

CHAPTER 10

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ARTICLE 1

General Provisions

Sec. 10-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings hereafter set forth when used in this Chapter:

Intentionally or *with intent*. When the element of intent is part of an offense, it is a specific intent offense. A person acts *intentionally* or *with intent* when his or her conscious objective is to cause the specific result proscribed by the section defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

Knowingly or *willfully*. When the mental culpability required for an offense is *knowingly* or *willfully*, the offense is a general intent crime. A person acts *knowingly* or *willfully* with respect to conduct or to a circumstance described by the section defining the offense when he or she is aware that his or her conduct is of such nature or that such circumstance exists or when he or she is aware that his or her conduct is practically certain to cause the result.

Recklessly. A person acts *recklessly* when he or she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists. (Prior code 9-2-1; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-1-20. Criminal intent.

(a) It is unlawful for a person to commit the offense of criminal intent. A person commits criminal intent if, acting with the kind of culpability otherwise required for the commission of an offense, he or she engages in conduct constituting a substantial step toward the commission of the offense. A *substantial step* is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal intent if the conduct would establish his or her complicity under Section 18-1-603, C.R.S., were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent.

(d) Criminal intent to commit a misdemeanor is a misdemeanor.

(e) Criminal intent to commit a petty offense is a crime of the same class as the offense itself. (Prior code 9-9-4; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-1-30. Conspiracy.

(a) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he or she agrees with any other person or persons that they, or one (1) or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or he or she agrees to aid the other person or persons in the planning or commission of a crime or of an attempt to commit such crime.

(b) No person may be convicted of conspiracy to commit a crime, unless an overt act in pursuance of that conspiracy is proved to have been done by him or her or by a person with whom he or she conspired.

(c) If a person knows that one with whom he or she conspires to commit a crime has conspired with another person to commit the same crime, he or she is guilty of conspiring to commit a crime with the other person, whether or not he or she knows the other person's identity.

(d) If a person conspires to commit a number of crimes, he or she is guilty of only one (1) conspiracy so long as such multiple crimes are part of a single criminal episode.

(e) Conspiracy to commit a misdemeanor is a misdemeanor.

(f) Conspiracy to commit a petty offense is a crime of the same class as the offense itself. (Prior code 9-9-5; Ord. 17 §1 1992; Ord. 4 §1, 2009)

Sec. 10-1-40. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense or, after gaining knowledge that an offense has been committed, he or she conceals such knowledge from any court or law enforcement official, or harbors or protects a person charged with or convicted of an offense. (Prior code 9-9-6; Ord. 17 §1, 1992)

Sec. 10-1-50. Accessory to crime.

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

(b) *Render assistance* means to:

(1) Harbor or conceal the other;

(2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;

(3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;

(4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or

(5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

(c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class. (Ord. 4 §1, 2009)

Sec. 10-1-60. Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the Town, whether individually or in connection with one (1) or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any ordinance of the Town is likewise guilty of such offense. (Ord. 4 §1, 2009)

ARTICLE 2

Government and Public Officers

Sec. 10-2-10. Definitions.

For purposes of this Chapter, the following words shall be defined as set forth below:

Government includes any branch, subdivision, institution or agency of the government of this State or 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. (Prior code 9-8-2; Ord. 17 §1, 1992)

Sec. 10-2-20. 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. 4 §1, 2009)

Sec. 10-2-30. 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 or firefighter was acting in an illegal manner, if the peace officer or firefighter was acting under color of his or her official authority as defined in Subsection 10-2-50(c) below.

(f) This Section does not apply to obstruction, impairment or hindrance of the making of an arrest. (Ord. 4 §1, 2009)

Sec. 10-2-40. 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 any 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 he or she was acting under color of his or her official authority and, in attempting to make the arrest, he or she 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, he or she 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 him or her.

(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. (Prior code 7-1-6; Ord. 4 §1, 2009)

Sec. 10-2-50. False reporting to authorities.

(a) 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;

(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;

(4) Knowingly gives false information to any law enforcement officer with the purpose of implicating another; or

(5) Provides false identifying information to law enforcement authorities.

(b) For purposes of this Section, *false identifying information* means a person's name, address, birth date, social security number, driver's license or State identification number. (Ord. 16 §1, 2004; Ord. 4 §1, 2009)

Sec. 10-2-60. Interference with public works.

It is unlawful for any person to hinder or obstruct any person employed by the Town from making, repairing or performing any public improvement or work for the Town. (Prior code 9-8-3; Ord. 17 §1, 1992)

Sec. 10-2-70. Removing vehicles from impound lot.

It is unlawful for any person, without authority of the Town, to remove or attempt to remove a motor vehicle from any area, whether enclosed or not, which is used by the Town, whether temporarily or permanently, for impounding or storing motor vehicles. (Prior code 9-8-7; Ord. 4 §1, 1997; Ord. 4 §1, 2009)

Sec. 10-2-80. Duty of citizens to aid police officers.

It is the duty of all persons in the Town, when called upon by any police officer or member of the Marshal's Department, to promptly aid and assist him or her in the discharge of his or her duties. A

person who refuses to give aid and assistance shall be fined an amount not exceeding one hundred dollars (\$100.00). (Prior code 7-1-7; Ord. 4 §1, 2009)

Sec. 10-2-90. Failure to obey lawful order.

It is unlawful for any person to fail to obey a lawful order of the Town Marshal or other police officer or fire department official made during the conduct of such officer's duties. (Prior code 9-8-1; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

ARTICLE 3

Streets and Public Places

Sec. 10-3-10. 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. 4 §1, 2009)

Sec. 10-3-20. 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. 4 §1, 2009)

Sec. 10-3-30. 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. 4 §1, 2009)

Sec. 10-3-40. Obstruction of public right-of-way.

(a) No person or other legal entity shall obstruct or by any act or omission allow the obstruction of any street, alley, sidewalk or other public right-of-way within the Town. An obstruction shall be deemed

to exist whenever the placement of any object or the carrying on of any activity upon a street, alley, sidewalk or other public right-of-way interferes or reasonably could interfere with the free and unhindered flow of vehicular or pedestrian traffic. For the purposes of this Section, the placing or keeping of any dumpster or other trash storage receptacle in excess of fifty (50) gallons capacity shall be deemed an obstruction per se and a violation hereof, if such dumpster or receptacle is kept upon the right-of-way or public sidewalk on Elk Avenue from First Street to the intersection of Highway 135.

(b) No person or other legal entity shall be prosecuted for a violation of this Section unless such person or entity fails to permanently discontinue the obstructing activity or permanently remove the obstructing object after requested to do so by the Town Manager or any law enforcement officer. (Prior code 11-7-1, 11-7-2, 11-7-3; Ord. 19 §13, 1992; Ord. 4 §1, 2009)

Sec. 10-3-50. Excavation safety.

It is unlawful for any person to have or keep open and uncovered any hole, drain, ditch, pit, vault or other subterranean opening into which persons, animals or vehicles may fall, without providing adequate lights, fencing or other obstruction to warn against and prevent such occurrence. (Prior code 9-9-3; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-3-60. Depositing of snow, ice and building materials.

It is unlawful for any person, without permission from the Town, to deposit, move so as to obstruct reasonable access, place, store or leave any materials or objects, including snow, ice and building or construction materials, on public property, within Coal Creek or against any fire hydrant or public building. (Prior code 9-4-10; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-3-70. 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. 4 §1, 2009)

Sec. 10-3-80. Tire chains.

No person shall operate any motor vehicle upon any paved Town street with chains on the tires when said street is not covered with snow or ice. This prohibition shall not apply to State Highway 135 and the Gothic County Road, otherwise known as Sixth Street, and shall also not apply to Elk Avenue from Sixth Street to the west end of Town. Any person who violates this Section shall be guilty of a misdemeanor and shall be fined up to three hundred dollars (\$300.00) or imprisoned not to exceed ninety (90) days, or punished by both said fine and imprisonment. (Prior code 19-3-1)

Sec. 10-3-90. Camping.

All forms of overnight camping are prohibited. No person shall set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as a house trailer, camp trailer, camp wagon or the like. Camping in certain town parks may be permitted in conjunction with an approved special event permit. (Prior code 19-2-6; Ord. 4 §1, 2009)

ARTICLE 4

Public, Private and Personal Property

Sec. 10-4-10. 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 five hundred dollars (\$500.00). (Prior code 9-4-6; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-20. Damaging or destroying public property.

It is unlawful for any person to intentionally, knowingly, willfully, maliciously or wantonly damage or destroy any real property or improvements thereto, or moveable or personal property belonging to or under the control of the Town, without authority to do such act. (Prior code 9-4-11; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-30. Damaging or destroying private property.

It is unlawful for any person to either intentionally, knowingly, willfully, maliciously or wantonly damage or destroy real property or improvements thereto, or moveable or personal property, belonging to any person. (Ord. 4 §1, 2009)

Sec. 10-4-40. Damaging or removing trees.

It is unlawful for any person to intentionally or knowingly damage, deface, mutilate, remove, pull down, break or in any way interfere with, molest or secrete any tree belonging to or under the control of the Town, or any other person within the Town. (Prior code 9-4-17; Ord. 11 §3, 1996; Ord. 4 §1, 2009)

Sec. 10-4-50. Trespassing.

(a) It is unlawful for any person to knowingly enter, 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, let down any bars or take away any gate so as to expose any enclosure, or to ride or drive across, lodge, camp or sleep on the premises of another within the limits of the Town without the permission of the owner or occupant of such premises. (Prior code 9-4-8, 9-4-9; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-60. Littering.

(a) It is unlawful for any person to place, deposit, throw or leave any garbage, refuse, trash, glass, litter or any discarded object, including paper, old clothes cloth of any kind, boots, shoes, hats, leather, hair, grass, junk cars, straw, hay, trash or any other thing, any street, alley, sidewalk or public or private property in the Town without permission of the owner or person having control thereof, except when such refuse is placed in a public or private receptacle or container installed for that purpose.

(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. (Prior code 9-4-14; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-70. 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 five hundred dollars (\$500.00), 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; 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 or she is not legally entitled as a condition of restoring the thing of value to the other person. (Prior code 9-4-3; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-80. Theft of rental property.

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

- (1) He or she 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) He or she, 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 five hundred dollars (\$500.00). (Prior code 9-4-1; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-90. 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, or when such person reasonably should know that said 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 five hundred dollars (\$500.00). (Prior code 9-4-4; Ord. 17, §1 1992; Ord. 4 §1, 2009)

Sec. 10-4-100. Theft of services.

It is unlawful for any person to knowingly obtain a service from another without the authorization of the person supplying the service or without properly compensating said person for the service obtained, when the value of such service is less than five hundred dollars (\$500.00). (Prior code 9-4-5; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-110. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than five hundred dollars (\$500.00) 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. 4 §1, 2009)

Sec. 10-4-120. Damage to light and water fixtures.

It is unlawful for any person to willfully, maliciously or negligently damage, pull down or in any manner break any lamp post, bracket, electric light globe or fixture, hydrant or any other object or article used for the purpose of furnishing light, power or water to the inhabitants of the Town. (Prior code 9-4-12; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-130. Use of lamp posts and trees.

It is unlawful for any person to hitch any horse, mule or other animal to any of the lamp posts of the Town or trees planted along the sidewalks of the Town, or to place any writing, printing or other devices upon any of such lamp posts or trees for the purpose of advertising any business or for any other cause whatever. (Prior code 9-4-13; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-4-140. 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. 4 §1, 2009)

ARTICLE 5

Public Peace, Order and Decency

Sec. 10-5-10. Disorderly conduct.

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) Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy;
- (3) Fights with another in a public place except in an amateur or professional contest of athletic skill;
- (4) Not being a peace officer, discharges a deadly weapon in a public place except when engaged in lawful target practice or hunting; or
- (5) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm. (Prior code 9-3-2; Ord. 17 §1, 1992; Ord. 2 §§1, 2, 1997; Ord. 4 §1, 2009)

Sec. 10-5-20. 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 such meeting, procession or gathering by physical action, verbal utterance or other means except by privilege granted by the Constitutions of the State of Colorado and the United States. (Prior code 9-8-4; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-5-30. 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, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(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. (Prior code 9-3-6; Ord. 17 §1, 1992; Ord. 4 §2, 1997; Ord. 4 §1, 2009)

Sec. 10-5-40. Loitering.

(a) The word *loiter* means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.

(b) A person commits a Class 1 petty offense if he or she:

(1) Loiters for the purpose of begging;

(2) Loiters for the purpose of unlawful gambling with cards, dice or other gambling paraphernalia;

(3) Loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse;

(4) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in a school building or on school grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil, or any other specific legitimate reason for being there, and having been asked to leave by a school administrator or his or her representative or by a peace officer; or

(5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-7-10 of this Chapter.

(c) It is an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (Ord. 4 §1, 2009)

Sec. 10-5-50. False alarms.

Any person who shall intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor. (Ord. 4 §1, 2009)

Sec. 10-5-60. 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. (Ord. 4 §1, 2009)

Sec. 10-5-70. Explosives.

It is unlawful for any person to store within the Town limits or within one (1) mile thereof any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high explosive in excess of one (1) fifty-pound box or in excess of five hundred (500) caps or other devices used for the detonation of such high explosives. (Ord. 4 §1, 2009)

Sec. 10-5-80. Fireworks.

(a) It is unlawful for any person to knowingly display, sell, cast, throw, light or fire any fireworks without written authorization from the Town Marshal.

(b) *Fireworks*, as used in this Section, means any squib, rocket, cracker, torpedo, grenade, gun, revolver, pistol, cap, cartridge or other combustible firecrackers of any kind.

(c) Nothing in this Section shall prohibit the display, sale or use of traffic signaling flares, photographic flash equipment or public fireworks displays, conducted under the supervision of and with the permission of the Town Marshal or Fire Chief. (Prior code 9-6-5; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-5-90. Abandoned containers and appliances.

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, washer, dryer, freezer or other container or appliance 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. (Ord. 4 §1, 2009)

Sec. 10-5-100. Throwing stones or missiles.

It is unlawful for any person to throw a stone or other missile at any person, animal, public or private property, building, structure, tree or shrub, other than in the normal course during an athletic or sporting event. (Prior code 9-3-7; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-5-110. 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) In adopting this Section, the Town Council finds that, as a matter of policy, the issuance and delivery of a known bad check by any person is, in itself, not only harmful to the person to whom it is given but is also injurious to the community at large and is, therefore, a proper subject for criminal sanction without regard to the purpose for which the check was given.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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 the Town Attorney, Town Marshal, District Attorney or other person authorized by the Town who is investigating or prosecuting a charge under this Section.

(h) 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. (Prior code 9-9-1; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-5-120. Fraudulent driver's license or identification card.

(a) No person shall have in his or her possession a lawfully issued driver's, minor driver's or provisional driver's license, instruction permit or identification card, knowing that such license, permit or identification card has been falsely altered by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter or any other means so that such license, permit or identification card in its thus altered form falsely appears or purports to be in all respects an authentic and lawfully issued license, permit or identification card.

(b) No person shall have in his or her possession a paper, document or other instrument which falsely appears or purports to be in all respects a lawfully issued and authentic driver's, minor driver's or provisional driver's license, instruction permit or identification card, knowing that such instrument was falsely made and was not lawfully issued.

(c) No person shall display or represent as being such person's own any driver's license, minor driver's or provisional driver's license, instruction permit or identification card, which was lawfully issued to another person.

(d) No person shall permit any unlawful use of a driver's license or identification card issued to such person.

(e) No person shall photograph, photostat, duplicate or in any way reproduce any driver's license, identification card or facsimile thereof for the purpose of distribution, resale, reuse or manipulation of the

data or images contained in such driver's license or identification card, unless authorized by law. (Prior code 9-9-10; Ord. 2 §1, 2000; Ord. 4 §1, 2009)

Sec. 10-5-130. 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. 4 §1, 2009)

Sec. 10-5-140. Urinating or defecating in public.

It is unlawful for any person to urinate or defecate in any way or place open to public view. (Prior code 9-3-4; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-5-150. Cruelty to animals.

It is unlawful for any person to torture, cruelly beat, needlessly injure, kill, mistreat, neglect or abandon any animal, or cause or procure the same to be done or, having the charge and custody of any animal, to fail to provide it with proper food, drink or protection from the weather. (Prior code 9-9-2; Ord. 17 §1, 1992)

ARTICLE 6

Minors

Sec. 10-6-10. 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. 4 §1, 2009)

Sec. 10-6-20. 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. 4 §1, 2009)

Sec. 10-6-30. False statement; false credentials.

It is unlawful for any person under twenty-one (21) years of age 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. 4 §1, 2009)

Sec. 10-6-40. 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 any person under the age of twenty-one (21) years is forbidden by law to purchase. (Ord. 4 §1, 2009)

Sec. 10-6-50. 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. (Ord. 4 §1, 2009)

ARTICLE 7

Alcoholic Beverages and Drugs

Sec. 10-7-10. 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, vinous or spirituous 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 and marijuana concentrate.

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.

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.

Fermented malt beverage means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent (0.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight.

Malt liquor includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight.

Marihuana or *marijuana* means all parts of the plant *cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include the mature stalks of the plant, the fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as *marijuana* herein.

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.

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.

Spirituos liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (0.5%) alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except malt liquors and vinous liquors shall be construed to be spirituous liquor.

Vinous liquor means wine and fortified wines which contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Prior code 9-9-8; Ord. 15 §2, 1997; Ord. 4 §1, 2009)

Sec. 10-7-20. 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 alcoholic beverage.

(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 alcoholic beverage.

(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 alcoholic beverages 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 alcoholic beverage.

(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.

(g) It is unlawful for any person to sell, serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of alcoholic beverage to a visibly intoxicated person or known habitual

drunkard, or to otherwise violate any provision of the Colorado Liquor Code. (Prior code 9-5-1, 9-5-4; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-7-30. Illegal possession or consumption of alcoholic beverages by an underage person.

(a) 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.

(b) It is an affirmative defense to the offense described in Subsection (a) above that the alcoholic beverage was 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 in the state statutes, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of alcoholic beverages by weight.

(c) 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.

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

(1) Evidence that the defendant was under twenty-one (21) years of age 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.

(e) During any trial for a violation of Subsection (a) 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.

(f) 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 Subsection (b)(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.

(g) Illegal possession or consumption of any alcoholic beverage by an underage person is a petty offense punishable as follows:

(1) Upon conviction of a first offense, illegal possession or consumption of an alcoholic beverage by an underage person shall be punishable by a fine of not more than two hundred fifty dollars (\$250.00).

(2) Upon conviction of a second offense, illegal possession or consumption of alcoholic beverage by an underage person shall be punishable by a fine of not more than five hundred dollars (\$500.00).

(3) Upon conviction of a third or subsequent offense, which shall be a Class 2 misdemeanor, illegal possession or consumption of an alcoholic beverage by an underage person shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) and/or one (1) year of incarceration.

The requirements set forth in this Subsection are not intended to, and shall not, substitute for or otherwise abridge or modify the requirements and conditions set forth in Section 18-13-122(2)(b)(I)—(IV), C.R.S., the same Sections to continue in full force and effect and to apply to an underage person convicted of possessing or consuming ethyl alcohol as indicated therein. (Prior code 9-5-3; Ord. 15 §1, 1997; Ord. 16 §1, 2008; Ord. 4 §1, 2009)

Sec. 10-7-40. Sales near schools.

It is unlawful for any person to sell, offer or expose for sale or gift any alcoholic beverage within a distance of five hundred (500) 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. 4 §1, 2009)

Sec. 10-7-50. Public drinking.

(a) It shall be unlawful for any person to carry, drink or consume or have any open containers of alcoholic beverages on any street, sidewalk, alley, any other public right-of-way, in any automobile or on the grounds or in the facilities of any public or private school, except where authorized by the governing authority of such institution.

(b) No person shall drink any alcoholic beverages in or on any of the above enumerated places.

(c) It shall be unlawful for any person to drink or consume any alcoholic beverage from glass or other breakable container on any public property within the Town.

(d) It shall be unlawful for any person to possess any unsealed alcoholic beverage in any container of any kind or description on any public street, sidewalk or other public right of way. For purposes hereof, the term *unsealed* means that the cap, top or access to the alcoholic beverage is broken or opened so that such beverage may be consumed without further action by the person. Notwithstanding the foregoing, the provisions of this Section shall not apply to a person in possession of one (1) opened but resealed container of partially consumed alcoholic beverage which was lawfully removed from a licensed premises pursuant to Section 12-47-412, C.R.S.

(e) It shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license.

(f) The Town Council may, by motion at any regular or special meeting, abate the provisions set forth in this Section as to specific location at specific times; provided, however, that such abatement otherwise meets all requirements of the Colorado Liquor Code. Any such abatement shall be immediately reported by the Town Clerk, in writing, to the Town Marshal. (Prior codes 9-5-2, 9-5-3; Ord. 15 §1, 1997; Ord. 22 §1, 2008; Ord. 4 §1, 2009)

Sec. 10-7-60. 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 petty offense and shall be punished by a fine of not more than one hundred dollars (\$100.00). (Prior code 9-9-8; Ord. 15 §2, 1997; Ord. 4 §1, 2009)

Sec. 10-7-70. Possession of marijuana.

(a) Any person who knowingly possesses, displays, consumes or uses not more than one (1) ounce of marijuana commits a petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00).

(b) The provisions of this Section shall not apply to any person who possesses or uses marijuana pursuant to the Dangerous Drugs Therapeutic Research Act. (Prior code 9-9-7; Ord. 15 §2, 1997; Ord. 4 §1, 2009)

Sec. 10-7-80. 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; naphtha; 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, offeror 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.

(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. 4 §1, 2009)

Sec. 10-7-90. Knowingly allowing underage persons to possess or consume ethyl alcohol on private property.

(a) No person who is in possession and control of private property shall knowingly allow any person under twenty-one (21) years of age to possess or consume ethyl alcohol anywhere on the private property in his or her possession and control.

(b) No person in possession and control of private property shall knowingly host, permit or allow persons under twenty-one (21) years of age to gather at said property where ethyl alcohol is available without making reasonable efforts to ensure that all persons under twenty-one (21) years of age do not possess ethyl alcohol or consume ethyl alcohol. *Reasonable efforts* shall include, but are not limited to, limiting the amount of ethyl alcohol available, limiting the size of the gathering, restricting access to ethyl alcohol by persons under twenty-one (21) years of age and obtaining a valid government-issued identification confirming each person's age.

(c) It shall be an affirmative defense to this Section if ethyl alcohol is possessed or consumed in accordance with Subsection 10-7-30(b) of this Chapter.

(d) Knowingly allowing underage persons to possess or consume ethyl alcohol on private property shall be a misdemeanor and, upon conviction, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00).

(e) A surcharge in the sum of ten dollars (\$10.00) is hereby levied upon each criminal action resulting in a conviction or in a deferred judgment and sentence. (Ord. 2 §1, 2011)

ARTICLE 8

Weapons

Sec. 10-8-10. Definitions.

(a) As used in this Article, unless the context otherwise requires, the following definitions shall apply:

Blackjack includes any billy, sand club, sandbag or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

Bomb means any explosive or incendiary device or Molotov cocktail as defined in Section 9-7-103, C.R.S., or any chemical device which causes or can cause an explosion, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

Firearm means any pistol, revolver, rifle, shotgun or other device designed to shoot, throw or hurl a projectile by means of gunpowder or other explosive.

Gas gun means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device and includes projectiles designed for use in such device.

Gravity knife means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force that, when released, is locked in place by means of a button, spring, lever or other device.

Handgun means a pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, does not exceed twelve (12) inches.

Knife means any dagger, dirk, knife or stiletto with a blade over three and one-half (3½) inches in length, or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds; but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

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.

Stun gun means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.

Switchblade knife means any knife the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle.

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) It is an affirmative defense to any provision of this Article that the act was committed by a peace officer in the lawful discharge of his or her duties. (Prior code 9-6-1; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-8-20. Carrying concealed weapon; forfeiture.

(a) It is unlawful for any person to knowingly carry on his or her person, possess or personally display any firearm, whether concealed or not.

(b) Nothing in this Section shall make it unlawful for a person to carry, possess or display a firearm if that person is:

(1) In or on his or her own dwelling, place of business or property, or property under his or her legal control;

(2) In a private motor vehicle and carrying or displaying the firearm in plain view for protection of person or property while traveling;

(3) Directly proceeding to or returning from target practice, hunting or other legal use of the firearm, and carrying the firearm in plain view and unloaded and properly cased;

(4) In possession of valid legal authority to possess, carry or display said firearm, which authority has been duly issued pursuant to state or federal law; or

(5) Participating in a parade or other cultural event and the firearm is not loaded with live ammunition.

(c) It is unlawful for any person to wear under his or her clothes or concealed about his or her person, or to display in a threatening manner any dangerous or deadly weapon, including but not limited to any pistol, revolver, metallic knuckles, Bowie knife, dirk, dagger or knife resembling a Bowie knife, or any other dangerous or deadly weapon.

(d) It is unlawful for any person to sell, offer to sell, display, use, possess or carry any knife having the appearance of a pocket knife the blade of which can be opened by a flick of a button, pressure on the handle or other mechanical contrivance. Any such knife is hereby declared to be a dangerous or deadly weapon within the meaning of Subsection (c) above.

(e) It is an affirmative defense to a charge under this Section that the defendant carried a knife which he or she uses for sports, fishing or other lawful use.

(f) Nothing in this Section shall be construed to forbid a United States Marshal, sheriff, constable, deputy and any regular, special or ex officio police officer or other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of his or her duties. (Prior code 9-6-1, 9-6-2; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-8-30. Disposition of confiscated concealed weapons.

Any peace officer, upon making an arrest under this Article, may seize the firearm and place the same in safekeeping as directed by the Town Marshal, and it shall thereafter be disposed of pursuant to an order of the court having jurisdiction over the matter. Should the person arrested be convicted of a violation of this Section, the court may order that the firearm be forfeited and destroyed, or retained by the Town Marshal. (Prior code 9-6-1; Ord. 17 §1, 1992)

Sec. 10-8-40. 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. Possession of a permit issued under Section 18-12-105(2)(c), C.R.S., is no defense to a violation of this Section; or

(5) Knowingly aims, swings or throws a throwing star or nunchaku 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.

(b) It is unlawful for any person, except peace officers in the performance of their duties, to fire or discharge any bomb, cannon, gun, pistol, rifle, firearm or like weapon within the Town, without prior permission in writing from the Town, which permission shall limit the time and place of such firing.

(c) 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.

(d) 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. (Prior code 9-6-4; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-8-50. 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. 4 §1, 2009)

ARTICLE 9

Regulation of Noise

Sec. 10-9-10. Declaration of policy.

The Town Council finds that noise is a source of environmental pollution that is a threat to public peace and to the health, safety and welfare of the residents and visitors of the Town. Noise has an adverse

effect on persons and, accordingly, represents a threat to the economic and aesthetic well-being of the community. Furthermore, the Town Council finds that it is the responsibility of individuals and businesses creating noise to mitigate and abate such noise and not the responsibility of those that are impacted by the noise. Based on these findings, the Town Council has determined that it is sound policy to establish standards for noise levels permitted in Town, types of noise permitted and prohibited and time periods in which certain noises are permitted and prohibited. (Ord. 19 §1, 2007; Ord. 17 §1, 2008; Ord. 4 §1, 2009)

Sec. 10-9-20. Definitions.

For purposes of this Article only, capitalized terms contained herein shall have the following meanings ascribed to such terms. All terminology used in this Article and not otherwise defined below shall have the meanings generally ascribed to such terminology in the applicable publications of the American National Standards Institute (ANSI) or its successor organization.

Commercial District means any area zoned primarily for commercial, business or other high-impact uses, including but not limited to C, B1, B2, B3 and T zone districts.

Construction Activities means any and all activities incidental to the erection, demolition, altering, assembling, installing or equipping of buildings, structures, roads or appurtenances thereto, including, without limitation, land clearing, grading, excavating, filling, landscaping, the use of power equipment and the delivery, loading or unloading of materials and equipment.

Enforcement Officer means any member of the Marshal's Department or its designated representative.

Nighttime means the period from 10:00 p.m. to 7:00 a.m. daily.

Noise Suppression Plan means that plan for noise management and/or mitigation as set forth in Section 10-9-80 below.

Property Line means an imaginary line at the ground surface and its vertical extension, which separates the real property owned or rented by one (1) person from that which is owned or rented by another person and separates real property from public premises, or in multiple-dwelling units, from the adjoining unit, such as the wall between two (2) apartments.

Recipient Party means any person, business or other legal entity that is the recipient of any noise as addressed in this Article.

Recreation and Public District means any area zoned primarily for recreation, sporting and entertainment and similar types of uses, including but not limited to the Public District.

Residential District means any area zoned primarily for residential use or other low-impact use, including but not limited to R1, R1A, R1B, R1C, R1D, R1E, R2, R2A, R2C, R3C and R4 Districts.

Sound Level Meter means an apparatus or instrument, including a microphone, amplifier, attenuator, output meter and frequency weighting networks, for the measurement of sound levels.

Source Party means any person, business or other legal entity that is the generator or source of any noise as addressed in this Article.

Special Event means any performance, sporting event, artistic showing, festive, commercial or gathering activity or other gathering on public property for a limited period of time which is sponsored by an organization, whether not for profit or not where:

a. The expenditure of Town resources is contemplated or deemed necessary by Town personnel to maintain public health, safety and welfare;

b. The event will be conducted on property that requires that the Town issue a special event permit, pursuant to Section 6-4-110 of this Code; or

c. The event is expected to have visual, noise or other environmental impact on the immediate vicinity or surrounding area of the event. (Ord. 19 §1, 2007; Ord. 17 §1, 2008; Ord. 4 §1, 2009)

Sec. 10-9-30. Standards.

Standards used in the measurement of sound as provided for in this Article shall be as follows:

(1) Sound level measurement shall be made with a Sound Level Meter using the "A" weighting scale set on "slow" response.

(2) Measurements shall be taken at the property line of the recipient party, applying the sound pressure levels of the Zone Classification set forth in Table 10-1 of the recipient party's property as set forth in Subsection 10-9-60(a) below. Where the recipient party is an enforcement officer only, the location for taking said measurement shall be the source party's property line, applying the sound pressure levels of the Zone classification set forth in Table 10-1 of the source party's property as set forth in Subsection 10-9-60(a). The sound level meter shall be used according to the manufacturer's specifications.

(3) Background noise levels shall be taken for comparison with a given source for accuracy of a measurement. Enforcement actions will be taken if the source of noise is greater than the stated permissible levels and the background noise level.

(4) Extraneous or momentary spikes in the background noise readings shall not be used to compare with the source noise readings.

(5) If the source is constant and too loud to determine the background noise level, then the enforcement officer must find a similar site and distance to test for the background noise level. (Ord. 19 §1, 2007; Ord. 17 §1, 2008)

Sec. 10-9-40. Prohibited noise.

It shall be unlawful for any person to create, cause or allow the continuance of any unreasonably loud, disturbing, unusual, frightening or unnecessary noise which interferes with a neighboring resident's reasonable use of his or her property. Such noise may include, but is not limited to, the following:

(1) Horns and signaling devices: The intentional sounding of any horn or signaling device of a motor vehicle on any street or public place continuously or intermittently, except as an emergency warning device.

(2) The sounding of a security alarm for more than three (3) minutes.

(3) The repair, rebuilding or testing of any motor vehicle during nighttime.

(4) Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises therefrom.

(5) Operating any motor vehicle, motorcycle, truck, equipment or snowmobile in any manner that includes the removal or modification of any manufacturers' supplied equipment, including, without limitation, the exhaust system, which causes unreasonable or disturbing noise.

(6) Operating any motor vehicle or motorcycle in a manner as to constitute unreasonable and disturbing noise.

(7) Noisy parties: Congregating because of or participating in any party or gathering of people during nighttime in such a manner as to disturb the peace.

(8) The playing of any radio, phonograph, musical instrument, outdoor speakers, television or any such device in such a manner so as to disturb the peace of nearby persons during the nighttime.

(9) Any periodic, impulsive or shrill noise which is loud enough to disturb the peace of others within any residence during the nighttime.

(10) The yelling, shouting, whistling or singing on the public streets or private property at nighttime in such a manner as to disturb the peace.

(11) Construction between the hours of 7:00 p.m. and 7:00 a.m., Monday through Friday, and before 8:00 a.m. and after 5:00 p.m. on Saturdays and Sundays.

(12) The use or firing of explosives, firearms or similar devices, which create loud sound.

(13) Slamming of Dumpster container covers and doors. (Ord. 19 §1, 2007; Ord. 17 §1, 2008)

Sec. 10-9-50. Permitted noise.

The following noises are allowed to exceed the noise levels permitted in the zone district as further described in this Article at the times specified herein, unless deemed a disturbance of the peace by an enforcement officer.

(1) Sound emanating from outdoor athletic events between 7:00 a.m. and 10:00 p.m.

(2) Construction activities between 7:00 a.m. and 7:00 p.m., Monday through Friday, and 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays, provided that the following conditions are met:

a. Noise levels do not exceed eighty (80) decibels at the property line.

b. Equipment is operated in accordance with the manufacturers' specifications and with all standard manufacturers' mufflers and noise-reducing equipment in use and in properly operating condition.

c. Notices shall be posted to inform workers, including subcontractors, about the basic noise requirements as well as specific noise restrictions to the project.

d. Jackhammers, drills, large compressors and other types of equipment that exceed eighty (80) decibels must be used in conjunction with an approved noise suppression plan as approved by the Marshal's Department.

(3) Special events, farmers' markets or other events to which the public is invited, provided that the following conditions are met:

a. The maximum decibel level at the perimeter of the event does not exceed one hundred (100) decibels.

b. Amplified noise shall be created only between the hours of 9:00 a.m. and 10:00 p.m.

c. Neighbors within two hundred fifty (250) feet of the site of the proposed sound source are notified. Such notification must be in writing and be delivered seven (7) days prior to the start of the event.

d. The arrangement of loudspeakers or the sound instruments must be such that they minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically caused dispersal of sound beyond the property lines.

e. All reasonable measures are taken to baffle or reduce noise impacts on the neighbors.

f. Event organizers agree to cooperate with the Marshal's Department in addressing noise complaints from neighbors, which may include the termination of the event.

g. Organizers of special events or other events that the public is invited to may request a variance from noise restrictions set forth in this Article from the Town Council. The variance request must meet the following requirements before a variance is granted:

1. The variance request shall include reasons why the variance should be granted, how the public good will outweigh impacts on neighbors and other factors supporting the request.

2. If approved, the variance shall contain all conditions upon which said variance has been granted, including but not limited to the effective dates, times of day, location, sound pressure level or equipment limitation. The Town Council may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(4) Private events to which the public is not invited and that are located at a park, business or nonprofit facility with the following conditions:

a. Private events must comply with the requirements of Subparagraphs (3)a. through (3)f. above governing public events.

b. A maximum of two (2) per week at any property.

c. If complaints are received from neighbors about noise from a private event, the event organizer must meet with the Marshal's Department and implement additional control measures for future events to prevent disturbance of neighbors.

d. An administrative fee of up to two hundred fifty dollars (\$250.00) is required for review of additional control measures. (Ord. 19 §1, 2007; Ord. 17 §1, 2008; Ord. 4 §1, 2009)

Sec. 10-9-60. Maximum permitted noise levels by zone district.

(a) No person or group of persons shall operate or cause to be operated any continuous, regular or frequent source of noise that exceeds the maximum permissible sound pressure level set forth in Table 10-1 below.

**Table 10-1
Maximum Sound Pressure Levels**

<i>Zone Classification</i>	<i>Nighttime (10:00 p.m. to 7:00 a.m.)</i>	<i>Daytime (7:00 a.m. to 10:00 p.m.)</i>
Residential District	50 dBA	55 dBA
Commercial District	60 dBA	70 dBA
Recreation and Public District	55 dBA	65 dBA

(b) No person shall drive, operate, move, cause or knowingly permit to be driven a motor vehicle or combination of vehicles at any time in such a manner to exceed the noise limits for the category of motor vehicle shown in Table 10-2 below.

**Table 10-2
Noise Limits for Motor Vehicles**

<i>Type of Vehicle</i>	<i>Noise Level dBA for Speed of 25 mph or Less</i>
Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating of 10,000 pounds or more, or by any combination of vehicles towed by such motor vehicles	82
Any other motor vehicle (less than 10,000 pounds) or any combination of vehicles towed by any motor vehicle	80

(c) Noise shall be measured at a distance of at least twenty-five (25) feet from the vehicle with the sound level meter at least four (4) feet above the immediate surrounding surface. (Ord. 19 §1, 2007; Ord. 17 §1, 2008)

Sec. 10-9-70. Exemptions.

The following uses and activities shall be exempt from noise level regulations:

(1) Emergency work that is necessary to restore property to a safe condition following a fire, accident or other disaster, to restore public utilities or to protect persons or property from an imminent danger. Such work must comply with the requirements of this Article for a noise suppression plan as approved by the Marshal's Department, except where the activity is undertaken as part of any governmental activity.

(2) Noises of safety signals, warning devices and emergency pressure-relief valves.

(3) Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.

(4) Use of firearms or other devices by enforcement officers in the performance of their official duties and training.

(5) Noises resulting from public transportation vehicles and buses.

(6) Noise from snowplowing, street cleaning or trash collection.

(7) Lawful fireworks. (Ord. 19 §1, 2007; Ord. 17 §1, 2008)

Sec. 10-9-80. Noise suppression plan.

(a) Where a noise suppression plan is required under this Article, such noise suppression plan shall be submitted to the Marshal's Department for approval and shall include the following:

(1) Contact information for the applicant.

(2) Dates of the activity.

(3) Hours of the activity.

(4) Location of the activity.

(5) Any equipment constraints that prevent common noise-reduction measures.

(6) Description of how noise-blocking or -reducing measures will be utilized and implemented.

(7) A layout map of the locations of baffles and other sound-blocking or -reducing measures with relation to the source of noise.

All submittals must be timely for adequate review.

(b) Approval may be granted upon a good and sufficient showing that:

(1) The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this Article; and

(2) No reasonable alternative is available to the applicant.

(c) An administrative fee of up to two hundred fifty dollars (\$250.00) is required for review of any noise suppression plan. Such fee shall not apply to any governmental activity.

(d) Notwithstanding anything contained in this Article to the contrary, the Town may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects of noise upon the community or the surrounding neighborhood. (Ord. 19 §1, 2007; Ord. 17 §1, 2008)

Sec. 10-9-90. Enforcement; penalty.

An enforcement officer shall have the right to inspect property concerning any noise complaint or, absent any complaint, on his or her own. Enforcement officers may issue a warning notice or summons and complaint to any person in violation of this Article. Any person who shall be the source of any noise in violation of this Article shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00) for each violation and/or incarcerated for not more than one (1) year for each separate offense. (Ord. 19 §1, 2007; Ord. 17 §1, 2008)

ARTICLE 10

Alarm Systems

Sec. 10-10-10. Definitions.

As used in this Article, unless the context otherwise requires, the following definitions shall apply:

Alarm notification means a notification intended to summon the Marshal's and/or Fire Department, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion or fire.

Alarm site means a single premises or location served by an alarm system under the control of one (1) owner, manager or person.

Alarm system means a device or system that emits, transmits or relays a signal intended to summon the police services of the Marshal's Department or the fire emergency services provided by the Crested Butte Fire Protection District (hereinafter "Fire Department"), including but not limited to local alarms, direct notification alarms and motor vehicle theft alarms.

False alarm notification means an alarm notification to the Marshal's Department or Fire Department, when the responding officer finds no evidence of fire, unauthorized intrusion, attempted unauthorized intrusion, robbery, attempted robbery, theft or an attempt to take a person hostage.

Person in control of an alarm system means the owner of an alarm site, the owner of a business located at an alarm site, the local manager of a business located at an alarm site or the owner or operator of a motor vehicle containing a theft alarm. (Prior code 9-7-1; Ord. 2 §1, 1988; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-10-20. Reporting of alarm system.

The presence of an alarm system, except a motor vehicle theft alarm, and its mode of operation shall be reported to one (1) or both of the Marshal's Department and Fire Department which it is intended to summon by a person in control of that alarm system. Such reporting shall occur within ten (10) days after its installation. (Prior code 9-7-2; Ord. 2 §1, 1988; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-10-30. Maintenance of alarm system.

An alarm system shall be maintained and operated in such fashion that false alarm notifications are not created. Any false alarm notifications in excess of five (5) within any twelve-month period from any one (1) alarm site or motor vehicle shall be conclusive evidence that the alarm system is not being maintained and operated in such a fashion that false alarm notifications are not created. (Prior code 9-7-3; Ord. 2 §1, 1988; Ord. 17 §1, 1992)

Sec. 10-10-40. Violation; penalty.

(a) Any person in control of an alarm system who violates the provisions of Sections 10-10-20 and 10-10-30 above shall be guilty of a misdemeanor. Upon conviction thereof, such person shall be fined as follows, with the minimum fines deemed mandatory fines not subject to reduction by the Municipal Judge:

(1) Violation of Section 10-10-20 above shall result in a minimum fine of one hundred dollars (\$100.00).

(2) Violation of Section 10-10-30 above shall result in a minimum fine of fifty dollars (\$50.00) if the police are summoned by the false alarm notification.

(3) Violation of Section 10-10-30 above shall result in a minimum fine of two hundred fifty dollars (\$250.00) if the Fire Department is summoned by the false alarm notification.

(b) Each false alarm notification in excess of five (5) within any twelve-month period shall be deemed a separate offense. (Prior code 9-7-4; Ord. 2 §1, 1988; Ord. 17 §1, 1992; Ord. 4 §1, 2009)

Sec. 10-10-50. No liability.

The Town, Town Marshal, deputies or other authorized personnel shall not be liable if they are required to cause damage to a motor vehicle by reasonably gaining entrance thereto for the purpose of stopping an alarm notification. (Prior code 9-7-6; Ord. 17 §1, 1992)

ARTICLE 11

Discriminatory Practices

Sec. 10-11-10. Declaration of policy.

It is the policy of the Town to prevent discrimination against anyone because of his or her race, color, creed, religion, ancestry, national origin, sex, age, marital status, physical or mental disability, sexual

orientation, family responsibility or political affiliation. The purpose of this Article is to establish guidelines for nondiscrimination within the Town by identifying those acts or actions which are incompatible with the best interests of the Town's residents and visitors. (Prior code 2-6-1; Ord. 6 §1, 1993; Ord. 4 §1, 2009)

Sec. 10-11-20. Definitions.

For the purposes of this Article, unless otherwise apparent from the context, the following definitions apply:

Discrimination or to discriminate means, without limitation, any act which, because of race, color, creed, religion, ancestry, national origin, sex, age, marital status, physical or mental disability, sexual orientation, family responsibility or political affiliation, results in the unequal treatment or separation of any person; or denies, prevents, limits or otherwise adversely affects the benefit or enjoyment by any person of employment, ownership or occupancy of real property or public services or accommodations. Such discrimination is unlawful and is a violation of this Article; provided, however, that the physical condition of an existing building or structure shall not, of itself, constitute discrimination.

Housing means any building, structure, vacant land or part thereof during the period it is advertised, listed or offered for sale, lease, rent or transfer of ownership, and during the period while it is being sold, leased or rented. *Housing* shall not include transfers of property by will or gift.

Public services or accommodations means any place of business engaged in any sales to the public and any place offering services, facilities, privileges, advantages or accommodations to the public.

Sexual orientation means the choice of sexual partners; i.e., bisexual, homosexual or heterosexual. (Prior code 2-6-2; Ord. 6 §1, 1993; Ord. 4 §1, 2009)

Sec. 10-11-30. Discriminatory employment practices prohibited.

It is unlawful for any person who is an employer or employment agency, directly or indirectly, to discriminate against any person with regard to application for employment, hiring, occupational training, tenure, promotion, compensation, layoff, discharge or any other term or condition of employment except when based upon a bona fide occupational qualification. This Section shall not prohibit a religious organization or institution from restricting employment opportunities to persons of the religious denomination and advertising such restriction if a bona fide religious purpose exists for the restriction. (Prior code 2-6-3; Ord. 6 §1, 1993; Ord. 4 §1, 2009)

Sec. 10-11-40. Discriminatory housing practices prohibited.

It is unlawful for any person, directly or indirectly, to discriminate against or to accord adverse, unlawful or unequal treatment to any other person with respect to the acquisition, occupancy, use and enjoyment of any housing, including the sale, transfer, rental or lease thereof. This Section shall not prohibit:

- (1) A person who seeks to share a dwelling unit with another from discriminating.

(2) The owner of an owner-occupied one-family dwelling from discriminating.

(3) The owner of an owner-occupied two-family dwelling or the owner or lessor of a housing facility devoted entirely to housing individuals of one (1) sex from limiting lessees or tenants to the members of one (1) sex.

(4) Any religious or denominational institution or organization that is operated, supervised or controlled by a religious or denominational organization from limited admission or giving preference to persons of the same religion or denomination or for making such selection of buyers, lessees or tenants as will promote a bona fide religious denominational purpose. (Prior code 2-6-4; Ord. 6 §1, 1993; Ord. 4 §1, 2009)

Sec. 10-11-50. Discriminatory public service and accommodation practices prohibited.

It is unlawful for a person engaged in providing services or accommodations to the public to discriminate, directly or indirectly, against any other person by refusing to allow the full and equal use and enjoyment of the goods, services, facilities, privileges, advantages, including accommodations, and the terms and the conditions under which the same are made available to the public generally, or to provide adverse, unlawful or unequal treatment to any person in connection therewith. This Section shall not prohibit:

(1) Persons from restricting admission to a place of public accommodation to individuals of one (1) sex if such restriction bears a bona fide relationship to the goods, services, facilities, privileges, advantages or accommodations of such place of public accommodation.

(2) Any religious or denominational institution that is operated, supervised or controlled by a religious or denominational organization from limited admission to persons of the same religion or denomination as will promote a bona fide religious or denominational purpose. (Prior code 2-6-5; Ord. 6 §1, 1993; Ord. 4 §1, 2009)

Sec. 10-11-60. Penalties; civil liability.

(a) Any person who violates the provisions of this Article shall be deemed guilty of an offense and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(b) In addition, any person claiming to be aggrieved by an unlawful discriminatory act shall have a cause of action in any court of competent jurisdiction for compensatory damages, punitive damages, or both, and such other remedies as may be appropriate, including specifically the issuing of restraining orders and such temporary or permanent injunctions as are necessary to obtain complete compliance with this Article. In addition, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

(c) Whenever it appears that the holder of a permit, license, franchise, benefit or advantage issued by the Town is in violation of this Article, notwithstanding any other action it may take or may have taken under the authority of the provisions of this Article, the Town may take such action regarding the temporary or permanent suspension of the violator's business license, permit, franchise, benefit or advantage as it considers appropriate based on the facts disclosed to it. (Prior code 2-6-6; Ord. 6 §1, 1993; Ord. 4 §1, 2009)

