d 113 (1967); People v. Mangum, 189 Colo. 246, 539 P.2d 120 (1975); People v. Pittam, 194 Colo. 104, 572 P.2d 135 (1977); People v. Warren, 196 Colo. 75, 582 P.2d 663 (1978); People v. Girard, 196 Colo. 68, 582 P.2d 666 (1978); People in Interest of R.A.D., 196 Colo. 430, 586 P.2d 46 (1978); People v. Bielecki, 41 Colo. App. 256, 588 P.2d 377 (1978); People v. Hallman, 41 Colo. App. 427, 591 P.2d 101 (1978); Eftekhar-Zadeh v. Lusero, 42 Colo. App. 56, 592 P.2d 1347 (1978); People v. Jacquez, 196 Colo. 569, 588 P.2d 871 (1979); People v. Armijo, 197 Colo. 91, 589 P.2d 935 (1979); People v. Hillyard, 197 Colo. 183, 589 P.2d 939 (1979); People v. Burns, 197 Colo. 284, 593 P.2d 351 (1979); Hughes v. District Court, 197 Colo. 396, 593 P.2d 702 (1979); People v. Washburn, 197 Colo. 419, 593 P.2d 962 (1979); People v. Williams, 197 Colo. 559, 596 P.2d 745 (1979); People v. Ortega, 198 Colo. 179, 597 P.2d 1034 (1979); People ex rel. Leidner v. District Court, 198 Colo. 204, 597 P.2d 1040 (1979); People v. Miller, 199 Colo. 32, 604 P.2d 36 (1979); People v. Brand, 43 Colo. App. 347, 608 P.2d 817 (1979); People ex rel. Losavio v. Gentry, 199 Colo. 153, 606 P.2d 57 (1980); P.V. v. District Court, 199 Colo. 357, 609 P.2d 110 (1980); People v. McMichael, 199 Colo. 433, 609 P.2d 633 (1980); Godbold v. Wilson, 518 F. Supp. 1265 (D. Colo. 1981); People v. Martinez, 628 P.2d 608 (Colo. 1981); People v. Savage, 630 P.2d 1070 (Colo. 1981); People v. Tucker, 631 P.2d 162 (Colo. 1981); People v. Henry, 631 P.2d 1122 (Colo. 1981); People v. Boykin, 631 P.2d 1149 (Colo. App. 1981); People v. Elkhatib, 632 P.2d 275 (Colo. 1981); People v. Walters, 632 P.2d 566 (Colo. 1981); People v. Stinson, 632 P.2d 631 (Colo. App. 1981); People ex rel. Gallagher v. District Court, 632 P.2d 1009 (Colo. 1981); People v. Andrews, 632 P.2d 1012 (Colo. 1981); People in Interest of M.R.J., 633 P.2d 474 (Colo. 1981); People v. R.V., 635 P.2d 892 (Colo. 1981); People v. Smith, 638 P.2d 1 (Colo. 1981); People v. Franklin, 640 P.2d 226 (Colo. 1982); People v. Boyd, 642 P.2d 1 (Colo. 1982); People v. Petrie, 642 P.2d 519 (Colo. 1982); People ex rel. VanMeveren v. District Court, 643 P.2d 37 (Colo. 1982); People v. Hearty, 644 P.2d 302 (Colo. 1982); People v. Turner, 644 P.2d 951 (Colo. 1982); People v. Leonard, 644 P.2d 85 (Colo. App. 1982); People v. Conwell, 649 P.2d 1099 (Colo. 1982); People v. Cushon, 650 P.2d 527 (Colo. 1982); People v. Jiminez, 651 P.2d 395 (Colo. 1982); J.T. v. O'Rourke ex rel. Tenth Judicial Dist., 651 P.2d 407 (Colo. 1982); People v. Williams, 651 P.2d 899 (Colo. 1982); People in Interest of B.R.M., 653 P.2d 77 (Colo. App. 1982); People v. Williams, 654 P.2d 319 (Colo. App. 1982); Hunter v. People, 655 P.2d 374 (Colo. 1982); People v. Fisher, 657 P.2d 922 (Colo. 1983); People v. District Court, 664 P.2d 247 (Colo. 1983); People v. Montoya, 667 P.2d 1377 (Colo. 1983); Landis v. Farish, 674 P.2d 957 (Colo. 1984); People v. Stratton, 677 P.2d 373 (Colo. App. 1983); People v. Lancaster, 683 P.2d 1202 (Colo. 1984); People v. Jeffers, 690 P.2d 194 (Colo. 1984); People v. Eastepp, 884 P.2d 305 (Colo. 1994); People v. Collie, 995 P.2d 765 (Colo. App. 1999).

II. ELEMENTS OF OFFENSE.

A. In General.

For elements of former crime of larceny by bailee, see McGuire v. People, 83 Colo. 154, 262 P. 1015 (1928); Poe v. People, 163 Colo. 20, 428 P.2d 77 (1967).

For essential elements of former crime of embezzlement, see Phenneger v. People, 85 Colo. 442, 276 P. 983 (1929); Blackett v. People, 98 Colo. 7, 52 P.2d 389 (1935); Sparr v. People, 122 Colo. 35, 219 P.2d 317 (1950); Gill v. People, 139 Colo. 401, 339 P.2d 1000 (1959).

The corpus delicti in theft consists of two elements: (1) That the property is lost by the owner; and (2) that it is lost by a felonious taking. Lee v. People, 138 Colo. 321, 332 P.2d 992 (1958).

Theft occurs when any person obtains control of the property of another and knowingly intends to permanently deprive that person of the use or benefit of a thing of value. Sandoval v. People, 176 Colo. 414, 490 P.2d 1298 (1971).

In order to show a prima facie case of theft, the prosecution must establish the elements of the corpus delicti of theft: That the property was lost by the owner and that it was lost by a felonious taking. People v. Contreras, 195 Colo. 80, 575 P.2d 433 (1978).

In 1975 this section was amended to eliminate the receiving element and a new theft by receiving statute was enacted in § 18-4-410. Darr v. People, 193 Colo. 445, 568 P.2d 32 (1977).

For a specific intent to deprive as element prior to 1975 amendment, see People v. Treat, 193 Colo. 570, 568 P.2d 473 (1977).

Intent is a material element of theft. People in Interest of J. S. C. v. J. S. C., 30 Colo. App. 381, 493 P.2d 671 (1972).

The intent to steal is an essential element of proof of the crime of larceny. Montoya v. People, 169 Colo. 428, 457 P.2d 397 (1969).

An essential element of the crime of theft is the formation of an intent to permanently deprive the owner of his property. Sandoval v. People, 176 Colo. 414, 490 P.2d 1298 (1971); People v. Piskula, 197 Colo. 148, 595 P.2d 219 (1979).

The intent to deprive another permanently of the use or benefit of his property and knowingly obtaining or exerting control over anything of value are both essential elements of the crime of theft and both elements must be proven to exist beyond a reasonable doubt. People v. Archuleta, 180 Colo. 156, 503 P.2d 346 (1972).

To support a conviction of felony theft, the evidence must show beyond a reasonable doubt that the defendant knowingly or intentionally used the property in such a manner as to deprive the victim permanently of its use. People v. Gracey, 940 P.2d 1050 (Colo. App. 1996).

Burglarious intent need not be shown. In making out the case of larceny the prosecutor need not show any

burglarious intent or entry, it only being necessary to prove the usual elements of theft as defined by the statute. Ex parte Hill, 101 Colo. 243, 72 P.2d 471 (1937); White v. People, 172 Colo. 271, 472 P.2d 674 (1970).

Defendant charged with felony theft as a result of violating § 38-22-127 of the general mechanic's lien statute can be held criminally liable as set forth in this section, but only where prosecutor proves each of the elements of the crime of theft, including requisite intent. People v. Mendro, 731 P.2d 704 (Colo. 1987).

Defendant did not exercise control over the property "without authorization" where another person who was a rightful possessor of the property authorized the defendant to take the property. People v. McCormick, 784 P.2d 808 (Colo. App. 1989).

In the context of theft of construction project trust funds, the "knowingly using" element of mental culpability in subsection (1)(b) does not require a conscious objective to deprive another person of the use or benefit of the construction trust funds, but instead requires the offender to be aware that his manner of using the trust funds is practically certain to result in depriving another person of the use or benefit of the funds. People v. Anderson, 773 P.2d 542 (Colo. 1989); In re Helmke, 398 B.R. 38 (Bankr. D. Colo. 2008).

Theft requires proof that the accused knowingly obtained possession of or exercised control over the property either without authorization or by threat or deception. People v. Griffie, 44 Colo. App. 46, 610 P.2d 1079 (1980).

In the context of theft of real property, actual physical control is not required. The element "to obtain or exercise control" for theft of real property does not require actual physical control of the real property. To obtain or exercise control can mean to retain an interest in the real property without authorization and with intent to permanently deprive another person of the use or benefit of such real property. People v. Jensen, 172 P.3d 946 (Colo. App. 2007).

Control need not be unauthorized from the outset. People v. Treat, 193 Colo. 570, 568 P.2d 473 (1977).

Subsection (1) makes it clear that theft can occur even though initial control of the property has been authorized; the intent to deprive, or knowing use inconsistent with the owner's benefit, may arise at a later time when control is no longer authorized. People v. Treat, 193 Colo. 570, 568 P.2d 473 (1977).

"Without authorization" defined. Exercising control over property "without authorization", pursuant to subsection (1), means that the owner of the property, or a person in possession of the property with the owner's consent, has not given the actor permission to exercise control over the property. People v. Edmonds, 195 Colo. 358, 578 P.2d 655 (1978); People v. Gracey, 940 P.2d 1050 (Colo. App. 1996).

Unauthorized taking is not necessary element of offense: Exercising control without authorization, combined with the requisite intent, is sufficient. People v. Am. Health Care, Inc., 42 Colo. App. 209, 591 P.2d 1343 (1979).

Where initial control of property is authorized, the intent to deprive may arise at a later time when control is no longer authorized. People v. Am. Health Care, Inc., 42 Colo. App. 209, 591 P.2d 1343 (1979); People v. Carr, 841 P.2d 361 (Colo. App. 1992).

It is not necessary that a person maintain absolute control over the thing of value to commit theft; it is sufficient that the intended use of such thing be inconsistent with the owner's use or benefit. Becker & Tenenbaum v. Eagle Restaurant, 946 P.2d 600 (Colo. App. 1997).

When the defendant is a substantial distance from the item stolen the defendant's actions do not constitute theft from the person of another. People v. Smith, 121 P.3d 243 (Colo. App. 2005).

It is sufficient that the intended use of the money be inconsistent with the owner's use or benefit. In other words, it is only required that the defendant knowingly exercise unauthorized control over the property, with requisite intent; it is not necessary that he maintain absolute control for his own personal use. People v. Treat, 193 Colo. 570, 568 P.2d 473 (1977).

Property must have belonged to another. An essential element of the crime of embezzlement is that the property alleged to have been converted belongs to another. Kelley v. People, 157 Colo. 417, 402 P.2d 934 (1965).

Money may be taken from living or dead body. It makes no difference in determining guilt whether the money in a theft was taken from a living person or a dead body. People v. Walker, 44 Colo. App. 249, 615 P.2d 57 (1980).

Taking property under control and possession of victim violates section. The taking of a purse from the cart which the victim was pushing, and which was under her control and in her present possession, constituted taking "from the person of another" in violation of subsection (5). People v. Evans, 44 Colo. App. 288, 612 P.2d 1153 (1980).

Restaurant had sufficient proprietary interest in the cash and checks taken (even though not in its possession when taken) to prove that the defendant stole a thing of value from another. A person need not have obtained actual physical custody or delivery of the thing of value in order to have a proprietary interest in it if he has parted with consideration entitling him to receive the thing of value. People v. Ferguson, 701 P.2d 72 (Colo. App. 1984).

The element of theft requiring ownership by "another" does not require proof of the titled ownership by "another". People v. Schlicht, 709 P.2d 94 (Colo. App. 1985).

Ownership may be laid either in the real owner or in the person in possession at the time of the theft. Romero v. People, 134 Colo. 342, 304 P.2d 639 (1956); Griffin v. People, 157 Colo. 72, 400 P.2d 928 (1965).

The actual condition of the legal title is immaterial to the thief and so far as he is concerned, one may be taken as the owner who was in peaceable possession of it, and whose possession was unlawfully disturbed by the taking. Kelley v. People, 166 Colo. 322, 443 P.2d 734 (1968).

There can be no theft without wrongful appropriation of another's property. Hucal v. People, 176 Colo. 529, 493 P.2d 23 (1971).

Critical elements are the defendant's intent to deprive and the location at which his control over the property was no longer authorized. People v. Carr, 841 P.2d 361 (Colo. App. 1992).

The elements of the crime of theft need not be proven by direct, substantive evidence, but can be inferred from the defendant's conduct and the reasonable inferences which may be drawn from the circumstances of the case. People v. Gracey, 940 P.2d 1050 (Colo. App. 1996).

Where evidence showed that defendant holding a power of attorney made 32 separate withdrawals from the victim's account, did not issue promissory notes to the victim contemporaneously with each withdrawal, did not attempt to repay the victim in regular installments or to pay interest on the "loans", and concealed the "loans" from the victim's sons, it was for the jury to determine whether the defendant withdrew the money from the victim's account without her authorization and with the intent to permanently deprive her of the use of the money. People v. Gracey, 940 P.2d 1050 (Colo. App. 1996).

The place where the defendant comes into possession of thing of value not element of offense. People v. Tinkle, 714 P.2d 919 (Colo. App. 1985).

Police decoy operation is not consent to being deprived of possession. A police decoy operation set up so that a person otherwise inclined would have the opportunity to take money, is not consent by the police officer to being permanently deprived of possession of the money. People v. Gresham, 647 P.2d 243 (Colo. App. 1981).

It is the intent at the time of taking to permanently deprive that is the essential element of theft. People v. Burke, 37 Colo. App. 289, 549 P.2d 419 (1976).

The deprivation need not be permanent; once the wrongful appropriation occurs, this section requires coexistent intent to permanently deprive of use and benefit. Hucal v. People, 176 Colo. 529, 493 P.2d 23 (1971).

Although a conspiracy to commit theft may continue beyond the commission of the immediate crime, permanent deprivation is not an element of theft. People v. Burke, 37 Colo. App. 289, 549 P.2d 419 (1976).

The return of the property is not a defense. People v. Burke, 37 Colo. App. 289, 549 P.2d 419 (1976).

The fact that a thief may recant and elect to return to the owner the fruits of his larcenous conduct does not purge him of guilt or serve as a defense to prosecution. Kelley v. People, 166 Colo. 322, 443 P.2d 734 (1968).

The fact that the defendant eventually returned the proceeds of a check that had been diverted without authorization is not a defense to a theft charge. People v. Pedrie, 727 P.2d 859 (Colo. 1986).

The contention that the crime of larceny was not completed because the TV set, though moved out of the house, was left standing at the owner's back property line has no merit. The defendants did have complete control of the TV set, even if only for a few minutes, and did have it in their possession on and off the premises of the owner without his consent. Scott v. People, 166 Colo. 432, 444 P.2d 388 (1968).

If a permanent deprivation of property were necessary before a conviction could be sustained, every time stolen property was recovered and returned to its true owner the thief would have to be acquitted; such a rule would be inane. Hucal v. People, 176 Colo. 529, 493 P.2d 23 (1971).

Return of allegedly stolen property does not necessarily negate the existence of a wrongful intent. People v. Am. Health Care, Inc., 42 Colo. App. 209, 591 P.2d 1343 (1979).

Attempt to return property does not negate theft element of intent. People v. Collie, 682 P.2d 1208 (Colo. App. 1983).

There is no taking where property is delivered to defendant for his use and convenience by the person in charge. Lee v. People, 138 Colo. 321, 332 P.2d 992 (1958).

Agent may form intent to appropriate. Where money has been voluntarily delivered to accused as agent, the fact that he formed the intent to appropriate it at or before the time he received it does not prevent a prosecution for embezzlement or larceny. Lewis v. People, 109 Colo. 89, 123 P.2d 398 (1942).

Larceny by bailee can occur at any time after items are stolen. Peters v. People, 151 Colo. 35, 376 P.2d 170 (1962).

The failure of a debtor to pay his creditor does not constitute embezzlement. Kelley v. People, 157 Colo. 417, 402 P.2d 934 (1965).

To sustain a conviction of the crime of embezzlement, it must appear that the accused received the money or property of another as a fiduciary. Merely refusing to pay money lent cannot be converted into embezzlement. Simpson v. People, 47 Colo. 612, 108 P. 169 (1910).

Failure to report moneys owed pursuant to debtor-creditor relationship is not felony theft. Failure of lessee who sold beverages in park pursuant to lease with county to report money owed to the county based on percentage of gross income as rent does not constitute felony theft. People v. Rotello, 754 P.2d 765 (Colo. 1988).

Larceny is considered a continuing crime and every asportation considered a new taking; thus larceny could be prosecuted not only at the place where the goods were stolen, but also wherever the goods were subsequently brought. People v. Martinez, 37 Colo. App. 71, 543 P.2d 1290 (1975).

A conspiracy to commit theft does not continue, per se, until the proceeds are returned. People v. Burke, 37 Colo. App. 289, 549 P.2d 419 (1976).

Statute does not create a separate and continuing crime of theft by deception. Doctrine of continuing crimes can apply only when legislature has unmistakably communicated intent to create such an offense and nothing in statute suggests the intent to create a separate and distinct crime of theft by deception that continues until deception ends. Roberts v. People, 203 P.3d 513 (Colo. 2009) (decided prior to 2009 amendment).

Statute requires all thefts committed by the same person within six-month period be joined and prosecuted as a single felony, the classification of which is determined by the aggregate value of all things involved. Roberts v. People, 203 P.3d 513 (Colo. 2009) (decided prior to 2009 amendment).

A defendant may not rely on the defense of legal impossibility in a prosecution for attempted theft. People v. Darr, 37 Colo. App. 143, 551 P.2d 735 (1975), aff'd, 193 Colo. 445, 568 P.2d 32 (1977).

Defendant may raise the defense of general mistake of fact by alleging that he never believed the goods were stolen. People v. Darr, 37 Colo. App. 143, 551 P.2d 735 (1975), aff'd, 193 Colo. 445, 568 P.2d 32 (1977).

The fact that the items were not in fact stolen does not provide a defense to attempted theft where the defendant believed they were stolen. People v. Darr, 37 Colo. App. 143, 551 P.2d 735 (1975), aff'd, 193 Colo. 445, 568 P.2d 32 (1977).

Lack of consent of both equitable and legal owners of property need not be proven to support a conviction for theft. People v. Diaz, 182 Colo. 369, 513 P.2d 444 (1973).

Whether or not stolen checks were subsequently recovered and returned to owner is irrelevant to the criminal liability for taking the instruments in the first instance. People v. Marques, 184 Colo. 262, 520 P.2d 113 (1974).

Crime of joyriding is not a lesser included offense of crime of theft, nor is attempted joyriding a lesser included offense of attempted theft. Sandoval v. People, 176 Colo. 414, 490 P.2d 1298 (1971).

Theft is not a lesser included offense of robbery. People v. Moore, 184 Colo. 110, 518 P.2d 944 (1974).

Theft and theft by receiving are separate crimes. Where convictions for theft and theft by receiving arise out of the same transaction, the defendant could not properly be found guilty of both. People v. Taylor, 647 P.2d 682 (Colo. 1982).

First degree criminal trespass is distinct from misdemeanor theft. People v. Martinez, 640 P.2d 255 (Colo. App. 1981).

Where defendant had contracted with a church to promote an arts festival to raise money for the church and she had an interest in the festival funds similar to that of the church and was the party designated to receive the funds, she could not be guilty of theft under the statute. People v. McCain, 191 Colo. 229, 552 P.2d 20 (1976).

Where there is ample evidence in the record that the defendant was the "moving force" behind a corporate operation, it is not cause for dismissal of any theft charges that the defendant may not have participated directly in every act constituting the thefts. People v. Treat, 193 Colo. 570, 568 P.2d 473 (1977).

Subsection (5) does not apply where a defendant, through the use of a series of short-change transactions, deceptively obtained money from a store clerk. The enhanced punishment provided by this subsection is for situations where the theft raises a danger of confrontation and involves an invasion of the victim's person and privacy. People v. Warner, 790 P.2d 866 (Colo. App. 1989).

Theft from the person of another involves circumstances, such as pickpocketing, where something of value is taken from one who is unconscious or unaware of the theft. The invasion of the victim's person presents an element of

danger absent in other theft offenses, which justifies the greater penalty accorded those who violate subsection (5). People v. Warner, 801 P.2d 1187 (Colo. 1990).

Theft from the person of another is intended to cover those thefts involving an invasion of the victim's person of which the victim is unaware, but which are not accomplished through the use of force, threats, or intimidation. People v. Warner, 801 P.2d 1187 (Colo. 1990), aff'd, 801 P.2d 1187 (Colo. 1990).

B. Threat or Deception.

Law reviews. For note, "False Pretenses, Confidence Game, and Short Check in Colorado", see 25 Rocky Mt. L. Rev. 325 (1953).

This section annexed former false pretenses and confidence games provisions. Norman v. People, 178 Colo. 190, 496 P.2d 1029 (1972).

For essential elements of former crime of false pretenses, see People v. Orris, 52 Colo. 244, 121 P. 163 (1911); Stumpff v. People, 51 Colo. 202, 117 P. 134 (1911); Stoltz v. People, 59 Colo. 342, 148 P. 865 (1915); Tracy v. People, 65 Colo. 226, 176 P. 280 (1918); Clarke v. People, 64 Colo. 164, 171 P. 69 (1918); People v. Martin, 78 Colo. 200, 240 P. 695 (1925); Updike v. People, 92 Colo. 125, 18 P.2d 472 (1933); Chilton v. People, 95 Colo. 268, 35 P.2d 870 (1934); Montez v. People, 110 Colo. 208, 132 P.2d 970 (1942); Johnson v. People, 110 Colo. 283, 133 P.2d 789 (1943); Rogers v. People, 161 Colo. 317, 422 P.2d 377 (1966); Woodman v. People, 168 Colo. 80, 450 P.2d 330 (1969); Small v. People, 173 Colo. 304, 479 P.2d 386 (1970).

For essential elements of former crime of confidence game, see Lace v. People, 43 Colo. 199, 95 P. 302 (1908); Wheeler v. People, 49 Colo. 402, 113 P. 312 (1911); Powers v. People, 53 Colo. 43, 123 P. 642 (1912); Elliott v. People, 56 Colo. 236, 138 P. 39 (1914); Davis v. People, 96 Colo. 212, 40 P.2d 968 (1935); Bomareto v. People, 111 Colo. 99, 137 P.2d 402 (1943); Olde v. People, 112 Colo. 15, 145 P.2d 100 (1944); People v. Lindsay, 119 Colo. 248, 202 P.2d 951 (1949); Kelly v. People, 121 Colo. 243, 215 P.2d 336 (1950); McBride v. People, 126 Colo. 277, 248 P.2d 725 (1952); Roll v. People, 132 Colo. 1, 284 P.2d 665 (1955); Bevins v. People, 138 Colo. 123, 330 P.2d 709 (1958); Fischer v. People, 138 Colo. 559, 335 P.2d 871 (1959); Gonzales v. People, 149 Colo. 548, 369 P.2d 786 (1962); Woodard v. People, 154 Colo. 162, 389 P.2d 411 (1964); Dodge v. People, 168 Colo. 531, 452 P.2d 759 (1969); Small v. People, 173 Colo. 304, 479 P.2d 386 (1970); Digiallonardo v. People, 175 Colo. 560, 488 P.2d 1109 (1971).

Elements of theft by deception. Where the defendant obtained cash owned by the bank with full knowledge that under no circumstances was he entitled to it, and where the knowledge that the initial check used to open an account was false, shows knowledge that the two subsequent checks drawn on that account were equally false, the necessary elements of the charge of theft by deception are established. Lewis v. People, 174 Colo. 334, 483 P.2d 949 (1971).

Statute does not create a separate and continuing crime of theft by deception. Doctrine of continuing crimes can apply only when legislature has unmistakably communicated intent to create such an offense and nothing in statute suggests the intent to create a separate and distinct crime of theft by deception that continues until deception ends.

Roberts v. People, 203 P.3d 513 (Colo. 2009) (decided prior to 2009 amendment).

Statute requires all thefts committed by the same person within six-month period be joined and prosecuted as a single felony, the classification of which is determined by the aggregate value of all things involved. Roberts v. People, 203 P.3d 513 (Colo. 2009) (decided prior to 2009 amendment).

Intent to defraud necessary for deception. When deception is used to perpetrate a theft, the requisite mental state is necessarily an intent to defraud. People v. Piskula, 197 Colo. 148, 595 P.2d 219 (1979); People v. Freda, 817 P.2d 588 (Colo. App. 1991).

Theft by deception statute does not require proof of culpable mental state of specific intent. People v. Quick, 713 P.2d 1282 (Colo. 1986).

Intent to defraud deemed part of § 38-22-137. Because an intent to defraud, necessary to this section, must be proven in order to convict a defendant under § 38-22-137, a prosecution for violation of § 38-22-137 does not conflict with the constitutional prohibition of imprisonment for civil debt in § 12 of art. II, Colo. Const. People v. Piskula, 197 Colo. 148, 595 P.2d 219 (1979).

Reliance of victim necessary for theft by deception. The offense of theft by deception requires proof that misrepresentations made to the victim caused the victim to part with something of value in reliance upon those misrepresentations. People v. Norman, 703 P.2d 1261 (Colo. 1985); People v. Carlson, 72 P.3d 411 (Colo. App. 2003).

There is no requirement in the theft statute that the accused personally make the threat toward the victim of the crime. People v. Truesdale, 190 Colo. 286, 546 P.2d 494 (1976).

Rather, it is sufficient if defendant obtained property as consequence. It is sufficient under this section if a threat was made and the accused knowingly obtained anything of value from the victim of the threat, with specific intent to deprive the victim permanently of the use or benefit of the property. People v. Truesdale, 190 Colo. 286, 546 P.2d 494 (1976).

Thus, a threat by a confederate would suffice to establish this element of the offense. People v. Truesdale, 190 Colo. 286, 546 P.2d 494 (1976).

A threat is defined as a declaration of purpose or intention to work injury to the person, property, or rights of another by the commission of an unlawful act. Schott v. People, 174 Colo. 15, 482 P.2d 101 (1971).

Theft by deception established. Prosecution established that the defendants obtained control of money belonging to the department store by deceptive practice with the intent to deprive the store of the money. People v. Todd, 189 Colo. 117, 538 P.2d 433 (1975).

Deception made upon a victim's agent in an effort to commit theft from a victim's estate satisfies the requirements of subsection (1). People v. Devine, 74 P.3d 440 (Colo. App. 2003).

Where evidence showed debtor obtained control over creditor's products by misrepresentation and debtor had no intention of reimbursing creditor for products supplied, such evidence is sufficient to support charge of theft by deception. People v. Stewart, 739 P.2d 854 (Colo. 1987).

Issuance of check on known closed account deemed deception. The mere issuance of a check on an account the defendant knew had been closed is a means of deception proscribed by this section. People v. Attebury, 196 Colo. 509, 587 P.2d 281 (1978).

Theft by threat is not lesser included offense of robbery. Schott v. People, 174 Colo. 15, 482 P.2d 101 (1971); Maes v. People, 178 Colo. 46, 494 P.2d 1290 (1972).

There is no indication that the general assembly enacted the theft by receiving statute in § 18-4-410 to preclude prosecution under the theft statute. Therefore, prosecutor can determine statute under which to prosecute the alleged crime. People v. Smith, 938 P.2d 111 (Colo. 1997).

III. INDICTMENT OR INFORMATION.

The general assembly authorized the use of the term "theft" in an information and that "theft" is to be substituted for "larceny" wherever it appears in a law of this state. White v. People, 172 Colo. 271, 472 P.2d 674 (1970).

Offense of theft when charged as provided in statute sufficiently advises jury of nature of offense for which defendant is on trial. People v. Ingersoll, 181 Colo. 1, 506 P.2d 364 (1973).

There is no requirement, either constitutional or statutory, that every element of theft be alleged in the information. People v. Ingersoll, 181 Colo. 1, 506 P.2d 364 (1973).

There is no requirement, either constitutional or statutory, that every element of the offense be alleged in the information, and a charging document is sufficient if it advises a defendant of the charges he is facing so that he can adequately defend himself. People v. MacFarland, 189 Colo. 363, 540 P.2d 1073 (1975).

The phrase "on or about a date certain" in subsection (6) is but a minimum requirement, and language in the information approximating the notice it intends to provide a defendant is sufficient. People v. Wolfe, 662 P.2d 502 (Colo. App. 1983); People v. Stratton, 677 P.2d 373 (Colo. App. 1983).

Information charging felony theft, complying with the requirements of subsection (1)(b), was sufficient where an identically worded subsection of a prior theft statute withstood constitutional attack. People v. MacFarland, 189 Colo. 363, 540 P.2d 1073 (1975).

When bill of particulars required. Where the crime of theft is charged in the words of the statute, an order for a bill of particulars is mandatory upon the defendant's request. People v. District Court, 198 Colo. 501, 603 P.2d 127 (1979); People v. Stratton, 677 P.2d 373 (Colo. App. 1983).

Purpose of bill of particulars. The requirement in subsection (6) that, upon request, a bill of particulars must be supplied to a defendant constitutes a safeguard to insure that the information by which a defendant is charged will be sufficiently definite in its terms. People v. Wolfe, 662 P.2d 502 (Colo. App. 1983).

Specific intent need not be alleged in charging document although proof of specific intent is essential element of felony theft. People v. Ingersoll, 181 Colo. 1, 506 P.2d 364 (1973).

An indictment charging officers of insurance company with unlawful conspiracy to convert to their own use moneys of the company, held to sufficiently charge larceny by bailee, although there was no express allegation that the property involved was converted to their use "with an intent to steal the same". Helser v. People, 100 Colo. 371, 68 P.2d 543 (1937).

Property must be described with reasonable certainty. In an information under this section, where the thing embezzled is a writing, it must be described with reasonable certainty, or a sufficient reason must appear for the omission of particularity. "One bank check of the value of", etc., "the property of", etc., held fatally insufficient. Moody v. People, 65 Colo. 339, 176 P. 476 (1918); People v. Allen, 167 Colo. 158, 446 P.2d 223 (1968).

Check. The contention that a criminal charge of the conversion of money was not sustained by proof of conversion of a bank check, is overruled, since the negotiation of a check is equivalent to the receipt of money upon it. McGuire v. People, 83 Colo. 154, 262 P. 1015 (1928).

The information charged the defendant with embezzlement of money, whereas the proof showed embezzlement of a check. Where the check was merely the means by which the money alleged to have been embezzled was procured, there was no variance. People v. Allen, 167 Colo. 158, 446 P.2d 223 (1968).

Where the information charged defendant with theft of money, rather than theft of a check, negotiation of the check was the necessary "last act" to begin the running of the statute of limitations under § 16-5-401. The date the check was issued was immaterial for purposes of determining the statute of limitations. People v. Chavez, 952 P.2d 828 (Colo. App. 1997).

Description of money. Under this section an indictment for conspiracy to defraud a bank by unlawfully converting to defendants' own use a specified sum in money, the property of the bank, of the value of the same sum, contains a sufficient description of the property. Imboden v. People, 40 Colo. 142, 90 P. 608 (1907).

In a prosecution for embezzlement where sums of money were alleged to have been converted at different times, it was proper to charge the conversions in a lump sum. Price v. People, 78 Colo. 223, 240 P. 688 (1925).

Where conduct violates two provisions, prosecutor determines under which provision crime prosecuted. Where the alleged conduct of a defendant violates both the general theft statute and the more specific motor vehicle theft statute, it is the function of the prosecuting attorney and not the trial court to determine under which statute the alleged crime shall be prosecuted. People v. Westrum, 624 P.2d 1302 (Colo. 1981).

Joinder of two subjects in one count is not duplicitous. It is the common case of an indictment for larceny where various goods and chattels, the subject of a single larceny, are joined in one count, and where proof of the larceny of any one of them sustains the indictment. Such a count is not bad for duplicity. Kollenberger v. People, 9 Colo. 233, 11 P. 101 (1886).

Where the information alleges, in a charge of robbery, that money was taken, "money" will be construed to mean money of the United States, and the court will take judicial notice of its value. Rowan v. People, 93 Colo. 473, 26 P.2d 1066 (1933).

Allegation of ownership sufficient. Allegation of qualified ownership in a criminal information is sufficient to support the charge of embezzlement so far as the element of ownership is concerned. Price v. People, 78 Colo. 223, 240 P. 688 (1925).

The purposes of the allegation of ownership in an indictment include showing that the property alleged to have been stolen is not the property of the accused and advising the accused whose property is alleged to have been stolen so that he can be prepared to meet and refute the charges at trial. People v. Singer, 663 P.2d 626 (Colo. App. 1983).

Variance in ownership not fatal. It is not a fatal variance to allege property to be that of bailee, and prove, inter alia, real ownership in bailor. Romero v. People, 134 Colo. 342, 304 P.2d 639 (1956).

While the true name of the alleged owner of the stolen property should be correctly set forth in the information, the ownership may be laid in one by the name by which he is usually known although it is not his proper name. Pownall v. People, 135 Colo. 325, 311 P.2d 714 (1957).

One purpose of allegations of ownership in larceny cases is to show that the property alleged to have been stolen is not the property of the accused or that the accused may know whose property he is alleged to have stolen so that he may be prepared to meet or refute the charge at the trial. Defendant was not deceived by the allegations in the information and proof that actual title to the car was registered in a name by which the complaining witness was also known was not prejudicial to the defendant where his defense was that he had the consent of the identical person whom he knew under two names. Pownall v. People, 135 Colo. 325, 311 P.2d 714 (1957).

Failure to prove corporate status of victim of theft was an immaterial variance. Straub v. People, 145 Colo. 275, 358 P.2d 615 (1961).

Variance between information alleging that defendant stole from named corporation and exhibits introduced to prove theft and showing names of other corporations or organizations was not fatal where various business names were used by enterprise and defendant, as general manager, could not have been misled or deceived. Martinez v. People, 177 Colo. 272, 493 P.2d 1350 (1972).

Statutory language in subsection (4) permits consolidating theft losses suffered by separate victims into one count of theft over $10,000. People v. Collie, 682 P.2d 1208 (Colo. App. 1983).

IV. EVIDENCE.

A. In General.

The corpus delicti must be established, since it is clearly not permissible that anyone be adjudged guilty until it is shown that a larceny has been committed; and unless the state has shown, prima facie, that a larceny has been committed, a defendant is not put on proof. Lee v. People, 138 Colo. 321, 332 P.2d 992 (1958).

Intent inferred. Intent to permanently deprive another of use or benefit of a thing of value does not have to be proven by direct, substantive evidence but can be inferred from the defendant's conduct and the reasonable inferences which may be drawn from the circumstances of the case. People v. Becker, 187 Colo. 344, 531 P.2d 386 (1975); People v. Am. Health Care, Inc., 42 Colo. App. 209, 591 P.2d 1343 (1979); People v. Piskula, 197 Colo. 148, 595 P.2d 219 (1979).

Intent to permanently deprive may be inferred from the defendant's conduct and the circumstances of the case. People v. Johnson, 618 P.2d 262 (Colo. 1980).

Intent to commit felony theft may be inferred from the defendant's conduct in the circumstances of the case. Miller v. District Court, 641 P.2d 966 (Colo. 1982).

Intent to commit embezzlement of public property, official misconduct, and theft may be inferred from the defendants' conduct and the circumstances of the case. People v. Luttrell, 636 P.2d 712 (Colo. 1981).

Crime may be established by circumstantial evidence. The crime denounced by this section may be established by circumstantial evidence alone. Montez v. People, 110 Colo. 208, 132 P.2d 970 (1942).

Circumstantial evidence, when tied together, can support and provide a foundation for instructions on each of the crimes of first degree murder, first degree burglary, and theft arising out of the same transaction. People v. Salas, 189 Colo. 111, 538 P.2d 437 (1975).

The name of the owner of property stolen is material only to the extent it serves a descriptive purpose, or to show that it is not the property of the accused, and that the accused may know whose property he is alleged to have stolen so that he may be prepared to meet or refute the charge at the trial. Where the identity of the alleged owner is sufficiently established and the defendant is not deceived or misled to his prejudice, no error results. Straub v. People, 145 Colo. 275, 358 P.2d 615 (1961).

Possession without legal ownership is sufficient proof. In a larceny case, it is sufficient to show that the named victim had possession, control, and custody of the chattel which was the alleged object of the larceny, without determining the legal ownership. Kelley v. People, 166 Colo. 322, 443 P.2d 734 (1968).

Proof of a defacto corporate existence is sufficient where corporate ownership is an element of the crime. Straub v. People, 145 Colo. 275, 358 P.2d 615 (1961).

Possession, control, and custody of the named victim is sufficient in a larceny case, without determining the de jure corporate entity. Kelley v. People, 166 Colo. 322, 443 P.2d 734 (1968).

Intent need not be proven by direct, substantive evidence, but may be inferred from the defendant's conduct and the reasonable inferences which may be drawn from the circumstances of the case. People v. Carr, 841 P.2d 361 (Colo. App. 1992).

Proof that misrepresentations cause victim to part with something of value. The very nature of the crime of theft by deception requires proof that misrepresentations cause the victim to part with something of value and that the victim relied upon the swindler's misrepresentation. People v. Terranova, 38 Colo. App. 476, 563 P.2d 363 (1976); People v. Warner, 801 P.2d 1187 (Colo. 1990).

Where there was no proof that the misrepresentation caused the undercover agent to purchase stock from the defendant, prosecution for the completed substantive crime of theft by deception was not possible. People v. Terranova, 38 Colo. App. 476, 563 P.2d 363 (1976).

Admissibility of evidence to show intent. Any evidence going to the intent of a defendant charged with embezzlement is proper. Hopkins v. People, 89 Colo. 296, 1 P.2d 937 (1931).

In an action against officers of an insurance company for conspiracy to convert moneys of the company to their own use, evidence of the insolvency of the officers and subsidiary corporations controlled by said officers, held admissible, as having a definite bearing upon their intent, purpose, and design. Helser v. People, 100 Colo. 371, 68 P.2d 543 (1937).

That defendant intended to convert bailor's property to his own use by pledging it as security for a loan and using the proceeds of the loan for the payment of another obligation could be inferred from his executing a chattel mortgage representing himself as the owner of the car and from his furnishing the title and power of attorney to the bank. Poe v. People, 163 Colo. 20, 428 P.2d 77 (1967).

Where intent is an element of the crime, it is defendant's acts and conduct, not the victim's stated reaction, which is relevant. Johnson v. People, 172 Colo. 72, 470 P.2d 37 (1970).

Where intent is a material element of the offense charged, theft, a defendant has the right to testify specifically as to his intention in the commission of the acts which it is claimed constitute the offense. People in Interest of J. S. C. v. J. S. C., 30 Colo. App. 381, 493 P.2d 671 (1972).

Evidence of other similar crimes in which a defendant has participated is competent and admissible for the purpose of showing plan or design of defendant in his alleged unlawful activities. Clark v. People, 105 Colo. 335, 97 P.2d 440 (1939); Peiffer v. People, 106 Colo. 533, 107 P.2d 799 (1940).

Evidence of similar offenses offered for the stated purpose of showing intent, motive, design, and system, followed by proper instructions of limitation, is admissible. Montez v. People, 110 Colo. 208, 132 P.2d 970 (1942).

Evidence of transaction similar to that charged in information held admissible. Moore v. People, 125 Colo. 306, 243 P.2d 425 (1952).

Where the evidence in a prosecution for embezzlement discloses that the victim and mode of operation were identical in each of several transactions, and the defendant seemingly acted pursuant to the same criminal impulse, felonious purpose and intent, such evidence is not subject to challenge for duplicity. Gill v. People, 139 Colo. 401, 339 P.2d 1000 (1959).

Where defendant denies knowledge that property was stolen or that he had an intent to withhold it from its true owner, it is proper for the prosecution to present evidence that loot from other burglaries found in defendant's possession to prove scienter, or guilty knowledge with respect to the crime of larceny by bailee. Peters v. People, 151 Colo. 35, 376 P.2d 170 (1962).

Evidence of thefts committed subsequent to the theft for which defendant was being tried was admissible for the purpose of showing plan, scheme, design, intent, or guilty knowledge where the proper procedures were followed. People v. Lamirato, 180 Colo. 250, 504 P.2d 661 (1972).

Testimony of thief against one charged with receiving stolen goods is not subject to infirmities attached to accomplice testimony. Burns v. People, 148 Colo. 245, 365 P.2d 698 (1961).

Scope of discovery. Where the prosecution informs the defendant of the specific section of the theft statute upon which it is relying, of the things of value allegedly taken, of the witnesses who would be called, and of the overt acts it intends to prove in connection with a conspiracy count, the trial court may deny further requests regarding areas more properly the subject of discovery proceedings. People v. Lewis, 671 P.2d 985 (Colo. App. 1983).

B. Proof of Value.

Where the larceny is from the person of another the crime shall be a felony, and no proof of value is required. People v. McIntosh, 149 Colo. 555, 369 P.2d 987 (1962).

Evidence of value necessary to fix grade of offense. The necessity of the proof of the real value exists where it is provided that the punishment shall be greater or different when the thing stolen is of or above a certain value, for in such cases the value of the property taken must be established by the evidence in order to ascertain the grade of the offense, and a conviction of the higher grade of offense must be based on sufficient evidence that the property taken was of or above the value fixed by statute for such purpose. In such cases, without proof of the value of stolen property there can be no conviction. Henson v. People, 166 Colo. 428, 444 P.2d 275 (1968).

When a conviction for a higher grade offense turns on the value of the property taken, it is incumbent on the prosecution to prove the value of stolen property. People v. Marques, 184 Colo. 262, 520 P.2d 113 (1974).

Test of value is reasonable market value of the stolen article at the time of the commission of the alleged offense. People v. Austin, 185 Colo. 229, 523 P.2d 989 (1974).

The value of a stolen item is measured by its fair market value. People v. Elkhatib, 198 Colo. 287, 599 P.2d 897 (1979).

The measure of value to be attached to items that are stolen is their reasonable market value at the time of the taking. People v. Evans, 44 Colo. App. 288, 612 P.2d 1153 (1980); People v. Rosa, 928 P.2d 1365 (Colo. App. 1996).

For purposes of the theft statute, "value" is generally proven by evidence of market value at the time and place of the theft. Beaudoin v. People, 627 P.2d 739 (Colo. 1981).

Market value defined. Value in a theft case is market value, where market value is what a willing buyer will pay in cash to the true owner for the stolen item. People v. Marques, 184 Colo. 262, 520 P.2d 113 (1974).

It is the obligation of the people to prove the reasonable market value of the goods at the time involved. Noble v. People, 173 Colo. 333, 478 P.2d 662 (1970).

To make a prima facie case for violations under these sections it was incumbent upon the people to present competent evidence of the reasonable market value of the goods in question at the time of the commission of the alleged offense. People v. Paris, 182 Colo. 148, 511 P.2d 893 (1973).

There must be some basis other than pure speculation for a determination of the real value where the value of the money or goods stolen determines the grade of the offense. Henson v. People, 166 Colo. 428, 444 P.2d 275 (1968); People v. In Interest of A.G., 43 Colo. App. 514, 605 P.2d 487 (1979); People v. Leonard, 43 Colo. App. 471, 608 P.2d 832 (1979).

Where no evidence is presented as to any value amount for items, there is insufficient evidence of the value of those items. People v. Jamison, 220 P.3d 992 (Colo. App. 2009).

Value at time of commission of crime. While an owner of goods is always competent to testify as to the value of his property in prosecution for theft and receiving stolen goods, it must relate to its value at the time of the commission of the crime, and where the owner testifies only as to the purchase price of the goods, such testimony is competent evidence of fair market value only where the goods are so new, and thus, have depreciated in value so insubstantially, as to allow a reasonable inference that the purchase price is comparable to current fair market value. People v. Paris, 182 Colo. 148, 511 P.2d 893 (1973); People v. In Interest of A.G., 43 Colo. App. 514, 605 P.2d 487 (1979).

It is not error to aggregate the value of the goods. People v. Zallar, 191 Colo. 492, 553 P.2d 756 (1976); People v. Payne, 2014 COA 81, 361 P.3d 1040.

Taking where value not expressible as market price also proscribed. This section proscribes the unlawful taking, obtaining, or exercising of control over anything of value, not just those things whose value may be expressed in terms of a market price. People v. Miller, 37 Colo. App. 294, 549 P.2d 1092 (1976), aff'd, 193 Colo. 415, 566 P.2d 1059 (1977).

Prima facie value of check is its face value. People v. Marques, 184 Colo. 262, 520 P.2d 113 (1974); People v.

Myers, 43 Colo. App. 256, 609 P.2d 1104 (1979).

For purposes of valuing stolen checks, restrictive indorsements are irrelevant. People v. Marques, 184 Colo. 262, 520 P.2d 113 (1974).

Value of credit card. The peculiar value of a credit card is not normally a price which the holder may command for the transfer of his card. It is instead the worth of the privilege to purchase goods or services on credit. People v. Miller, 37 Colo. App. 294, 549 P.2d 1092 (1976), aff'd, 193 Colo. 415, 566 P.2d 1059 (1977).

One objective measure of the value of a credit card is its price on the "street", i.e., in the course of unlawful or illegal trade with a view to its criminal abuse. People v. Miller, 37 Colo. App. 294, 549 P.2d 1092 (1976), aff'd, 193 Colo. 415, 566 P.2d 1059 (1977).

"Street" value is a reflection of the purchasing power of a particular credit card. Accordingly, the authorized line of credit on the card or its "floor limit", i.e., the value of a purchase that could be completed without the necessity of obtaining express authorization from the credit card company, is also an objective measure of a card's value. People v. Miller, 37 Colo. App. 294, 549 P.2d 1092 (1976), aff'd, 193 Colo. 415, 566 P.2d 1059 (1977).

Rewards offered by the issuer of credit cards for the return of lost or stolen cards may also constitute an objective measure of the value of the card. People v. Miller, 37 Colo. App. 294, 549 P.2d 1092 (1976), aff'd, 193 Colo. 415, 566 P.2d 1059 (1977).

Where a stolen item, such as a credit card, has no market value in lawful channels, other objective evidence of value may be admitted including evidence of the "illegitimate" market value. Miller v. People, 193 Colo. 415, 566 P.2d 1059 (1977).

Evidence of the dollar amount which may be purchased by using the credit card without card company approval provides an objective means of evaluating the illegitimate market value of credit cards. Miller v. People, 193 Colo. 415, 566 P.2d 1059 (1977).

Jury is not required to place a precise value upon property involved. People v. Austin, 185 Colo. 229, 523 P.2d 989 (1974).

Without competent evidence of fair market value in prosecution for theft and receiving stolen goods, the jury would have to base its determination of the value of the goods in question at the time of commission of the crime on pure speculation, and thus the judge properly removed the case from the jury's consideration. People v. Paris, 182 Colo. 148, 511 P.2d 893 (1973).

An owner is always competent to testify as to the value of his property. An owner not in the business of selling such items but putting them to use does not have them appraised. The evidence of value is competent regardless of the lack of current used market value. Rodriguez v. People, 168 Colo. 190, 450 P.2d 645 (1969).

Testimony of victim of theft as to value of items taken was competent and could properly be admitted for

purposes of valuation. People v. Evans, 44 Colo. App. 288, 612 P.2d 1153 (1980).

Evidence of retail price is evidence of market value, especially where the items were being sold over the counter on a more-or-less daily basis, and there is nothing to indicate that the retail price is higher than the true market value. Maisel v. People, 166 Colo. 161, 442 P.2d 399 (1968); People v. Velarde, 790 P.2d 903 (Colo. App. 1989).

Evidence of retail price is not only admissible but is perhaps the best evidence of market value. Maisel v. People, 166 Colo. 161, 442 P.2d 399 (1968).

Evidence of fair market value and retail price was competent evidence to sustain the jury's finding on the question of value. Lee v. People, 137 Colo. 465, 326 P.2d 660 (1958).

The retail price of stolen goods is the best evidence of their value, not the wholesale price. People v. Lindsay, 636 P.2d 1318 (Colo. App. 1981); People v. Binkley, 687 P.2d 480 (Colo. App. 1984), aff'd on other grounds, 716 P.2d 1111 (Colo. 1986); People v. Rosa, 928 P.2d 1365 (Colo. App. 1996).

Purchase price, junk price, replacement cost, the use of the article, and common knowledge all may be considered in the absence of evidence of market value of a particular item. Burns v. People, 148 Colo. 245, 365 P.2d 698 (1961).

Amounts paid to obtain cooperation of one believed to be coconspirator should not be deducted in determining the value of stolen goods when the payments were returned to the owner of the goods. People v. Elkhatib, 198 Colo. 287, 599 P.2d 897 (1979).

A condemnation proceeding is not authority for establishing the value of personal property. There is just too much difference between the depreciation of land and office machines. Noble v. People, 173 Colo. 333, 478 P.2d 662 (1970).

Evidence of owner based on original cost sufficient. Testimony of witness as to the value of several stolen articles aggregating more the $800, which jury found as the value of the stolen property, was sufficient to establish value even though based on original cost of items, and owner being competent to testify to the value of his property. Burns v. People, 148 Colo. 245, 365 P.2d 698 (1961).

In a prosecution for felony theft of a used car from the dealer, counsel for both sides stipulated that the value of the car was over $100, but then the car lot owner was called and testified that he had invested $4800 in the car, but that it was worth much more on the retail market, and he also stated, over defense objection, that it cost $1800 to repair the automobile from damage caused by the defendant's driving. The evidence may have been prejudicial, but was not inadmissible because the defendant caused the damage while driving the stolen vehicle, and the testimony was all part of the circumstances surrounding the theft and defendant's efforts to escape with the car. People v. Hanson, 189 Colo. 101, 537 P.2d 739 (1975).

Evidence of felony insufficient. The only testimony on the value of the money taken was that it was "in the vicinity of

one hundred dollars". Such evidence is insufficient to support a conviction of the crime of grand larceny. Henson v. People, 166 Colo. 428, 444 P.2d 275 (1968); People v. Codding, 191 Colo. 168, 551 P.2d 192 (1976).

Sufficient evidence to sustain petty theft. People v. Codding, 191 Colo. 168, 551 P.2d 192 (1976).

Evidence held sufficient to support felony conviction. People v. Vigil, 180 Colo. 104, 502 P.2d 418 (1972).

C. Possession of Stolen Property.

When possession supports inference of guilt. Where defendants were found in possession of ore under circumstances clearly indicating that they did not come by it honestly, and they offered no explanation of how they came by it, and the ore was identified as coming from the mine in which defendants were employed, the jury was justified in finding them guilty of larceny. Bergdahl v. People, 27 Colo. 302, 61 P. 228 (1900).

Possession of stolen goods after a burglary or theft is sufficient to warrant a conviction, unless the attending circumstances, or other evidence is such as to overcome the presumption raised by such possession, sufficient to create a reasonable doubt of the defendant's guilt. Rueda v. People, 141 Colo. 504, 348 P.2d 958, cert. denied, 362 U.S. 923, 80 S. Ct. 673, 4 L. Ed. 2d 744 (1960).

In a prosecution for larceny or burglary, the jury may infer that the accused committed the theft from the circumstances of his recent, unexplained, exclusive possession of the stolen articles involved. Noble v. People, 173 Colo. 333, 478 P.2d 662 (1970); Diebold v. People, 175 Colo. 96, 485 P.2d 900 (1971); People v. Austin, 185 Colo. 229, 523 P.2d 989 (1974).

Where there is no direct evidence of entry of vehicle from which articles were stolen, court could infer from unexplained possession of stolen articles by defendants shortly thereafter that they were persons who entered vehicle and stole articles. People v. Romero, 179 Colo. 159, 499 P.2d 604 (1972).

What is meant by "recent" possession of stolen goods is to be determined by the facts in each particular case and it may vary from a few days to two years. Generally, whether the period of time is "recent" is a question for the jury, and a period of six weeks has been upheld. Rueda v. People, 141 Colo. 504, 348 P.2d 958, cert. denied, 362 U.S. 923, 80 S. Ct. 673, 4 L. Ed. 2d 744 (1960).

If one agrees in advance to buy stolen property, knowing that the property is to be stolen, he thereby encourages the perpetration of the theft and, if the crime is committed, he is deemed a principal and punished accordingly. Miller v. People, 92 Colo. 481, 22 P.2d 626 (1933).

Mailing of stolen check to defendant inferred control. In prosecution for theft by deception, control over the money can be inferred from evidence that the check which was the basis of the prosecution was mailed to the defendants' home address in the usual course of business. People v. Todd, 189 Colo. 117, 538 P.2d 433 (1975).

Control need not be unauthorized from the outset. People v. Treat, 193 Colo. 570, 568 P.2d 473 (1977).

Defendant exercised absolute possession. Where defendant removed shirts from the store rack and concealed them in a sack he was carrying, he exercised complete, independent, and absolute control and possession over the goods and it was not necessary for the goods to be removed from the owner's premises to prove the element of loss to the owners. People v. Contreras, 195 Colo. 80, 575 P.2d 433 (1978).

Possession need not be sole to constitute the requisite control over stolen goods under this section; where the defendant was merely a passenger in an automobile owned by another, exercising no actual control over the stolen weapons in the automobile, he could nevertheless be found guilty of theft if a jury could reasonably conclude that he was cognizant of the stolen weapons. People v. Maes, 43 Colo. App. 365, 607 P.2d 1028 (1979).

D. Sufficiency.

Each of the essential elements of theft as set forth in this section must be proven beyond a reasonable doubt to support a conviction even where theft is sought to be proven by showing a violation of § 38-22-127. People v. Erickson, 695 P.2d 804 (Colo. App. 1984).

For a conspiracy to commit theft, the prosecution is not required to prove an agreement to take goods valued at a particular amount of money. It is required to prove only that there was an agreement to commit theft. For purposes of classifying the level of the crime, the prosecution is required to plead and prove the value of the goods taken. People v. Samson, 2012 COA 167, 302 P.3d 311.

Sufficiency of proof of ownership. In an action under this section, evidence was held sufficient to prove the ownership and possession by the alleged owner of the cattle at the time of the alleged theft. Cahill v. People, 111 Colo. 173, 138 P.2d 936 (1943).

Evidence did not establish intent to steal. Bare v. People, 164 Colo. 93, 432 P.2d 630 (1967).

No intent to steal where property retained on police order. Where defendant was found guilty of larceny as bailee of stolen copper wire which he purchased as a junk dealer and held on hold order of police, it was held that the retention of the property in reliance upon the police order did not constitute an intent to steal, which is one of the essential elements of the crime under this section. Schiff v. People, 111 Colo. 333, 141 P.2d 892 (1943).

Inference of intent proper. From a defendant's action of wrongfully appropriating a check, converting it into a cashier's check, and giving it to third party, a jury could properly infer intent. Hucal v. People, 176 Colo. 529, 493 P.2d 23 (1971).

Unexplained exclusive possession of recently stolen property creates no more than in inference of participation in the offense. People v. Beamer, 668 P.2d 990 (Colo. App. 1983).

Circumstantial evidence insufficient. In a prosecution for larceny and conspiracy to commit larceny the supreme court held the guilty verdicts to be forced verdicts based upon circumstantial evidence insufficient in quantity and quality to support a verdict of guilty. Even had the jury been initially properly instructed on circumstantial evidence,

every reasonable hypothesis of innocence was not eliminated by the people's evidence. Drahn v. People, 174 Colo. 157, 483 P.2d 209 (1971).

Evidence held insufficient to convict defendant of theft of car. Union Ins. Soc'y v. Robertson, 88 Colo. 590, 298 P. 1064 (1931); People v. Rogers, 177 Colo. 155, 493 P.2d 21 (1972); People v. Cheney, 180 Colo. 138, 503 P.2d 338 (1972).

In a prosecution for larceny of an automobile where the evidence discloses that a defendant is permitted to take a car by the person in charge thereof, and is furnished license plates for his convenience and protection in driving the same, no felonious taking under this section is shown. Lee v. People, 138 Colo. 321, 332 P.2d 992 (1958).

Sufficient evidence to sustain conviction of theft. Renfrow v. People, 176 Colo. 160, 489 P.2d 582 (1971); Hutton v. People, 177 Colo. 448, 494 P.2d 822 (1972); People v. Drumright, 181 Colo. 137, 507 P.2d 1097 (1973); Lamb v. People, 181 Colo. 446, 509 P.2d 1267 (1973); People v. Diaz, 182 Colo. 369, 513 P.2d 444 (1973); People v. Miller, 37 Colo. App. 294, 549 P.2d 1092 (1976), aff'd, 193 Colo. 415, 566 P.2d 1059 (1977); People v. Maes, 43 Colo. App. 365, 607 P.2d 1028 (1979); People v. Mandez, 997 P.2d 1254 (Colo. App. 1999).

Sufficiency of conversion to constitute larceny. Quinn v. People, 32 Colo. 135, 75 P. 396 (1904); Compton v. People, 89 Colo. 407, 3 P.2d 418 (1931); Moore v. People, 125 Colo. 306, 243 P.2d 425 (1952).

Evidence from which the jury might conclude that defendant had come into possession of stolen property lawfully, that he thereafter learned that such property had been stolen in a burglary, and with full knowledge thereof converted such property to his own use withholding it from its lawful owner, is sufficient to support a conviction of larceny by bailee. Peters v. People, 151 Colo. 35, 376 P.2d 170 (1962).

Negotiation of a check is equivalent to receipt of money, and failure to pay over the money collected for another is a conversion of it. Hucal v. People, 176 Colo. 529, 493 P.2d 23 (1971).

Administrator of estate guilty of embezzlement. Hopkins v. People, 89 Colo. 296, 1 P.2d 937 (1931).

Conviction for embezzlement by a warehouseman reversed when there is no evidence to show that the defendant actually took part in the crime and the prosecution failed to establish that the defendant had some knowledge that the manager had perpetrated the crime. Dressel v. People, 178 Colo. 115, 495 P.2d 544 (1972).

Evidence insufficient to support conviction of false pretenses. Rogers v. People, 161 Colo. 317, 422 P.2d 377 (1966).

Evidence sufficient to support conviction of obtaining property by false pretenses. Shemwell v. People, 62 Colo. 146, 161 P. 157 (1916); Montez v. People, 110 Colo. 208, 132 P.2d 970 (1942).

Evidence sufficient to support conviction of confidence game. Munsell v. People, 122 Colo. 420, 222 P.2d 615 (1950); McBride v. People, 126 Colo. 277, 248 P.2d 725 (1952); Krantz v. People, 150 Colo. 469, 374 P.2d 199 (1962), cert. denied, 372 U.S. 921, 83 S. Ct. 735, 9 L. Ed. 2d 725 (1963); Dodge v. People, 168 Colo. 531, 452 P.2d

759 (1969).

Evidence insufficient to sustain conviction of confidence game. Bomareto v. People, 111 Colo. 99, 137 P.2d 402 (1943); Graham v. People, 126 Colo. 351, 248 P.2d 730 (1952); White v. People, 126 Colo. 365, 249 P.2d 823 (1952); Bevins v. People, 138 Colo. 123, 330 P.2d 709 (1958); Bledsoe v. People, 138 Colo. 490, 335 P.2d 284 (1959).

Evidence insufficient to show specific intent to deprive customers of their money. People v. McClure, 186 Colo. 274, 526 P.2d 1323 (1974).

Evidence insufficient for conviction. People v. Ferrell, 197 Colo. 253, 591 P.2d 1038 (1979).

V. JURY AND INSTRUCTIONS.

Sufficient evidence to go to jury. People v. Gilkey, 181 Colo. 103, 507 P.2d 855 (1973).

Jury determines grade of crime. It is for the jury under proper instructions, and not the trial judge, to weigh and consider the evidence and determine therefrom what grade of crime, if any, was committed. People v. Chapman, 174 Colo. 545, 484 P.2d 1234 (1971).

Where evidence supports misdemeanor offense, to instruct only to felony theft error. Where there was evidence to support the defendant's request for an instruction on a lesser included class 2 misdemeanor offense of theft of goods, it was error for the trial court to instruct the jury only as to felony theft. Beaudoin v. People, 627 P.2d 739 (Colo. 1981).

Defendant is entitled to an instruction on the grade of the offense when there is evidence which tends to reduce the grade. People v. Chapman, 174 Colo. 545, 484 P.2d 1234 (1971).

Instruction on specific intent. Where the trial court adequately instructs the jury on the issue of specific intent required as an element of attempted theft, no error can be assigned. Sandoval v. People, 176 Colo. 414, 490 P.2d 1298 (1971).

Where instruction permits jury to convict of crime of theft without proof of essential element of that crime, intent to permanently deprive another of use and benefit of property, there is plain error and reversal is required. People v. Butcher, 180 Colo. 429, 506 P.2d 362 (1973).

The instruction "the laws of the State of Colorado provide that any person commits theft when he knowingly obtains or exerts unauthorized control over anything of value of another person with intent to deprive such other person permanently of the use or benefit of the thing of value" clearly spells out the intent required to commit the crime of theft. People v. Gilmer, 182 Colo. 96, 511 P.2d 494 (1973).

Erroneously instructing the jury that the defendant must have acted "intentionally" rather than "knowingly" in taking a thing of value from another person was harmless error as to the defendant because it worked to the defendant's benefit in that "intentionally" requires a more serious form of mental culpability. Blehm v. People, 817 P.2d 988 (Colo.

1991).

No plain error where jury not instructed that defendant must know he or she is deceiving the victims. Deception involves the element of intentional misrepresentation with the purpose of misleading and thus such an instruction is redundant and unnecessary. People v. Collie, 995 P.2d 765 (Colo. App. 1999).

Instruction that failed to require a finding that a defendant must know that any exercise of control is without authorization is erroneous. People v. Bornman, 953 P.2d 952 (Colo. App. 1997); Auman v. People, 109 P.3d 647 (Colo. 2005).

While the standard of proof for the crime of theft by deception requires proof that, in reliance upon misrepresentations by the defendant, the victim parted with something of value, the court is not required to separately instruct the jury on the standard if the jury otherwise is instructed in accordance with the theft statute. People v. Pollard, 3 P.3d 473 (Colo. App. 2000).

Instruction could have been interpreted to permit a conviction when the defendant mistakenly believed that she was authorized to take the money and thus was an incorrect statement of the law, but no objection was raised to the jury instruction, the error was not a structural defect, and a review of the evidence found no plain error. People v. Price, 969 P.2d 766 (Colo. App. 1998).

Where issue before jury, affirmative defense instructions must be given. Where an issue of renunciation and abandonment is before a jury, proper instructions on this affirmative defense must be given to the jury. People v. Traubert, 625 P.2d 991 (Colo. 1981).

Relationship of intent and intoxication. Where court's instruction correctly informed the jury that the "intent to permanently deprive" was an element of theft, and further instructed the jury that the defense of intoxication could be considered in determining whether defendant was incapable of forming "the intent to commit the crime charged", when the two instructions are read together it is apparent that the jury was adequately advised of the relationship between the requisite specific intent and the defense of intoxication. People v. Gilmer, 182 Colo. 96, 511 P.2d 494 (1973).

Test applicable to defendant's request for an instruction on the crime of theft is whether there existed a rational basis to acquit him of simple robbery but still convict him of theft; the test is not whether there is a total absence of evidence showing the defendant to be guilty of simple robbery. Graham v. People, 199 Colo. 439, 610 P.2d 494 (1980).

Instructions for crimes of theft and burglary which were phrased in the language of the statutes were sufficient. People v. Bowen, 182 Colo. 294, 512 P.2d 1157 (1973).

Where, at a minimum, defendant committed simple robbery, no theft instruction. Because the uncontroverted evidence before the jury established, at a minimum, that the defendant had committed simple robbery, he was not entitled to an instruction on the crime of theft. Graham v. People, 199 Colo. 439, 610 P.2d 494 (1980).

Required instructions by court. Where the defendant is charged with aggravated robbery and declines the court's offer to instruct on simple robbery, the court is obligated to instruct on the lesser nonincluded offense of theft only if there is no evidence of the defendant's guilt of the lesser included offense of simple robbery. People v. Graham, 41 Colo. App. 390, 590 P.2d 511 (1978), aff'd, 199 Colo. 439, 610 P.2d 494 (1980).

There is no reason for including irrelevant portions of theft statute in instruction, but there is no prejudice to the defendant by their inclusion. People v. Becker, 187 Colo. 344, 531 P.2d 386 (1975).

Instruction on all sections of a theft statute is not prejudicial although not all sections apply to defendant. People v. Pack, 797 P.2d 774 (Colo. App. 1990).

Instruction to jury regarding unexplained, recent possession of stolen property, which indicated to the jury that the burden of proving rightful possession was on the defendant shifted the burden to the defendant to prove his innocence and was prejudicial error. Martinez v. People, 163 Colo. 503, 431 P.2d 765 (1967).

The instruction to the jury that the possession of stolen property recently after the commission of a theft or larceny may be a criminal circumstance tending to show that the person in whose possession it was found is guilty of the crime of larceny unless he has satisfied you from the evidence that he came into possession of the property honestly is prejudicial error. Attwood v. People, 165 Colo. 345, 439 P.2d 40 (1968).

An instruction which permits the jury to infer guilt of either theft or burglary if recent, exclusive and unexplained possession of stolen property was established beyond a reasonable doubt was not defective. People v. Maes, 43 Colo. App. 365, 607 P.2d 1028 (1979).

Instruction on circumstantial evidence should include the essential limiting language that in order to convict on circumstantial evidence alone, circumstances must be such as to exclude every reasonable hypothesis of defendants' innocence. Drahn v. People, 174 Colo. 157, 483 P.2d 209 (1971).

Special instruction on "knowingly" as applied to "without authorization" is not required. People v. Gresham, 647 P.2d 243 (Colo. App. 1981).

Failure to instruct on mens rea of theft. Definitional instruction on whether a person acts "knowingly" failed to instruct properly on mens rea of theft, the ulterior crime of burglary, and was plainly erroneous with regard to burglary in that it did not require jury to be satisfied beyond a reasonable doubt that the taking had to be practically certain in order to obtain from the defendant's conduct the determination that the defendant had the requisite culpability for commission of theft. People v. Reed, 692 P.2d 1122 (Colo. App. 1984).

Accessory instruction proper. Where there was evidence presented at trial to the effect that the defendant had stated, prior to the theft, that he would take all the television sets which could be provided, and there was evidence from which a jury could properly infer that the defendant knew that they would be stolen, the evidence was sufficient to permit submission of the theft by taking count to the jury, it being properly instructed as to an accessory becoming liable as a principal. People v. Lamirato, 180 Colo. 250, 504 P.2d 661 (1972).

Accomplice instruction improper. Where witness admitted burglarizing an establishment and delivering articles stolen to defendant who was charged with receiving stolen goods, such witness was not an accomplice and an instruction concerning the testimony of an accomplice was not appropriate. Burns v. People, 148 Colo. 245, 365 P.2d 698 (1961).

Instruction on lesser included offense held sufficient. People v. Mingo, 191 Colo. 155, 551 P.2d 196 (1976).

VI. VERDICT AND SENTENCE.

No equal protection violation where person convicted of class 4 felony theft is punished more severely than a class 4 felony sex offender. People v. Friesen, 45 P.3d 784 (Colo. App. 2001).

General verdict of guilty held sufficient. Where the indictment sets out the value of the property unlawfully obtained, a general verdict of "guilty in manner and form as charged in the indictment", is sufficient to support a conviction without a finding of the value of the property taken. Montez v. People, 110 Colo. 208, 132 P.2d 970 (1942); Archer v. People, 129 Colo. 313, 269 P.2d 700 (1954).

Trial court is without authority to amend or alter jury finding of value where the jury by its verdict fixes the value of the property taken in the amount of $325. People v. Chapman, 174 Colo. 545, 484 P.2d 1234 (1971).

Larceny from person is felony regardless of value. Where crime charged was larceny from the person, a statement by victim of the amount of money taken from him was immaterial, and it was error to impose sentence as for misdemeanor because amount taken from person was less than $50. People v. McIntosh, 149 Colo. 555, 369 P.2d 987 (1962).

Verdicts of guilt as to theft, but not as to burglary, are consistent. Where evidence linking the defendant with burglary was conflicting or was rebutted, but the evidence clearly established that the defendant was in possession of property recently taken in a burglary, there was evidence to sustain a conviction of larceny and the verdicts of not guilty of burglary but guilty of larceny were not inconsistent as being irreconcilable with the evidence of each case. Renfrow v. People, 176 Colo. 160, 489 P.2d 582 (1971).

Verdict of innocent as to theft but not as to conspiracy to commit theft consistent. Where the evidence under which the jury acquitted the defendant of the charge of theft was separate and independent from evidence before the jury on the charge of conspiracy to commit theft, which jury convicted defendant of, conspiracy conviction was not an inconsistent verdict. People v. Forbes, 185 Colo. 410, 524 P.2d 1377 (1974).

Verdicts held not inconsistent. Since the statutory elements of aggravated robbery and theft over $200 are different, jury verdicts convicting a defendant of aggravated robbery of an employee but acquitting the defendant of theft from the employer are not inconsistent and repugnant. People v. Williams, 40 Colo. App. 30, 569 P.2d 339 (1977).

Sentence concurrent with life sentence proper. Where the defendant was sentenced for life imprisonment for first

degree murder and lesser sentences for first degree burglary and theft which the jury found he had committed, and all sentences were imposed concurrently with the life sentence which the jury ordered, there was no error. People v. Salas, 189 Colo. 111, 538 P.2d 437 (1975).

Consecutive sentences for burglary and for larceny are improper. Maes v. People, 169 Colo. 200, 454 P.2d 792 (1969).

When the burglary and the larceny involve one transaction, typical of many burglary-larceny situations, double, consecutive sentencing for the same transaction is inherently wrong and basically unjust, and evades the legislative intent. Maynes v. People, 169 Colo. 186, 454 P.2d 797 (1969).

All separately prosecutable thefts committed within a six-month period are a unit of prosecution for double jeopardy purposes. Two convictions for theft within the same six-month period must be merged into one conviction. People v. Gardner, 250 P.3d 1262 (Colo. App. 2010).

Defendant who pled guilty to a single count of theft in return for a dismissal of other counts may not be ordered to pay restitution to the victims in the counts that were dismissed. When an offense requires proof of the identity of a particular victim, the court may not order restitution to another. People v. Armijo, 989 P.2d 224 (Colo. App. 1999).

When defendant's actions do not constitute theft from the person of another, the defendant may be convicted of theft, but the court must enter the lowest level of a theft charge if the jury does not find the value of the items stolen. People v. Smith, 121 P.3d 243 (Colo. App. 2005).

Cross References:

(1) For theft of sound recordings, see §§ 18-4-601 to 18-4-605 ; for charges for bad checks received as a restitution payment ordered as a condition of a plea agreement, see § 16-7-304 ; for charges for bad checks received as a restitution payment ordered as a condition of a deferred prosecution, see § 16-7-404.

(2) For the legislative declaration contained in the 2006 act enacting subsection (9), see section 1 of chapter 290, Session Laws of Colorado 2006. For the legislative declaration contained in the 2007 act amending subsections (2), (4), and (8), see section 1 of chapter 384, Session Laws of Colorado 2007. For the legislative declaration contained in the 2009 act amending subsection (4), see section 1 of chapter 244, Session Laws of Colorado 2009.

- ## Sec. 11-100. - Theft.

It shall be unlawful for any person to commit theft or to knowingly aid another to commit theft.

A person commits theft when he knowingly obtains or exercises control over anything of value of another without authorization, or by threat or deception, and

(1)
Intends to deprive the other person permanently of the use or benefit of the thing of value; or

(2)
Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person permanently of its use and benefits; or

(3)
Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use and benefit; or

(4)
Demands any consideration to which he is not legally entitled as a condition of restoring the thing of value to the other person.

(Ord. No. 15-1994, § 1, 12-21-94)

State Law reference— Similar provisions, C.R.S. 18-4-401.

- ## Sec. 11-101. - Library property.

(a)
It shall be unlawful for any person to remove or to assist in the removal from the library to the city, Southern Peaks Public Library, ("the library") any book or other item belonging to the library, without first having the same checked out by an employee of the library according to the rules and regulations of the library.

(b)
It shall be unlawful for any person to write or mark upon, injure, deface, tear, or destroy any book or other item belonging to the library.

(c)
It shall be unlawful for any person to fail to return any book or other item belonging to the library in accordance with the rules and regulations of the library.

(Ord. No. 16-1994, § 1, 12-21-94)

- ## Sec. 11-102. - Procuring accommodation with intent to defraud.

(a)
The following words and phrases as used in this section shall have the following meanings:

(1)
Public establishment means any establishment selling or offering for sale prepared food or beverages to the public generally, or any establishment leasing or renting overnight sleeping accommodations to the public generally, including, but not limited to, restaurants, cafes, dining rooms, lunch counters, coffee shops, boarding houses, hotels,

motor hotels, motels, and rooming houses, unless the rental thereof is on a month-to-month basis for a longer period of time.

(2)

Notice as used in this section shall be given by posting a printed copy of C.R.S. sections 12-44-101 through 12-44-103 at any conspicuous place within the public establishment.

(3)

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

(b)

It shall be unlawful for any person to, with intent to defraud, procure food, beverages, or accommodations from any public establishment without making payment therefore in accordance with his or her agreement with such public establishment.

(c)

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

(d)

No conviction shall be had under this section, unless it is made to appear upon the trial for a violation of this section that the person charged with such violation was given notice of the terms and provisions of C.R.S. sections 12-44-101 to 12-44-103, or of this section 11-102.

(Ord. No. 16-1994, § 1, 12-21-94)

State Law reference— Similar provisions, C.R.S. 12-44-101—12-44-103.

- ## Sec. 11-103. - Theft of cable service.

It shall be unlawful for a person to knowingly:

(1)

Obtain cable service by any means, including the modification or alteration of an authorized device, from a cable operator without its authorization or with the intent to deprive the cable operator of lawful compensation for services rendered; or

(2)

Make or maintain, without authority from or payment to a cable operator, a connection or connections, whether physical, electrical or otherwise, with any cable, wire, component, or other device used for the distribution of cable services, unless such connection results from the cable operator's failure to disconnect a previously authorized cable service; or

(3)

Fail to return or surrender equipment used to receive cable services and provided by a cable operator, after such service has been terminated for any reason.

The terms used herein shall be defined as set forth in C.R.S. 18-4-701 as amended.

(Ord. No. 14-1999, § 1, 8-4-99; Ord. No. 21-1999, § 5, 11-17-99)

State Law reference— Similar provisions, C.R.S. 18-4-701.

- ## Sec. 11-104. - Theft of rental property.

(a)

It shall be unlawful for any person to commit theft of rental property or to knowingly aid another to commit theft of rental property.

(b)

A person commits theft of rental property if he:

(1)

Obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or

(2)

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

(Ord. No. 11-2001, § 7, 12-19-01)

State Law reference— Similar provisions, C.R.S. 18-4-402.

- ## Sec. 11-105. - Theft by receiving.

It shall be unlawful for any person to receive, retain, loan money by pawn or pledge on, or dispose of anything of value of another, knowing or believing that said thing of value has been stolen, when he intends to deprive the lawful owner permanently of the use or benefit of the thing of value.

(Ord. No. 11-2002, § 8, 5-1-02)

State Law reference— Similar provisions, C.R.S. 18-4-410.

- ## Sec. 11-106. - Procuring transportation with intent to defraud.

(a)

The following words and phrases as used in this section shall have the following meanings:

(1)

Public taxicab means any vehicle, subject to regulation by the public utilities commission, which is used commercially to provide transportation services.

(2)

Notice as used in this section shall be given by posting a printed copy of section 11-106 at a conspicuous place with the public taxicab.

(3)

Where the price or rate to be charged for transportation services by a public taxicab is printed on a schedule of rates conspicuously displayed, or advised at the inception of the service by the public taxicab driver to the patron, agreement for service by a public taxicab means:

a.

Any written or oral agreement as to the price to be charged for transportation services by a public taxicab; or

b.

The acceptance of transportation services by a public taxicab.

(b)

It shall be unlawful for any person, with intent to defraud, to procure transportation by means of a public taxicab without making payment therefore in accordance with his or her agreement for service by a public taxicab.

(c)

It shall be evidence of an intent to defraud that transportation services were provided to any person who gave false information concerning his or her name or address, or both, in obtaining or in arranging to obtain such transportation services, or that such person removed or attempted to remove his or her person or baggage from a public taxicab without having paid the agreed amount for such transportation services. These provisions shall not constitute the sole means of establishing evidence that a person accused under this section had an intent to defraud. Proof of such intent to defraud may be made by facts or circumstances sufficient to establish such intent beyond a reasonable doubt, as provided by law.

(d)

No conviction shall be had under this section, unless it is made to appear upon trial for a violation of this section that the person charged with such violation was given notice of the terms and provisions of this section 11-106.

(Ord. No. 15-2002, § 1, 7-10-02)

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Kiwanis Club, Ride the Rockies Special Events Permit, June 9, 2017

Recommended Action:
Approve Special Events Permit for the Kiwanis Club for the Ride the Rockies event as described below.

Background:
Applicant: Kiwanis Club

Event Description:
1. June 9, 2017 from 6:00 p.m. to 9:30 p.m.
2. Application is for Malt, Vinous, and Spirituous liquor
3. The event will be held at the Recreation Center Athletic Fields within the confined boundaries (see attached drawing)

Factual Findings:
- Applicant has possession of the premises through a permit.
- Applicant qualifies as a non-profit corporation.
- The application was submitted in a timely manner.
- All applicable fees have been paid.

Issue Before the Council:
Does Council wish to approve this Special Events Permit?

Alternatives:
1. Approve the Special Events Permit application.
2. Do not act on approval. Determine potential reasons for denial, and set a hearing date.

Fiscal Impact:
N/A

Legal Opinion:
No legal issues have been raised regarding this application. Counselor Schwiesow will be available at the meeting if needed.

Conclusion:
Approve Special Events Permit application.

ATTACHMENTS:

Description	Type
Alamosa Kiwanis Club Application	Backup Material

Rev. 9/24/12

City Clerk's Office
City of Alamosa
POB 419
Alamosa, CO 81101
719/589-2593 ext. 8

City of Alamosa
Special Events Permit Application

Fees payable to the City of Alamosa:
$100 per day
$50 for rush processing

Name of Applicant Non-Profit Organization or Political Candidate: ALAMOSA KIWANIS CLUB

Entity Address: P.O Box 1355 ALAMOSA, CO 81101

Address of Event: AFRC Athletic FIELDS 2222 OLD SANFORD RD.

Off-site storage address (if applicable):

Authorized representative name: ANDY RICE
Phone no. where you can be reached prior to and during event: (719) 588-5661
email address: arice@ci.alamosa.co.us

Event Manager name: ANDY RICE
Phone no. where you can be reached prior to and during event: (719) 588-5661
email address: arice@ci.alamosa.co.us

State Sales Tax No. _____
City Sales Tax No. _____

Would you like to receive your permit by email? Yes ✓ No___

Malt, Vinous, Spirituous Liquor ✓
3.2 Beer _____

Is this location within 500 feet of a school? Yes___ No ✓ If yes, are classes in session during event: Yes___ No___

Date(s) of event

Date: 6/9/17	Date:	Date:
Start time: 6pm	Start time:	Start time:
End time: 9:30pm	End time:	End time:

ATTACH ADDITIONAL PAGES IF NECESSARY

Describe the purpose of the event: Fundraiser for Alamosa Kiwanis Club / Mission: Improving children & communities one child & one community at a time...

How many people are expected to attend? 200-400

Describe your control plan (physical barriers, security, etc.) Will use same physical fencing as Ride the Rockies layout; existing fence in place

Describe how you will meet the food service requirements: CARNIVAL ON-SITE SERVING FOOD UNTIL 10p.m.

Please attach:
- ⇒ Qualifying non-profit documentation
- ⇒ Drawing of licensed premises
- ⇒ Separate drawing of storage location, if applicable
- ⇒ Proof of property possession

Oath of Applicant: I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein in true, correct, and complete to the best of my knowledge

Signature: [signature] **Title:** Kiwanis Club President **Date:** 4/27/17

The City of Alamosa hereby finds that this application has been examined and the premises, business, and character of the applicant is satisfactory and this Permit is hereby approved
Signature: _____ Date: _____

Faxed to Colorado Liquor Enforcement Division by: _____ on: _____

2017 Kiwanis Beer Garden Map for the Alamosa Ride the Rockies Community Party

June 9, 2017 6-9:30pm

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Colorado Rio Grande Restoration Foundation, Ride the Rockies Special Events Permit, June 10, 2017

Recommended Action:
Approve Special Events Permit for the Colorado Rio Grande Restoration Foundation for the Ride the Rockies event as described below.

Background:
Applicant: Colorado Rio Grande Restoration Foundation

Event Description:
1. June 10, 2017 from 11:00 a.m. to 10:00 p.m.
2. Application is for Malt, Vinous, and Spirituous liquor
3. The event will be held at the Recreation Center Athletic Fields within the confined boundaries (see attached drawing)

Factual Findings:
- Applicant has possession of the premises through a permit.
- Applicant qualifies as a non-profit corporation.
- The application was submitted in a timely manner.
- All applicable fees have been paid.

Issue Before the Council:
Does Council wish to approve this Special Events Permit?

Alternatives:
1. Approve the Special Events Permit application.
2. Do not act on approval. Determine potential reasons for denial, and set a hearing date.

Fiscal Impact:
N/A

Legal Opinion:
No legal issues have been raised regarding this application. Counselor Schwiesow will be available at the meeting if needed.

Conclusion:
Approve Special Events Permit application.

ATTACHMENTS:

	Description	Type
	Colorado Rio Grande Restoration Foundation Application	Backup Material

Rev. 9/24/12

RECEIVED
MAY 02 2017
BY

City Clerk's Office
City of Alamosa
POB 419
Alamosa, CO 81101
719/589-2593 ext. 8

City of Alamosa
Special Events Permit Application

Fees payable to the City of Alamosa:
$100 per day
$50 for rush processing

Name of Applicant Non-Profit Organization or Political Candidate:
Colorado Rio Grande Restoration Foundation

Entity Address:	Address of Event:	Off-site storage address (if applicable):
623 4th St Alamosa, CO 81101	2222 Old Sanford Rd Alamosa, CO 81101	

Authorized representative name:	Phone no. where you can be reached prior to and during event:	email address:
Emma Reesor	316.217.5129	emma@riograndeheadwaters.org
Event Manager name:	**Phone no. where you can be reached prior to and during event:**	**email address:**
Andrea Bachman	208.867.7929	andrea@riograndeheadwaters.org

State Sales Tax No. N/A City Sales Tax No. N/A	Would you like to receive your permit by email? Yes X No___	Malt, Vinous, Spirituous Liquor X 3.2 Beer ___

Is this location within 500 feet of a school? Yes___ No X If yes, are classes in session during event: Yes___ No___

We are a 501(c)(3) non-profit.
Our EIN #: 75-3169057

Date(s) of event

Date: June 10, 2017	Date:	Date:
Start time: 11:00 AM	Start time:	Start time:
End time: 10:00 PM	End time:	End time:

ATTACH ADDITIONAL PAGES IF NECESSARY

Describe the purpose of the event: Ride the Rockies Beer Garden

How many people are expected to attend? 2,000-3,000

Describe your control plan (physical barriers, security, etc.) A fenced perimeter surrounding the beer garden, with garden monitors & people checking IDs.

Describe how you will meet the food service requirements: We are solely in charge of the beer garden. RTR is responsible for food & is providing that through local vendors.

Please attach:
- ⇒ Qualifying non-profit documentation
- ⇒ Drawing of licensed premises
- ⇒ Separate drawing of storage location, if applicable
- ⇒ Proof of property possession

Oath of Applicant: I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein in true, correct, and complete to the best of my knowledge

Signature: Emma Reesor **Title:** Ex. Director **Date:** 5/1/2017

The City of Alamosa hereby finds that this application has been examined and the premises, business, and character of the applicant is satisfactory and this Permit is hereby approved
Signature: _____ Date: _____

Faxed to Colorado Liquor Enforcement Division by: _____ on: _____

560'

660'

Alamosa Family Rec Center

ALAMOSA CITY COUNCIL
COUNCIL COMMUNICATION

Subject/Title:
Christian Community Services Projects, Alamosa Round-Up Rodeo Special Events Permit, June 22, 23, and 24, 2017

Recommended Action:
Approve Special Events Permit as described below.

Background:
Applicant: Christian Community Service Projects

Event Description:
1. Rodeo Events:
   - June 22, 2017 from 6:00 p.m. to 10:00 p.m.
   - June 23, 2017 from 6:00 p.m. to 10:00 p.m.
   - June 24, 2017 from 6:00 p.m. to 10:00 p.m.
2. Application is for Malt, Vinous, Spirituous Liquor
3. Location will be at the Alamosa Fairgrounds (see attached).

Factual Findings:
- Applicant has possession of the premises through a contract.
- Applicant qualifies as a non-profit corporation.
- The application was submitted in a timely manner.
- All applicable fees have been paid.
- No written protests were received by the deadline.

Issue Before the Council:
Does the Council wish to approve the Special Events Permit?

Alternatives:
1. Approve the Special Events Permit application.
2. Do not act on approval. Determine potential reasons for denial, and set a hearing date.

Fiscal Impact:
N/A

Legal Opinion:
No legal issues have been raised regarding this application. Counselor Schwiesow will be available at the meeting if needed.

Conclusion:
Approve Special Events Permit application.

ATTACHMENTS:

Description	Type
Christian Community Service Projects Application	Backup Material

Rev. 9/24/12

RECEIVED
APR 21 2017
By: [illegible]

City Clerk's Office
City of Alamosa
POB 419
Alamosa, CO 81101
719/589-2593 ext. 8

City of Alamosa
Special Events Permit Application

Fees payable to the City of Alamosa:
$100 per day
$50 for rush processing

Name of Applicant Non-Profit Organization or Political Candidate: CCSP (Christian Community Service Projects)

Entity Address:	Address of Event:	Off-site storage address (if applicable):
CCSP 1861 Rd. 10 South Alamosa, CO 81101	ALAMOSA RODEO GROUNDS	N.A.

Authorized representative name:	Phone no. where you can be reached prior to and during event:	email address:
Suzanne Tolsma	719-588-0689	ccsp@gojade.org

Event Manager name:	Phone no. where you can be reached prior to and during event:	email address:
Dawn Honeycutt	602-571-0535	jdhoneycutt@hotmail.com

State Sales Tax No. ____ City Sales Tax No. ____	Would you like to receive your permit by email? Yes X No___	Malt, Vinous, Spirituous Liquor X 3.2 Beer ____

Is this location within 500 feet of a school? Yes___ No X If yes, are classes in session during event: Yes___ No___

Date(s) of event

Date: 6/22/17	Date: 6/23/17	Date: 6/24/17
Start time: 6pm	Start time: 6pm	Start time: 6pm
End time: 10pm	End time: 10pm	End time: 10pm

ATTACH ADDITIONAL PAGES IF NECESSARY

Describe the purpose of the event: Provide Alamosa Rodeo patrons with adult beverage services

How many people are expected to attend? 4,000

Describe your control plan (physical barriers, security, etc.) Rodeo, A+L Coors, SLV Brewing, and CCSP will work with the Alamosa Police in establishing secure consumption areas, ID'ing, and ingress/egress routes.

Describe how you will meet the food service requirements: Multiple Food Vendors are on-site during event

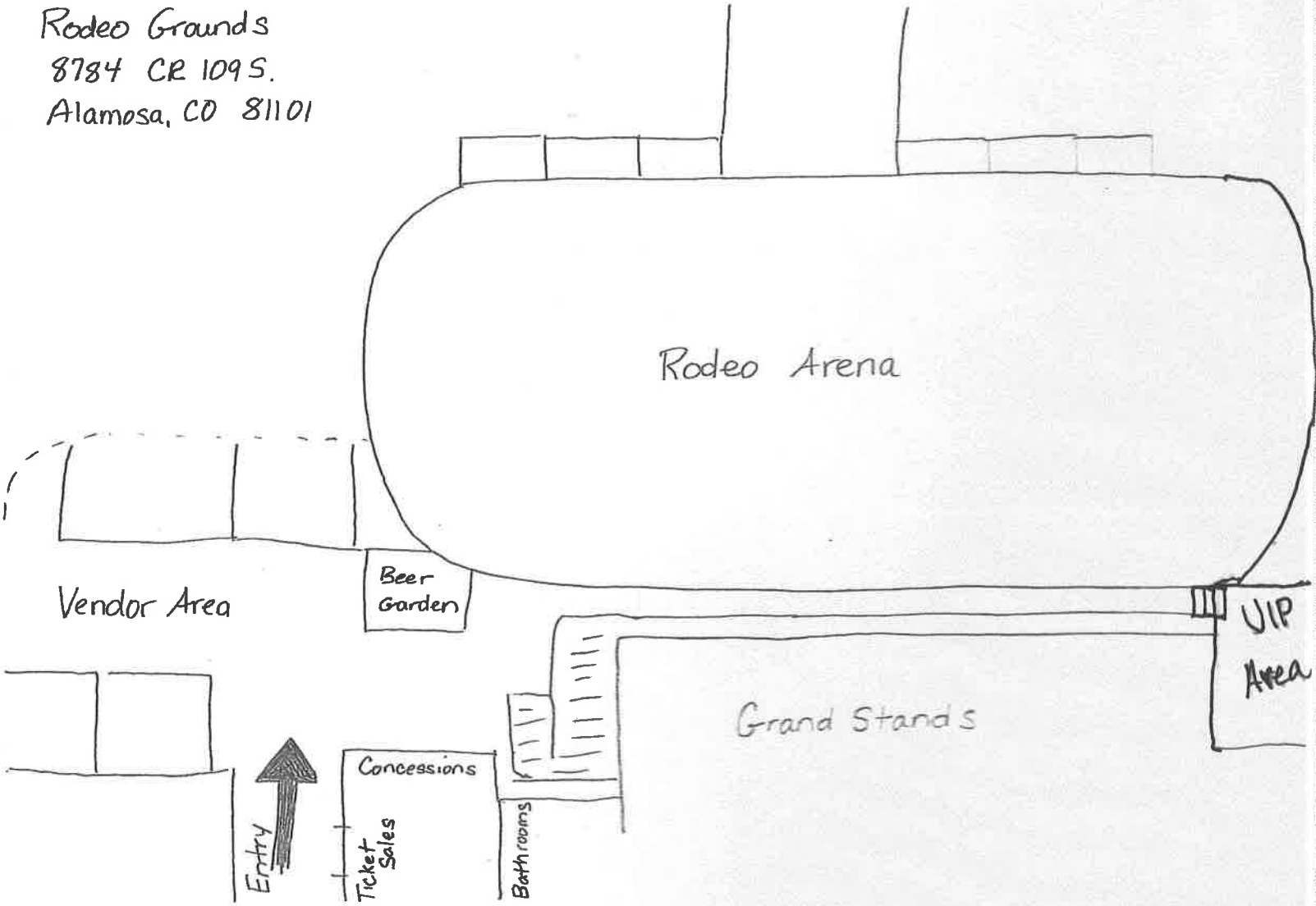
Please attach:
- ⇒ Qualifying non-profit documentation
- ⇒ Drawing of licensed premises
- ⇒ Separate drawing of storage location, if applicable
- ⇒ Proof of property possession

Oath of Applicant: I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein in true, correct, and complete to the best of my knowledge

Signature: Suzanne Tolsma **Title:** Manager- CCSP **Date:** 4-21-17

The City of Alamosa hereby finds that this application has been examined and the premises, business, and character of the applicant is satisfactory and this Permit is hereby approved

Signature: _____ Date: _____

Faxed to Colorado Liquor Enforcement Division by: _____ on: _____

Rodeo Grounds
8784 CR 109 S.
Alamosa, CO 81101