

CHAPTER 10

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ARTICLE 1

Government and Public Officers

Sec. 10-1-10. Definitions.

For purposes of this Chapter, the following words shall have the meanings ascribed hereafter:

Government includes any branch, subdivision, institution or agency of the government of this Town.

Governmental function includes any activity which a public servant is legally authorized to undertake on behalf of a government.

Public servant means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses. (Ord. 7 §1, 2010)

Sec. 10-1-20. Obstructing government operations.

(a) It is unlawful to obstruct government operations.

(b) A person commits obstructing government operations if he or she intentionally obstructs, impairs or hinders the performance of a governmental function by a public official, employee or servant, by using or threatening to use violence, force or physical interference or obstacle.

(c) It is an affirmative defense that:

(1) The obstruction, impairment or hindrance was of unlawful action by a public servant;

(2) The obstruction, impairment or hindrance was of the making of an arrest; or

(3) The obstruction, impairment or hindrance was by lawful activities in connection with a labor dispute with the government. (Ord. 7 §1, 2010)

Sec. 10-1-30. Obstructing a peace officer or firefighter.

(a) No person shall willfully fail or refuse to comply with any lawful order, signal or direction of a police officer made or given in the discharge of the police officer's duties.

(b) No person shall, in any way, interfere with or hinder any police officer who is discharging or apparently discharging the duties of the position.

(c) It is unlawful to obstruct a peace officer or firefighter.

(d) A person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, such person knowingly obstructs, impairs or hinders the enforcement of the law or the preservation of the peace by a peace officer, acting under

color of his or her official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his or her official authority.

(e) It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if the peace officer was acting under color of his or her official authority as defined in Subsection 10-1-40(c) below.

(f) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Ord. 7 §1, 2010)

Sec. 10-1-40. Resisting arrest.

(a) It is unlawful to resist arrest.

(b) A person commits resisting arrest if he or she knowingly prevents or attempts to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another by:

(1) Using or threatening to use physical force or violence against the peace officer or another;
or

(2) Using any other means which creates a substantial risk of causing physical injury to the peace officer or another.

(c) It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if the peace officer was acting under color of his or her official authority, and in attempting to make the arrest, the peace officer was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts *under color of his or her official authority* when, in the regular course of assigned duties, the peace officer is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by the peace officer.

(d) The term *peace officer*, as used in this Section, means a peace officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such peace officer to the person whose arrest is attempted. (Ord. 7 §1, 2010)

Sec. 10-1-50. Resisting an officer.

It is unlawful for any person to resist any police officer, any member of the Police Department or any person duly empowered with police authority, while in the discharge or apparent discharge of his or her duty, or in any way to interfere with or hinder him or her in the discharge of his or her duty. (Prior code 18-4-10; Ord. 7 §1, 2010)

Sec. 10-1-60. Escape.

A person commits a Class 1 petty offense if, while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense, he or she knowingly escapes from said custody or confinement. (Ord. 7 §1, 2010)

Sec. 10-1-70. Assisting escape; rescuing a prisoner.

(a) It is unlawful for any person to offer or endeavor to assist any person in the custody of a police officer, a member of the Police Department or a person duly empowered with police authority to escape or to attempt to escape from such custody.

(b) It is unlawful for any person to rescue or to attempt to rescue any person in the custody of a police officer, a member of the Police Department or a person duly empowered with police authority. (Prior code 18-4-10; Ord. 7 §1, 2010)

Sec. 10-1-80. False reporting to authorities.

It is unlawful for a person to falsely report to authorities. A person commits false reporting to authorities if he or she:

(1) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;

(2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur; or

(3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false. (Ord. 7 §1, 2010)

Sec. 10-1-90. Duty of citizens to aid police officers.

It shall be the duty of all persons when called upon by any police officer or any other member of the Police Department to promptly aid and assist such officer or member in the discharge of his or her duties. (Prior code 18-4-11; Ord. 7 §1, 2010)

ARTICLE 2

Streets and Public Places

Sec. 10-2-10. Unlawful conduct on public property.

(a) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on them in violation of any order, rule or regulation concerning any matter prescribed in this Section, limiting or prohibiting the use, activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of such public buildings and property, specifically, orders, rules and regulations upon the following matters:

(1) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings, grounds and other structures and any object of scientific, historical or scenic interest;

(2) Restriction or limitation of the use of such public buildings or property as to time, manner or permitted activities;

(3) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance;

(4) Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted;

(5) Use of all vehicles as to place, time and manner of use; and

(6) Control and limitation of fires and designation of places where fires are permitted.

(b) No conviction may be obtained under this Section unless notice of such limitation or prohibition is prominently posted at all public entrances to such building or property or unless such notice is actually first given the person by the office or agency, including any agent thereof or by any law enforcement officer having jurisdiction or authority to enforce this Section.

(c) Any person who violates this Section is guilty of unlawful conduct on public property. (Ord. 7 §1, 2010)

Sec. 10-2-20. Trespass or interference in public buildings.

(a) No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the Town as to willfully deny to any public official, public employee or invitee on such premises the lawful rights of such official, employee or invitee to enter, to use the facilities of or to leave any such public building.

(b) No person shall, at or in any public building, willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation or by force and violence or threat thereof.

(c) No person shall willfully refuse or fail to leave any such public building upon being requested to do so by the Town officer charged with maintaining order in such public building, if the person has committed, is committing, threatens to commit or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

(d) No person shall, at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session or by any act designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

(e) No person shall, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such body or official.

(f) The term *public building*, as used in this Section, includes any premises being temporarily used by a public officer or employee in the discharge of his or her official duties.

(g) Any person who violates any of the provisions of this Section commits an unlawful act. (Ord. 7 §1, 2010)

Sec. 10-2-30. Interfering with use of streets or sidewalks.

It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the Town shall obstruct, interfere with or prevent the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other person on that public highway, street, alley or sidewalk or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the Town or other authorized peace officer. (Ord. 7 §1, 2010)

Sec. 10-2-40. Broken glass, nails, dangerous substances on streets and sidewalks.

It is unlawful for any person to throw or deposit or cause to be thrown or deposited on any street, alley, sidewalk or other public way any broken glass, nails or other dangerous substance. (Prior code 18-3-2; Ord. 7 §1, 2010)

Sec. 10-2-50. Damage or removal of street signs.

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street. (Ord. 7 §1, 2010)

Sec. 10-2-60. Littering on property.

(a) It is unlawful to throw or deposit in any street, alley, sidewalk or public grounds in the Town any paper, old clothes, cloth of any kind, boots, shoes, hats, leather, hair, grass, junk cars, straw, hay, trash or any other thing, except in public receptacles and authorized private receptacles.

(b) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the Town or upon private property. (Ord. 7 §1, 2010)

ARTICLE 3

Public, Private and Personal Property

Sec. 10-3-10. Damaging or destroying public property.

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner damage or destroy real property, improvements thereto or moveable or personal property belonging to the Town. (Prior code 18-2-1; Ord. 7 §1, 2010)

Sec. 10-3-20. Damaging or destroying private property.

It is unlawful for any person to either willfully, maliciously or wantonly damage or destroy real property or improvements thereto, or moveable or personal property, belonging to any person. (Prior code 18-2-2; Ord. 7 §1, 2010)

Sec. 10-3-30. Criminal mischief.

It is unlawful for any person to knowingly damage the real or personal property of one (1) or more other persons in the course of a single criminal episode where the aggregate damage to the real or personal property is less than one thousand dollars (\$1,000.00). (Ord. 7 §1, 2010)

Sec. 10-3-40. Trespassing.

(a) It is unlawful for any person to knowingly occupy, use or remain on or in any privately owned property, real or personal, without the permission of the owner or persons entitled to the possession thereof.

(b) It is unlawful for any person to take down any fence or let down any bars or to open any gate in or on the property of another without the consent of the owner, occupant or person in charge thereof. (Prior code 18-2-3; Ord. 7 §1, 2010)

Sec. 10-3-50. Theft.

It is unlawful for a person to commit theft. A person commits theft when he or she knowingly obtains or exercises control over anything of another without authorization or by threat or deception when the value of the thing is less than one thousand dollars (\$1,000.00) and:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;
- (2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
- (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 or she is not legally entitled as a condition of restoring the thing of value to the other person. (Ord. 7 §1, 2010)

Sec. 10-3-60. Theft of rental property.

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if he or she:

- (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;
- (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 the property to the owner thereof or his or her representative or to the person from whom he or she has received it within seventy-two (72) hours after the time at which he or she agreed to return it; and
- (3) The value of the property involved is less than one thousand dollars (\$1,000.00). (Ord. 7 §1, 2010)

Sec. 10-3-70. Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of such thing is less than one thousand dollars (\$1,000.00). (Ord. 7 §1, 2010)

Sec. 10-3-80. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than one thousand dollars (\$1,000.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft. (Ord. 7 §1, 2010)

Sec. 10-3-90. Tampering and unauthorized connection.

(a) Any person who connects any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or contrivance with any main, service pipe or other medium conducting or supplying gas, water or electricity to any building without the knowledge and consent of the person supplying such gas, water or electricity commits tampering and unauthorized connection, which is unlawful.

(b) Any person who in any manner alters, obstructs or interferes with any meter pit, meter or metering device provided for measuring or registering the quantity of gas, water or electricity passing through said meter without the knowledge and consent of the person owning said meter commits tampering and unauthorized connection, which is unlawful.

(c) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he or she knowingly makes unauthorized connection with property of a utility, commits tampering and unauthorized connection, which is unlawful.

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards. (Ord. 7 §1, 2010)

ARTICLE 4

Public Peace, Order and Decency

Sec. 10-4-10. False alarms.

Any person who shall intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor. (Prior code 18-3-5; Ord. 7 §1, 2010)

Sec. 10-4-20. Assault.

(a) An assault is an unlawful attempt of a person, coupled with a present ability, to commit a bodily injury on another person.

(b) It is unlawful to assault, beat, strike, wound, imprison or inflict violence on another. (Prior code 18-3-6; Ord. 7 §1, 2010)

Sec. 10-4-30. Disorderly conduct.

(a) A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

(1) Makes a coarse and obviously offensive utterance, gesture or display in a public place, and the utterance, gesture or display tends to incite an immediate breach of the peace;

(2) Abuses or threatens a person in a public place in an obviously offensive manner;

(3) Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy;

(4) Fights with another in a public place except in an amateur or professional contest of athletic skill;

(5) Not being a peace officer, displays a deadly weapon in a public place except when engaged in lawful target practice or hunting; or

(6) Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under Paragraph (a)(2) above that the actor had significant provocation for his or her abusive or threatening conduct. (Ord. 7 §1, 2010)

Sec. 10-4-40. Harassment.

(a) A person commits harassment if, with intent to harass, annoy or alarm another person, he or she:

(1) Strikes, shoves, kicks or otherwise touches a person or subjects him or her to physical contact;

(2) In a public place directs obscene language or makes an obscene gesture to or at another person;

(3) Follows a person in or about a public place;

(4) Initiates communication with a person, anonymously or otherwise by telephone computer, computer network or computer system, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone, computer, computer network or computer system which is obscene;

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;

(6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or

(7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to, another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, obscene means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated.

(c) Any act prohibited by Paragraph (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received. (Ord. 7 §1, 2010)

Sec. 10-4-50. Loitering.

It is unlawful for any person to be upon any public way or place of public nature in such manner as to interfere with free and unobstructed use of such public way or place of public nature by any other person or to be profane, lewd or wanton in speech or behavior in such public way or place. (Prior code 18-3-13; Ord. 7 §1, 2010)

Sec. 10-4-60. Disrupting lawful assembly.

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 7 §1, 2010)

Sec. 10-4-70. Storage of flammable liquids.

It is unlawful to store or cause to be stored or parked, except for delivery, any tank vehicle carrying flammable liquids or gases upon any streets, ways or avenues of the Town, or in any other part of the Town except those areas zoned for such uses. (Prior code 18-3-1; Ord. 7 §1, 2010)

Sec. 10-4-80. Explosives.

It is unlawful for any person to store within the Town limits or within one (1) mile thereof any amount of blasting powder, nitroglycerine, dynamite or other high explosive devices used for the detonation of such high explosives. (Prior code 18-3-4; Ord. 7 §1, 2010)

Sec. 10-4-90. Abandoned containers, wells or cisterns.

It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, structure or dwelling under his or her control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device. (Prior code 18-3-3; Ord. 7 §1, 2010)

Sec. 10-4-100. Disturbance, breach of peace.

It is unlawful for any person in the Town to make, countenance or assist in the making of undue or unnecessary noise, riot, disturbance or breach of peace on public or private property so as to disturb or cause to be disturbed the lawful peace and quiet of another person. (Ord. 7 §1, 2010)

Sec. 10-4-110. Throwing stones or missiles.

No person shall throw or shoot any stone or other missile at or upon any person, animal, public or private property, building, structure, tree or shrub. (Prior code 18-3-15; Ord. 7 §1, 2010)

Sec. 10-4-120. Fraud by check.

(a) As used in this Section, unless the context otherwise requires:

Check means a written, unconditional order to pay a certain sum in money, drawn on a bank, payable on demand and signed by the drawer. *Check*, for the purposes of this Section only, also includes a negotiable order of withdrawal and a share draft.

Drawee means the bank upon which a check is drawn or a bank, savings and loan association, industrial bank or credit union on which a negotiable order of withdrawal or a share draft is drawn.

Drawer means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature is that of himself or herself or of a person authorized to draw the check on himself or herself.

Insufficient funds means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account

with the drawee, or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for "no account" shall also be deemed to be dishonored for insufficient funds.

Issue. A person issues a check when he or she makes, draws, delivers or passes it or causes it to be made, drawn, delivered or passed.

Negotiable order of withdrawal and *share draft* mean negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

Negotiable order of withdrawal account means an account in a bank, savings and loan association or industrial bank, and *share draft account* means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, industrial bank or credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

(b) Any person, knowing he or she has insufficient funds with the drawee who, with intent to defraud, issues a check for a sum less than five hundred dollars (\$500.00) for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check, which is unlawful.

(c) Any person, having acquired rights with respect to a check which is not paid because the drawer has insufficient funds, shall have standing to file a complaint under this Section, whether or not he or she is the payee, holder or bearer of the check.

(d) Any person who opens a checking account, negotiable order of withdrawal account or share draft account using false identification or an assumed name for the purpose of issuing fraudulent checks commits fraud by check, which is unlawful.

(e) If deferred prosecution is ordered, the court as a condition of supervision may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the supervision in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

(f) A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to a sheriff, deputy sheriff, undersheriff, police officer, district attorney, assistant district attorney, deputy district attorney or authorized investigator for a district attorney investigating or prosecuting a charge under this Section.

(g) This Section does not relieve the prosecution from the necessity of establishing the required culpable mental state. However, for purposes of this Section, the issuer's knowledge of insufficient funds is presumed, except in the case of a postdated check or order, if:

(1) He or she has no account upon which the check or order is drawn with the bank or other drawee at the time he or she issues the check or order; or

(2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue. (Ord. 7 §1, 2010)

Sec. 10-4-130. Public indecency.

It is unlawful to commit public indecency. Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:

- (1) An act of sexual intercourse or deviate sexual intercourse;
- (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or
- (3) A lewd fondling or caress of the body of another person. (Ord. 7 §1, 2010)

Sec. 10-4-140. Indecent exposure.

It is unlawful for a person to knowingly expose his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 7 §1, 2010)

ARTICLE 5

Minors

Sec. 10-5-10. Minor defined.

For the purposes of this Article, *minor* or *minor child* means any person under the age of eighteen (18) years. (Ord. 8 §3, 1993; Ord. 7 §1, 2010)

Sec. 10-5-20. Parent or guardian aiding, abetting.

It is unlawful for any person to knowingly permit any minor child or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the Town. (Ord. 7 §1, 2010)

Sec. 10-5-30. Encouraging delinquency.

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended. (Ord. 7 §1, 2010)

Sec. 10-5-40. Curfew

It is unlawful for any parent, guardian or other person having care or custody of any minor child to allow or permit any such minor child to be or remain on any street, alley or other public place in

violation of Eagle County or Colorado State law curfew requirements. (Ord. 8 §1, 1993; Ord. 7 §1, 2010)

Sec. 10-5-50. Instructions by parent or guardian required.

(a) It shall be the duty of every parent, or person standing in the place or position of a parent, living within the Town to instruct the minor children in their care of the provisions of the ordinances of the Town and to supervise the minor children in his or her care so as to prevent such child or children from violating an ordinance of the Town.

(b) It shall be the duty of any parent, or person standing in the place of or position of a parent, not living within the Town, but who shall permit the minor child or children in his or her care to come into the Town, to instruct the minor child or children on the provisions of the ordinances of the Town and to supervise the minor child or children while within the Town so as to prevent such minor child or children from violating an ordinance of the Town. (Ord. 8 §4, 1993; Ord. 7 §1, 2010)

Sec. 10-5-60. False statement; false credentials.

It is unlawful for any person to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter. (Ord. 7 §1, 2010)

Sec. 10-5-70. Services of others.

It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor is forbidden by law to purchase. (Ord. 7 §1, 2010)

Sec. 10-5-80. Loitering and other acts around schools.

It is unlawful for any person to loiter, idle, wander, stroll or play in, about or on any public, private or parochial school, college or seminary grounds or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout or in connection with such school or the employees thereof, or for any person to:

- (1) Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school;
- (2) Annoy, disturb, assault or molest any student or employee of any such school, college or seminary while in any such school building or on any school grounds;
- (3) Conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in or about any school building or school grounds; or
- (4) Park or move a vehicle in the immediate vicinity of or on the grounds of any such school, college or seminary for the purpose of annoying or molesting the students or employees thereof or

in an effort to induce, entice or invite students into such vehicles for immoral purposes. (Prior code 18-4-6; Ord. 7 §1, 2010)

ARTICLE 6

Alcoholic Beverages and Drugs

Sec. 10-6-10. Definitions.

For purposes of this Code, the following words shall have the meanings ascribed hereafter:

Alcoholic beverage or *alcoholic liquor* means fermented malt beverage or malt liquors.

Controlled substance means a drug or other substance or an immediate precursor which is declared to be a controlled substance under this Article, and also includes marijuana, marijuana concentrate and cocaine.

Drug paraphernalia means any machine, instrument, tool, equipment or device which is primarily designed and intended for one (1) or more of the following:

- a. To introduce into the human body any controlled substance under circumstances in violation of state law;
- b. To enhance the effect on the human body of any controlled substance under circumstances in violation of state law;
- c. To conceal any quantity of any controlled substance under circumstances in violation of state law; or
- d. To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of state law.

Fermented malt beverage, malt liquor, spirituous liquor and *vinous liquor* means the definitions as set forth by the current rules and regulations established by the Colorado Department of Review Liquor and Tobacco.

Public place means any place commonly or usually open to the general public or to which members of the general public may resort, or accessible to members of the general public. By way of illustration, such public places include but are not limited to public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, places of business usually open to the general public and automobiles or other vehicles in or upon any such place or places, but shall not include the interior or enclosed yard area of private homes, residences, condominiums or apartments. (Ord. 7 §1, 2010)

Sec. 10-6-20. Alcohol-related violations.

(a) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be over the age of twenty-one (21) years for the purpose of purchasing within the Town any fermented malt beverage or malt, vinous or spirituous liquors.

(b) It is unlawful for any person under the age of twenty-one (21) years to attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation or any other means.

(c) It is unlawful for any person under the age of twenty-one (21) years to possess or consume, whether actual or constructive, fermented malt beverage or malt, vinous or spirituous liquors.

(d) It is unlawful to sell fermented malt beverage or malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years, or to permit any fermented malt beverage, malt or vinous liquors to be sold or dispensed by a person under eighteen (18) years of age or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.

(e) It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any fermented malt beverage or malt, vinous or spirituous liquors.

(f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting. (Ord. 7 §1, 2010)

Sec. 10-6-30. Illegal possession or consumption of alcoholic beverages by an underage person.

(a) As used in this Section, unless the context otherwise requires:

Establishment means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence, and any real property, including buildings and improvements connected therewith, and shall also include any members, employees and occupants associated therewith.

Private property means any dwelling and its curtilage which is being used by a natural person for habitation and which is not open to the public, and privately owned real property which is not open to the public. Private property shall not include:

a. Any establishment which has or is required to have a license pursuant to Article 46, 47 or 48 of Title 12, C.R.S.;

b. Any establishment which sells alcoholic beverages or upon which alcoholic beverages are sold; or

c. Any establishment which leases, rents or provides accommodations to members of the public generally.

(b) Any person under twenty-one (21) years of age who possesses or consumes alcoholic beverages anywhere in the Town commits illegal possession or consumption of alcoholic beverages by an underage person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.

(c) It shall be an affirmative defense to the offense described in Subsection (b) above that the alcoholic beverages were possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

(1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with the consent of his or her parent or legal guardian who was present during such possession or consumption; or

(2) When the existence of alcoholic beverages in a person's body was due solely to the ingestion of a confectionery which contained alcoholic beverages within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of alcoholic beverages by weight.

(d) The possession or consumption of alcoholic beverages shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(e) Prima facie evidence of a violation of Subsection (b) above shall consist of:

(1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed alcoholic beverages anywhere in this State; or

(2) Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with alcoholic beverage intoxication or impairment while present anywhere in this State.

(f) During any trial for a violation of Subsection (b) above, any bottle, can or other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages.

(g) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who has the permission of such parent or legal guardian, may give or permit the possession

and consumption of, alcoholic beverages to or by a person under the age of twenty-one (21) years under the conditions described in Paragraph (c)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under twenty-one (21) years of age. (Ord. 7 §1, 2010)

Sec. 10-6-40. Sales near schools.

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of two hundred fifty (250) feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal, upon the expiration thereof, of any license in effect at such time authorizing such business within the restricted area hereby established. (Ord. 7 §1, 2010)

Sec. 10-6-50. Possession of drug paraphernalia.

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of state law.

(b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense. (Ord. 7 §1, 2010)

Sec. 10-6-60. Possession of cannabis.

(a) For the purposes of this Section, the term *cannabis* shall include all parts of the plant *Cannabis sativa L.*, whether growing or not, the seed thereof, the resin extracted from any part of such plant and every compound, manufacture, salt derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake or the sterilized seed of such plant, which is incapable of germination. The term *cannabis concentrate* means hashish, tetrahydrocannabinols or any alkaloid, salt derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols.

(b) It is unlawful to possess one (1) ounce or less of cannabis or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00).

(c) It is unlawful to openly and publicly display or consume one (1) ounce or less of cannabis concentrate, and upon conviction thereof, or a plea of guilty or no contest thereto, punishment shall be as set out in Section 1-4-20 of this Code.

(d) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act. (Ord. 7 §1, 2010)

Sec. 10-6-70. Abusing toxic vapors.

(a) As used in this Section, the term *toxic vapors* means the following substances or products containing such substances: alcohols, including methyl, isopropyl, propyl or butyl; aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate; acetone; benzene; carbon tetrachloride; cyclohexane; Freons, including Freon 11 and Freon 12; hexane; methyl ethyl ketone; methyl isobutyl ketone; naptha; perchlorethylene; toluene; trichloroethane or xylene.

(b) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system. No person shall knowingly possess, buy or use any such substance for the purposes described in this Section. This Subsection shall not apply to the inhalation of anesthesia for medical or dental purposes.

(c) It is unlawful for any person knowingly to sell, offer for sale, deliver or give away to any other person any substance or product releasing toxic vapors, where the seller, offerer or deliverer knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system, unless otherwise permitted by law.

(d) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (a) above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 7 §1, 2010)

ARTICLE 7

Weapons

Sec. 10-7-10. Carrying a concealed weapon.

(a) A person commits a misdemeanor if he or she knowingly and unlawfully:

- (1) Carries a knife concealed on or about his or her person;
- (2) Carries a firearm concealed on or about his or her person; or

(3) Without legal authority, carries, brings or has in his or her possession a firearm or any explosive, incendiary or other dangerous device on the property of or within any building in which a legislative hearing or meeting is being or is to be conducted, or in which the official office of any member, officer or employee of the Town is located.

(b) It shall be an affirmative defense that the defendant was:

- (1) A person in his or her own dwelling or place of business or on property owned by such person or under his or her control at the time of the act of carrying;

(2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of such person's or another's property while traveling;

(3) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to state law;

(4) A peace officer; or

(5) A federal officer while on duty and serving within the Town under the authority of federal rules and regulations. (Ord. 7 §1, 2010)

Sec. 10-7-20. Disposition of confiscated concealed weapons.

It shall be the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the same to the Municipal Court Judge, to be held by him or her until the final determination of the prosecution for said offense, and upon the finding of guilt, it shall then be the duty of the Municipal Court Judge to deliver said weapon forthwith to the Eagle County Sheriff's Department, which shall make disposition of the weapon. (Ord. 7 §1, 2010)

Sec. 10-7-30. Prohibited use of weapons.

(a) A person commits a misdemeanor if he or she:

(1) Knowingly and unlawfully aims a firearm at another person;

(2) Recklessly or with criminal negligence discharges a firearm or shoots a bow and arrow;

(3) Knowingly sets a loaded gun, trap or device designed to cause an explosion upon being tripped or approached and leaves it unattended by a competent person immediately present;

(4) Has in his or her possession a firearm while he or she is under the influence of intoxicating liquor or of a controlled substance, as defined in Section 10-6-10 of this Chapter. Possession of a permit issued under Section 18-12-105.1, C.R.S., is no defense to a violation of this Section; or

(5) Knowingly aims, swings or throws a throwing star or nunchaku as defined in this Paragraph at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container. For purposes of this Paragraph, *nunchaku* means an instrument consisting of two (2) sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, which is in the design of a weapon used in connection with the practice of a system of self-defense, and *throwing star* means a disk having sharp radiating points or any disk-shaped bladed object which is handheld and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense.

(b) Nothing contained in this Section shall prevent the use of any such instruments in shooting galleries or in any private grounds or residences under circumstances when such instrument can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such

manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence, and further provided that nothing herein contained shall be construed to prevent the carrying of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.

(c) Nothing contained in this Section shall prevent the use of any such instruments by any peace officer as shall be necessary in the proper discharge of his or her duties. (Ord. 7 §1, 2010)

Sec. 10-7-40. Selling weapons to intoxicated persons.

(a) It is unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, to any person in a condition of agitation and excitability or to any minor under the age of eighteen (18) years.

(b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the Town to such person. (Ord. 7 §1, 2010)