

TO ENACT A CRIMINAL CODE FOR THE TOWN OF DUBACH, TO REGULATE OR PROHIBIT CERTAIN ACTIVITIES; TO PROVIDE PENALTIES FOR VIOLATION OF SUCH REGULATIONS OR PROHIBITIONS; TO PROVIDE FOR THE EFFECTIVENESS OF THIS ORDINANCE TO PRIOR ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR RELATED MATTERS.

Be it ordained by the Town Council, Town of Dubach, Louisiana:

Section 1: The Criminal Code of the Town of Dubach, consisting of Sections 1 through 500, is hereby enacted to read as follows:

**PART I. GENERAL PROVISIONS
SUBPART A. PRELIMINARY PROVISIONS**

Sec. 1. Method of citation

This Chapter shall be known as the Town of Dubach Criminal Code. The provisions hereunder may be referred to or cited either as Articles of the Criminal Code or as Sections of Chapter 11 referred to or cited as DTO (Dubach Town Ordinance) 11:_____. Thus Article 98 of the Town of Dubach Criminal Code may also be referred to or cited as DTO 11:98.

Whenever reference is made herein to an Article of the Town of Dubach Criminal Code, the same shall also relate to the corresponding Section of Chapter 11 of the Town of Dubach, Code of Ordinances.

(Source: R.S. 14:1)

Sec. 2. Definitions

In this Code the terms enumerated shall have the designated meanings:

- (1) "Another" refers to any other person or legal entity, including the municipality or any subdivision thereof.
- (2) "Anything of value" must be given the broadest possible construction, including any conceivable thing of the slightest value, movable or immovable, corporeal or incorporeal, public or private, and including transportation, telephone and telegraph services, or any other service available for hire. It must be construed in the broad popular sense of the phrase, not necessarily as synonymous with the traditional legal term "property." In all cases involving shoplifting the term "value" is the actual retail price of the property at the time of the offense.
- (3) "Dangerous weapon" includes any gas, liquid or other substance or instrumentality, which, in the manner used, is calculated or likely to produce death or great bodily harm.
- (4) "Foreseeable" refers to that which ordinarily would be anticipated by a human being of average reasonable intelligence and perception.
- (5) "Municipality" means the Town of Dubach, or any agency, board, commission, department, or institution of the Town of Dubach.
- (6) "Person" includes a human being from the moment of fertilization and implantation and also

(3) "Dangerous weapon" includes any gas, liquid or other substance or instrumentality, which, in the manner used, is calculated or likely to produce death or great bodily harm.

308A

(4) "Foreseeable" refers to that which ordinarily would be anticipated by a human being of average reasonable intelligence and perception.

(5) "Municipality" means the Town of Dubach, or any agency, board, commission, department, or institution of the Town of Dubach.

(6) "Person" includes a human being from the moment of fertilization and implantation and also includes a body of persons, whether incorporated or not.

(8) "Property" refers to both public and private property, movable and immovable, and corporeal and incorporeal property.

(9) "Public officer," "public office," "public employee" or "position of public authority" means and applies to any executive, ministerial, administrative, judicial, or legislative officer, office, employee or position of authority respectively, of the state of Louisiana or any parish, municipality, district, or other political subdivision thereof, or of any agency, board, commission,

department or institution of said state, parish, municipality, district, or other political subdivision.

(10) "State" means the state of Louisiana, or any parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, department or institution of said state, parish, municipality, district or other political subdivision.

(11) "Whoever" in a penalty clause refers only to natural persons insofar as death or imprisonment is provided, but insofar as a fine may be imposed "whoever" in a penalty clause refers to any person.

(12) "Misdemeanor" is any crime other than a felony as the term felony is defined in La. R.S. 14:2.

(Source: R.S. 14:2)

Sec. 3. Interpretation

The articles of this Code cannot be extended by analogy so as to create crimes not provided for herein; however, in order to promote justice and to effect the objects of the law, all of its provisions shall be given a genuine construction, according to the fair import of their words, taken in their usual sense, in connection with the context, and with reference to the purpose of the provision.

(Source: R.S. 14:3)

Sec. 4. Conduct made criminal under several sections or articles; how prosecuted

Prosecution may proceed under either provision, in the discretion of the prosecuting attorney, whenever an offender's conduct is:

(1) Criminal according to a general article of the Dubach Town Code of Ordinances and also according to a special article or section of this Chapter of the Town of Dubach Criminal Code; or

(2) Criminal according to an article or section of this Chapter of the Town of Dubach Criminal Code and also according to some other provision of the Dubach Town Code of Ordinances.

(Source: R.S. 14:4)

Sec. 5. Lesser and included offenses

An offender who commits an offense which includes all the elements of other lesser offenses, may be prosecuted for and convicted of either the greater offense or one of the lesser and included offenses. In such case, where the offender is prosecuted for the greater offense, he may be convicted of any one of the lesser and included offenses.

(Source R. S. 14:5)

Sec. 6. Civil remedies not affected

Nothing in this Code shall affect any civil remedy provided by the law pertaining to civil matters. or any legal power to inflict penalties for contempt.

(Source R. S. 14:5)

308A

Sec. 6. Civil remedies not affected

Nothing in this Code shall affect any civil remedy provided by the law pertaining to civil matters, or any legal power to inflict penalties for contempt.

(Source R. S. 14:6)

Sec. 6.1. General Penalty

A. Whenever an act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where there is no specific penalty provided therefore, the violation shall be punished by a fine not exceeding five hundred dollars.

B. Unless otherwise specifically provided in this Code, each day that any violation of this Code continues shall constitute a separate offense.

C. Any person who shall aid, abet, or assist in the violation of any provision of this Code shall be punished as provided in this Section.

SUBPART B. ELEMENTS OF CRIMES

Sec. 7. Crime defined

A crime is that conduct which is defined as criminal in this Code.

(Source: R.S. 14:7)

Sec. 8. Criminal conduct

Criminal conduct consists of:

(1) An act or a failure to act that produces criminal consequences, and which is combined with criminal intent; or

(2) A mere act or failure to act that produces criminal consequences, where there is no requirement of criminal intent; or

(3) Criminal negligence that produces criminal consequences.

(Source R.S. 14:8)

Sec. 9. Criminal consequences

Criminal consequences are any set of consequences prescribed in the various articles or sections of this Code or in the other ordinances as necessary to constitute any of the various crimes defined therein.

(Source: R.S. 14:9)

Sec. 10. Criminal intent

Criminal intent may be specific or general:

(1) Specific criminal intent is that state of mind which exists when the circumstances indicate that the offender actively desired the prescribed criminal consequences to follow his act or failure to act.

(2) General criminal intent is present whenever there is specific intent, and also when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act.

(Source: R.S. 14:10)

Sec. 11. Criminal intent; how expressed

circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act.

308A

(Source: R.S. 14:10)

Sec. 11. Criminal intent; how expressed

The definitions of some crimes require a specific criminal intent, while in others no intent is required. Some crimes consist merely of criminal negligence that produces criminal consequences. However, in the absence of qualifying provisions, the terms "intent" and "intentional" have reference to "general criminal intent."

(Source: R.S. 14:11)

Sec. 12. Criminal negligence

Criminal negligence exists when, although neither specific nor general criminal intent is present, there is such disregard of the interest of others that the offender's conduct amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances.

(Source: R.S. 14:12)

Sec. 13. Reserved**SUBPART C. CULPABILITY****Sec. 14. Insanity**

If the circumstances indicate that because of a mental disease or mental defect the offender was incapable of distinguishing between right and wrong with reference to the conduct in question, the offender shall be exempt from criminal responsibility.

(Source: R.S. 14:14)

Sec. 15. Intoxication

The fact of an intoxicated or drugged condition of the offender at the time of the commission of the crime is immaterial, except as follows:

(1) Where the production of the intoxicated or drugged condition has been involuntary, and the circumstances indicate this condition is the direct cause of the commission of the crime, the offender is exempt from criminal responsibility.

(2) Where the circumstances indicate that an intoxicated or drugged condition has precluded the presence of a specific criminal intent or of special knowledge required in a particular crime, this fact constitutes a defense to a prosecution for that crime.

(Source: R.S. 14:15)

Sec. 16. Mistake of fact

Unless there is a provision to the contrary in the definition of a crime, reasonable ignorance of fact or mistake of fact which precludes the presence of any mental element required in that crime is a defense to any prosecution for that crime.

(Source: R.S. 14:16)

Sec. 17. Mistake of ordinance

Ignorance of the provision of this Code or of any other ordinance is not a defense to any criminal prosecution. However, mistake of ordinance which results in the lack of an intention that consequences which are criminal shall follow, is a defense to a criminal prosecution under the following circumstances:

(1) Where the offender reasonably relied on ordinance in repealing an existing provision, or in

Ignorance of the provision of this Code or of any other ordinance is not a defense to any criminal prosecution. However, mistake of ordinance which results in the lack of an intention that consequences which are criminal shall follow, is a defense to a criminal prosecution under the following circumstances:

308A

(1) Where the offender reasonably relied on ordinance in repealing an existing provision, or in otherwise purporting to make the offender's conduct lawful; or

(2) Where the offender reasonably relied on a final judgment of a competent court of last resort that a provision making the conduct in question criminal was unconstitutional.

(Source: R.S. 14:17)

Sec. 18. Justification; general provisions

The fact that an offender's conduct is justifiable, although otherwise criminal, shall constitute a defense to prosecution for any crime based on that conduct. This defense of justification can be claimed under the following circumstances:

- (1) When the offender's conduct is an apparently authorized and reasonable fulfillment of any duties of public office; or
- (2) When the offender's conduct is a reasonable accomplishment of an arrest which is lawful; or
- (3) When for any reason the offender's conduct is authorized by law; or
- (4) When the offender's conduct is reasonable discipline of minors by their parents, tutors or teachers; or
- (5) When the crime consists of a failure to perform an affirmative duty and the failure to perform is caused by physical impossibility; or
- (6) When any crime is committed through the compulsion of threats by another of death or great bodily harm, and the offender reasonably believes the person making the threats is present and would immediately carry out the threats if the crime were not committed; or
- (7) When the offender's conduct is in defense of persons or of property under any of the circumstances described in Articles 19 through 22.

(Source: R.S. 14:18)

Sec. 19. Use of force or violence in defense

The use of force or violence upon the person of another is justifiable, when committed for the purpose of preventing a forcible offense against the person or a forcible offense or trespass against property in a person's lawful possession; provided that the force or violence used must be reasonable and apparently necessary to prevent such offense, and that this article shall not apply where the force or violence results in a homicide.

(Source: R.S. 14:19)

Sec. 20. Reserved

Sec. 21. Aggressor cannot claim self defense

A person who is the aggressor or who brings on a difficulty cannot claim the right of self-defense unless he withdraws from the conflict in good faith and in such a manner that his adversary knows or should know that he desires to withdraw and discontinue the conflict.

(Source: R.S. 14:21)

Sec. 22. Defense of others

A person who is the aggressor or who brings on a difficulty cannot claim the right of self-defense unless he withdraws from the conflict in good faith and in such a manner that his adversary knows or should know that he desires to withdraw and discontinue the conflict.

308A

(Source: R.S. 14:21)

Sec. 22. Defense of others

It is justifiable to use force or violence or to kill in the defense of another person when it is reasonably apparent that the person attacked could have justifiably used such means himself, and when it is reasonably believed that such intervention is necessary to protect the other person.

(Source: R.S. 14:22)

Sec. 23. Reserved