

ORDINANCE NO. 557

AN ORDINANCE IN EXISTANCE FOR THE DURATION OF THE GRANADA/HOLLY POLICE DEPARTMENT ESTABLISHING GENERAL OFFENSES AND REPEALING ALL PRIOR ORDINANCES IN CONFLICT THEREWITH, AND PROVIDING PENALTIES FOR VIOLATION THEREOF

WHEREAS, the Board of Trustees for the Town of Holly has determined that the present ordinances of the Town of Holly for general offenses are incomplete and inadequate, and the manner of arrangement, classification and indexing thereof is insufficient to meet the current and immediate needs of the Town; and

WHEREAS, the Town Board has determined that topics which should be the subject of arrangement, classification and indexing of general offenses should include, but are not limited to, government and public officers, streets and public places, public, private and personal property, public peace, order and decency, minors, alcoholic beverages and drugs, fireworks, weapons, noise, miscellaneous offenses to protect the health, safety and welfare of the citizens of the Town of Holly;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HOLLY, PROWERS COUNTY, COLORADO

Paragraph 1. The penalties by the Holly Municipal Code are hereby adopted as follows;

- (1) General penalty for violation.

Any person who shall violate or fail to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding three hundred dollars (\$300.00) or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment, except as hereinafter provided in subsection (2) of this Section 1 – “Application of penalties to juveniles.” In addition, such persons shall pay all costs and expenses in the case, including attorney fees incurred by the Town of Holly. Each day such violation continues shall be considered a separate offense.

- (2) Application of penalties to juveniles.

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of, or pleads guilty or nolo contendere to, a violation of any provision of this Code, shall be punished by a fine of not more than three hundred dollars (\$300.00) per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this Section shall be construed to prohibit incarceration in an appropriate facility, at the time of charging, of a juvenile violating any section of this Code.

- (3) Jurisdiction over juveniles.

No child, upon conviction of a violation of a municipal ordinance in the Municipal Court, shall be incarcerated or held in detention by reason of such conviction, but, rather, shall be subject to the provision of the Colorado Revised Statutes. The fine to be imposed upon any child convicted of a municipal ordinance violation in the Municipal Court shall be limited to an amount not in excess of three hundred dollars (\$300.00) for each separate offense upon which conviction shall be had.

Paragraph 2. *The enforcement of this ordinance is as follows:*

Any Granada/Holly police officer is authorized to enforce the provisions of this ordinance, and the Municipal Court shall have the jurisdiction to hear and try any person charged with its violation. If such person is found guilty, such person shall be punished in accordance with the provisions of Section 1 of this Code.

ARTICLE I Government and Public Officers

Section 1 Definitions.

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

- (1) Government includes any branch, subdivision, institution, or agency of the government of this Town.*
- (2) Governmental function includes any activity which a public servant is legally authorized to undertake on behalf of a government.*
- (3) 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.*

Section 2 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.*

Section 3 Impersonating a peace officer.

No person shall impersonate a police officer or any other officer of the Town by wearing any star, badge or other emblem of office or in any other manner.

Section 4 Obstructing a peace officer or firefighter.

- (a) *No person shall willfully fail or refuse to comply with any lawful order, signal or direction of a police officer made or given in the discharge of the police officer's duties.*
- (b) *No person shall, in any way, interfere with or hinder any police officer who is discharging or apparently discharging the duties of the position.*
- (c) *It is unlawful to obstruct a peace officer or firefighter.*
- (d) *A person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, such person knowingly obstructs, impairs or hinders the enforcement of the law or the preservation of the peace by a peace officer, acting under color of his or her official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his or her official authority.*
- (e) *It is no defense to a prosecution under this section that the peace officer was acting in an illegal manner, if the peace officer was acting under color of his or her official authority as defined in Section 4 of Article I.*
- (f) *This Section does not apply to obstruction, impairment, or hindrance of the making of an arrest.*

Section 5 Resisting arrest.

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

 - (1) *Using or threatening to use physical force or violence against the peace officer or another; or*
 - (2) *Using any other means which creates a substantial risk of causing physical injury to the peace officer or another.**
- (c) *A peace officer acts under color of his or her official authority when, in the regular course of assigned duties, the peace officer is called upon to make, and does make, a judgment in good faith based upon surroundings, facts and circumstances that an arrest should be made by the peace officer.*
- (d) *The term peace officer as used in this Section means a peace officer in uniform or, if out of uniform, one who had identified himself or herself by exhibiting any time during the arrest his or her credentials as such peace officer to the person whose arrest is attempted.*

Section 6 Assisting in escape of prisoners.

No person shall effect the escape or in any manner assist in effecting the escape or make any attempt to effect the escape of any person from the jail or any other place where any such person shall

have been incarcerated by virtue of this Code or any other ordinance of the Town or any judgment rendered thereunder without having the permission of the appropriate custodian of the jail or incarceration facility. No person shall hold communication with any person so incarcerated by conversation or otherwise without the permission of the appropriate custodian of the jail or incarceration facility or furnish or deliver or cause to be delivered or furnished to any such person so incarcerated any food, and drink or any other thing.

Section 7 False reporting to authorities.

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

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

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

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

Section 8 Duty of citizens to aid police officers.

It shall be the duty of all persons when called upon by a police officer or any other member of the Police Department to promptly aid and assist such officer or member in the discharge of his or her duties.

Section 9 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article I shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

**ARTICLE II
Streets and Public Places**

Section 1 Unlawful conduct on public property.

(a) It is unlawful for two (2) or more persons to come together within the Town for the purpose of doing any unlawful act with force and violence against the property of the Town, against the person or property of another, against the peace or to the terror of others, or in concert make any movement of preparation thereof.

(b) No person shall collect together in bodies of crowds for any unlawful purpose or for any purpose to the annoyance or disturbance of the citizens or sojournment of the Town.

(c) *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 meeting 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.*

(d) *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 to person by the office or agency, including any agent thereof or by any law enforcement officer having jurisdiction or authority to enforce this Section.*

(e) *Any person who violates this Section is guilty of unlawful conduct on public property.*

Section 2 *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 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 mission, 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 or 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.

Section 3 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 of 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.

Section 4 Damaging or destroying public property.

It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner damage or destroy real property, improvement thereto or moveable or personal property belonging to the Town.

Section 5 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 or regulating traffic on any public street.

Section 6 Littering on property.

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

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

Section 7 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article II shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

**ARTICLE III
Public, Private and Personal Property**

Section 1 Criminal mischief.

It is unlawful for any person to either willfully, maliciously or wantonly damage or destroy real property or improvements thereto, or moveable or personal property, belonging to any person where the aggregate damage to the real or personal property is less than five hundred dollars (\$500.00).

Section 2 Trespassing.

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

Section 3 Theft.

(a) 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;

(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.

(b) It is unlawful for any person, with the intent to promote or facilitate the commission of the offense, to aid, abet or advise any other person in planning or committing the offense or theft.

Section 4 Theft of rental property.

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

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

(2) *Having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his or her representative or to the person from whom he or she has received it within seventy-two (72) hours after the time at which he or she agreed to return it; and*

(3) *The value of the property involved is less than five hundred dollars (\$500.00).*

Section 5 Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of such thing is less than five hundred dollars (\$500.00).

Section 6 Theft by shoplifting.

(a) *It is unlawful for any person to seize, take or move away, with intent to avoid payment therefore any goods, wares, merchandise or other items, said goods, wares, merchandise or other items having an aggregate value of five hundred dollars (\$500.00) or less exposed for, or held for sale in any wholesale or retail shop, store or other establishment within the Town.*

(b) *It is unlawful for any person to willfully conceal, seize, take or carry away, with intent to avoid payment therefore any fixtures or furnishings, said fixtures or furnishings having an aggregate value of five hundred dollars (\$500.00) or less, owned or held by any wholesale or retail shop, store, lodging or dining establishment, or other business establishment within the Town.*

(c) *It is unlawful for any person, with the intent to promote or facilitate the commission of the offense, to aid, abet or advise any other person in planning or committing the offense of shoplifting.*

Section 7 Theft by 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.

Section 8 Secondhand store, junk yards, swap shops; record keeping; age limit.

(a) *The owner or operator of any secondhand store, swap shop or junk yard operating in the Town shall keep or cause to be kept a record of the transactions of such business in the form and manner set forth in this Article.*

(b) *The following information shall be obtained by such owner or operator and kept upon forms to be furnished by the Police Department, with respect to each transaction wherein any item or article comes into possession of such business by purchase, trade or swap and which items is to be resold, traded or swapped by such business in the course of business:*

- (1) *A description of the item or article, including any serial or other identifying numbers;*
- (2) *The quantity or number;*
- (3) *Whether purchased or obtained by swap or trade;*
- (4) *The name of the person from whom obtained;*
- (5) *The color, sex and date of birth of the person from whom obtained;*
- (6) *The date obtained;*
- (7) *A personal identification number, i.e. driver's license number, Social Security number and the like; and*
- (8) *Verification of the person by photo identification.*

(c) *Such forms shall be turned over to any member of the Police Department upon demand.*

(d) *No owner or operator of such business shall enter into any transaction without keeping records of each transaction, or refuse or fail to surrender such records to the Police Department on demand.*

(e) *No owner or operator of any secondhand store, swap shop or junkyard operating in the Town shall transact business with any person under eighteen (18) years of age.*

Section 9 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 with performing usual and ordinary services in accordance with recognized customs and standards.*

Section 10 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article III shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

**ARTICLE IV
Public Peace, Order and Decency**

Section 1 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) *Abuses or threatens a person in a public place in an obviously offensive manner;*
- (3) *Makes unreasonable noise in a public place or near a private residence;*
- (4) *Fights with another in a public place except in an amateur or professional contest of athletic skill; or*
- (5) *Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm.*

Section 2 Disrupting lawful assembly.

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

Section 3 Riots.

No person shall cause, engage in, incite, instigate or encourage any riot, rout, affray or fight.

Section 4 Obscenity; indecent acts.

No person shall commit any indecent or filthy act in any place within the Town or utter any filthy word or any abusive or filthy language in the hearing of other persons publicly or make any obscene gesture to or about any other person publicly.

Section 5 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, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request suggestion or proposal by telephone 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 communication 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 subparagraph (a)(4), (5) or (6) above may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.*

Section 6 Loitering.

- (a) *It is unlawful for any person without a valid reason to lounge in or on, prowl around in or on, or loiter around, in or on any railroad depot or station grounds, bus depot, banking institutions, place of public amusement, motel, hotel, store, shop, public road or alley, public way, public gathering, public assembly, public building, private dwelling, house or other public place.*
- (b) *The word loiter means to be dilatory, to stand idly around, to delay or wander about, or to remain, abide or tarry in a public place.*
- (c) *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 deviant 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 Article VI of this Ordinance.*

(d) It shall be 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 or grievances, either in the course of labor disputes or otherwise.

Section 7 Assault.

- (a) An assault is an unlawful attempt of a person, coupled with a present ability, to commit a bodily injury on another person.*
- (b) It is unlawful to assault, beat, strike, wound, imprison or inflict violence on another.*
- (c) It is unlawful to commit battery upon the person of another. Battery is the unlawful touching or striking of the person of another by the aggressor himself or herself, or by any other substance put in motion by him or her, done with the intention of bringing about a harmful or offensive contact or apprehension of the other person, which is not legally consented to by the other person and is not otherwise privileged.*

Section 8 Fighting.

No person shall engage in any fighting, or engage in any dog fight or cock fight, or other fight within the Town.

Section 9 False alarms.

Any person who shall intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor.

Section 10 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.

Section 11 Throwing stones or missiles.

No person shall throw or shoot any stone or other missile at or upon any person, animal, public or private property, building, structure, tree or shrub.

Section 12 Fraud by check.

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

- (1) *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.*
- (2) *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.*
- (3) *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.*
- (4) *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.*
- (5) *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.*
- (6) *Negotiable order of withdrawal and share draft means 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 person or otherwise.*
- (7) *Negotiable order or withdrawal account means an account in a bank, savings and loan association or industrial bank, and share draft account means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, industrial bank or credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.*

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

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

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

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

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

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

- (1) He or she has no account upon which the check or order is drawn with the bank or other drawee at the time he or she issues the check or order; or
- (2) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue.

Section 13 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 deviant sexual intercourse;
- (2) A lewd exposure or demonstration of the body done with intent to arouse or to satisfy the sexual desire of any person;
- (3) A lewd fondling or caress of the body of another person; or
- (4) An act of urinating or defecating.

Section 14 Indecent exposure.

It is unlawful for a person to knowingly expose his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

Section 15 Peeping Toms.

No person shall enter upon any private property during day or nighttime and peer or look into or through any door or window of any structure designed or used for a dwelling.

Section 16 Aiding and abetting.

Every person who commits, attempts 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.

Section 17 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article IV shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

**ARTICLE V
Minors**

Section 1 Curfew.

(a) It is unlawful for any child under the age of eighteen (18) years to be in or on any public street, highway, road, alley, park, playground, public grounds, public building, vacant lot or other public place within the Town between the hours of 11:00 p.m. and 5:00 a.m. of the following day, except in pursuit of lawful employment, or unless there exists a reasonable necessity therefor, or unless such child is accompanied by a parent, guardian or other person of the age of twenty-one (21) years or more, having specific permission of a parent or guardian to have the custody of the child at the time.

Section 2 Arrested child to be taken home.

In addition to any other powers he or she may have, any law enforcement officer of the Town arresting a child for the violation of any provision hereof is empowered to take such child home and to demand that a parent, guardian or other person having the right to custody of such child take such child home. It is unlawful for any such parent, guardian or other person to fail or refuse to take such child home after demand has so been made upon him or her.

Section 3 Aiding, abetting of minor.

- (a) 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 or any provision of this Article or any ordinance of the Town.*
- (b) It is unlawful for any parent, guardian or other person having the care and custody of any child under the age of eighteen (18) years to allow or permit any such child to be in or on any public street, highway, alley, park, playground, public grounds, public building, vacant lot or other public place within the Town between the hours of 11:00 p.m. and 5:00 a.m. of the following day, except in pursuit of lawful employment, or unless there exists a reasonable necessity therefor, or unless accompanied by a parent, guardian or other person of the age of twenty-one (21) years or more having specific permission of a parent or guardian to have the custody of the child at the time.*

Section 4 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 period that such driver's license is suspended or revoked.

Section 5 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 Ordinance.

Section 6 Services of others.

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

Section 7 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.

Section 8 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article V shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

**ARTICLE VI
Alcoholic Beverages and Drugs**

Section 1 Definitions.

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

- (1) Alcoholic beverage or alcoholic liquor means fermented malt beverage or malt, vinous or spirituous liquors.
- (2) Controlled substance means a drug or other substance or an immediate precursor which is declared to be a controlled substance under this Article, and also includes marijuana, marijuana concentrate and cocaine.
- (3) 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.
- (4) 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.

- (5) Ethyl alcohol means any substance which is or contains ethyl alcohol, including any alcoholic beverage as defined above.
- (6) 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.
- (7) Malt liquor includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusing 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.
- (8) Open container means any container other than an original closed container as sealed or closed for sale to the public by the manufacturer or bottler of the liquor or beverage. If an original container has been unsealed, undone or opened in any manner, it is an open container for purposes of this Article.
- (9) Possession of ethyl alcohol means that a person has or holds any amount of ethyl alcohol anywhere on his or her person, or that a person owns or has custody of ethyl alcohol, or has ethyl alcohol within his or her immediate presence and control.
- (10) Private property means any dwelling and its cartilage 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.
- (11) 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.
- (12) Spirituous 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.

(13) 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.

Section 2 Alcohol-related violations.

- (a) It is unlawful for any person under the age of twenty-one (21) years to represent himself or herself to be over the age of twenty-one (21) years for the purpose of purchasing within the Town any fermented malt beverage or malt, vinous or spirituous liquors.*
- (b) It is unlawful for any person under the age of twenty-one (21) years to attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation or any other means.*
- (c) It is unlawful for any person under the age of twenty-one (21) years to possess or consume, whether actual or constructive, fermented malt beverage or malt, vinous or spirituous liquors.*
- (d) It is unlawful to sell fermented malt beverages or malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years, or to permit any fermented malt beverage, malt or vinous liquors to be sold or dispensed by a person under eighteen (18) years of age, or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof.*
- (e) It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any fermented malt beverage or malt, vinous or spirituous liquors.*
- (f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting.*

Section 3 Duty to report disturbance.

- (a) It is unlawful for any licensee of any premises in the Town, licensed to sell either intoxicating liquors or fermented malt beverages by the drink, to fail to immediately report or cause to be immediately reported to the Police Department any fight, disturbance or other breach of the peace happening in or on such licensed premises.*
- (b) It is unlawful for any person in charge of, or acting as manager of, any premises in Town, licensed to sell either intoxicating liquors or fermented malt beverages by the drink, to fail to immediately report or cause to be reported to the Police Department any fight, disturbance or other breach of the peace happening in or on such licensed premises.*

Section 4 *Illegal possession or consumption of ethyl alcohol by an underage person.*

- (a) Any person under twenty-one (21) years of age who possesses or consumes ethyl alcohol anywhere in the Town commits illegal possession or consumption of ethyl alcohol by an underage person.*
- (b) It shall be an affirmative defense to the offense described in Subsection (a) above that the ethyl alcohol 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 ethyl alcohol was 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 ethyl alcohol in a person's body was due solely to the ingestion of a confectionery which contained ethyl alcohol with the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely from the ingestion of a beverage which contained less than one-half of one percent (0.5%) of ethyl alcohol by weight.*
- (c) The possession or consumption of ethyl alcohol 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) of this Section shall consist of:*
 - (1) Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed ethyl alcohol anywhere in the Town; or*
 - (2) Evidence that the defendant was under the age of twenty-one (21) year and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment while present anywhere in the Town.*
- (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 ethyl alcohol. 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 ethyl alcohol.*
- (f) A parent or legal guardian of a person under twenty-one (21) years of age, or any natural person who had the permission of such parent or legal guardian, may give, or permit the*

possession and consumption of, ethyl alcohol 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 ethyl alcohol to a person under twenty-one (21) years of age.

Section 5 Sales near schools.

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of 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.

Section 6 Alcoholic beverages in certain places.

- (a) No person shall carry or have any open containers of alcoholic beverages on any street, sidewalk, alley or other public place, in any automobile or on the grounds or in the facilities of any public or private school, college or university 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) The foregoing prohibitions shall not apply to any place duly licensed for the sale of alcoholic beverages.*

Section 7 Open container.

- (a) It is unlawful for any person to possess or consume by open container any alcoholic beverage, whether such possession is actual or constructive, in any public place as defined in Section 1 of this Article, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or upon property owned, operated, leased or maintained by the Town; provided, however, that it shall not be a violation of this provision to store or consume any alcoholic beverages in conformance with, and pursuant to the terms of, any validly issued permit or license.*
- (b) In the event that any violation of this Section is alleged to have occurred in a motor vehicle under circumstances such that the complaining party to such incident is unable to identify the person alleged to have possessed or consumed malt, vinous or spirituous liquor or fermented malt beverages, it shall be presumed that the operator of said motor vehicle is in violation of the provisions of this Section.*
- (c) It shall be an exception to this Section if the owner or person in possession or control of such property has given express or implied consent to the possession and consumption of malt, vinous and spirituous liquor or fermented malt beverages upon said premises.*

Section 8 Possession of drug paraphernalia.

- (a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and intends to use the drug paraphernalia under circumstances in violation of state law.*
- (b) Any person who commits possession of drug paraphernalia commits a Class 2 petty offense.*

Section 9 Possession of Cannabis.

- (a) For the purposes of this Section, the term cannabis shall include all parts of the plant Cannabis sativa L., whether growing or not; the seed thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake, or the sterilized seed of such plant, which is incapable of germination. The term cannabis concentrate means hashish, tetrahydrocannabinols or any alkaloid, salt derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols.*
- (b) It is unlawful to possess one (1) ounce or less of cannabis or cannabis concentrate.*
- (c) It is unlawful openly and publicly to display or consume one (1) ounce or less of cannabis concentrate, and upon conviction thereof, or a plea of guilty or no contest thereto, punishment shall be as set out in Section 1 of this ordinance.*
- (d) The provisions of this Section shall not apply to any person who possesses or uses cannabis or cannabis concentrate pursuant to the Dangerous Drugs Therapeutic Research Act.*

Section 10 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; 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.

Section 11 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article VI shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

**ARTICLE VII
Fireworks**

Section 1 Definition.

- (a) For purposes of this Article, the term fireworks means an article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, and shall specifically include, without limitation, any such article, device or substance which produces an explosive report and/or is or causes a projectile into the air or along the earth.*
- (b) The term fireworks does not include the following:*
 - (1) Toy caps, which do not contain more than 25/100ths of a grain of explosive compound per cap;*
 - (2) Highway flares, railroad fuses, ship distress signals, smoke candles and other emergency signal devices;*
 - (3) Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two (2) ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means;*
 - (4) Fireworks which are used in testing or research by a licensed explosive laboratory; or*
 - (5) Any of those devices listed in the definitional terms contained within Section 12-28-101(8)(a)-(n), inclusive, C.R.S.*

Section 2 Sale prohibited.

It is unlawful for any person to sell or offer for sale any fireworks within the corporate limits of the Town. Persons desiring to sell exempted items as described in Section 1 of this Article VII above shall first obtain a permit for sale of said items. Application for a permit to sell such fireworks from any temporary location shall be made by June 15 of each year, and shall be made to the Fire Chief. A permit fee as established by the Town Council shall be charged for each sale location proposed and shall be paid to the Town Clerk. Fifty percent (50%) of the permit fee shall be refunded to the applicant if the site of sale of such items is cleaned of all stands, refuse and debris constructed or caused by said sale to the satisfaction of the Fire Chief by July 10 of each year. No permit granted hereunder shall be transferable. City sales tax shall be collected and remitted to the Town in respect of all sales at such locations.

Section 3 Possession or discharge of fireworks.

- (a) It is unlawful for any person to light, set off, detonate or discharge any fireworks within the corporate limits of the Town, prior to noon on July 1st and after midnight on July 6th of each calendar year.*
- (b) It is unlawful for any person to possess fireworks with the intention to light, set off, detonate or discharge the same within the corporate limits of the Town as described in Section 3, subsection (a) .*
- (c) A person acts with intent when his or her conscious objective is to cause the specific result proscribed by the Article, being the lighting, setting off, detonation, or discharge of any fireworks within the Town. It is immaterial to the issue of specific intent whether or not the result actually occurred as described in Section 3, subsection (a).*

Section 4 Displays.

The Fire Chief is hereby authorized to grant supervised public displays of fireworks at any time by fair associations, civic groups and other organizations or groups of individuals. Every display shall be handled by a qualified operator who shall be approved by the Fire Chief. Every display shall be of such a character and located in a manner which, in the opinion of the Fire Chief, does not present a hazard to or endanger any person or property.

Section 5 Seizure or confiscation.

The Chief of Police or designee may seize, take, confiscate, and remove all items, articles and stocks of fireworks possessed or utilized by any person in violation of the provisions of this Article VII.

Section 6 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article VII shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

**ARTICLE VIII
Weapons**

Section 1 Definitions.

- (a) As used in this Article, unless the context otherwise requires, the following definitions shall apply:*
 - (1) Ballistic knife means any knife that has a blade which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.*
 - (2) 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.*

- (3) 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.
- (4) Firearm silencer means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent or intended to lessen or muffle the noise of the firing of any such weapon.
- (5) 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.
- (6) Gravity knife means an 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.
- (7) 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.
- (8) Knife means any dagger, dirk, knife or stiletto with a blade over three and one-half (3 ½) 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.
- (9) Machine gun means any firearm, whatever its size and usual designation, that shoots automatically more than one (1) shot, without manual reloading, by a single function of the trigger.
- (10) 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.
- (11) Short rifle means a rifle having a barrel less than sixteen (16) inches long or an overall length of less than twenty-six (26) inches.
- (12) Short shotgun means a shotgun having a barrel or barrels less than eighteen (18) inches long or an overall length of less than twenty-six (26) inches.
- (13) Stun gun means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.
- (14) 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.

(15) *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.*

(16) *Weapon means any pistol, revolver, rifle, shotgun, paintball gun or other device from which any shot, bullet or other missile can be discharged.*

(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.*

Section 2 Carrying concealed weapon; forfeiture.

(a) *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, cross-knuckles or lead, brass or other metal, Bowie knife, dirk, dagger or knife resembling a Bowie knife, or any other dangerous or deadly weapon.*

(b) *It is unlawful for any person to sell, offer to sell, display, use, possess or carry any knife or knives having the appearance of a pocket knife the blade or blades 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 (a) above, and shall be subject to forfeiture to the Town as provided in Subsection (c) below.*

(c) *Every person convicted of any violation of this Section shall forfeit to the Town such dangerous or deadly weapon so concealed or displayed.*

(d) *Nothing in this Section shall be construed to forbid United States Marshals, sheriffs, constables and their deputies and any regular, special or ex officio police officer or any other law enforcement officer from carrying or wearing such weapons as shall be necessary in the proper discharge of their duties.*

Section 3 Disposition of confiscated concealed weapons.

It shall be the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the same to the Municipal Judge, to be held by him or her until the final determination of the prosecution for said offense, and upon the finding of guilt, it shall then be the duty of the Municipal Judge to deliver said weapon forthwith to the Chief of Police, who shall make disposition of the weapon.

Section 4 Prohibited use of weapons.

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

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

(2) *Discharges a firearm or weapon within the Town limits;*

- (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 18-12-105.1, C.R.S. is no defense to a violation of this Section; or*
 - (5) *Knowingly aims, swings or throws a knife, 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 of for a school or class, they shall be transported in a closed, nonaccessible container.*
- (b) *The provisions of this Section shall not prevent the operation of a private firing range within the Town under the following conditions:*
- (1) *Such range shall, at all times, be subject to rules and regulation as established by the Chief of Police with Town Council approval and a permit shall first be obtained.*
 - (2) *Such permit shall be revocable at any time the Chief of Police or Town Council determines that the activities on such range are creating a hazard or a nuisance.*
- (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, discharges or operated in such a manner as not to endanger persons or property and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence; and further provided that nothing herein contained shall be construed to prevent the carrying of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.*
- (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.*

Section 5 Providing weapons to intoxicated persons.

- (a) *It is unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other weapon or 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 not in the presence of a parent or guardian.*
- (b) *Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the Town to such person.*

Section 6 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article VIII shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

**ARTICLE IX
Noise**

Section 1 Unreasonable noise.

No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable.

Section 2 Sound systems in vehicles.

(a) It is unlawful to make, create or permit any excessive or unusually loud noise by means of any sound system installed or otherwise located within a motor vehicle within the Town.

(b) For the purpose of this Section, an excessive or unusually loud noise is a noise which can be heard at a distance of at least fifty (50) feet from its source. Words or phrases need not be discernible.

(c) For the purpose of this Section, sound system means, but is not limited to, any public address system, radio, stereo, tape player, compact disc player or other electronic device used for the amplification of sound. Sound system shall not include those devices utilized for the amplification of sound in conjunction with any government-sponsored or permitted activity or those activities conducted pursuant to the express consent of the governmental entity.

(d) The complaint may include, but need not be limited to, police officers acting under color of their authority.

Section 3 Motor vehicles.

(a) It is unlawful for the operator of any motor vehicle to utilize any device designed to control, regulate or allow the release or escape of engine compression so as to slow the speed of said vehicle in such manner that the use of such braking device results in or creates excessive, loud or explosive noise from said vehicle. This Section is intended to prohibit the practice commonly referred to as Jake braking, compression braking or cut-out braking. It shall be sufficient for prosecution and conviction of a violation of this offense if the Jake braking or compression braking is overheard and if the motor vehicle is observed to be operating in the general proximity of the occurrence of the noise.

(b) It is an affirmative defense to an alleged violation of Subsection (a) above if the motor vehicle is in an emergency situation and, in an effort to avoid collision with any other vehicle, stationary object, moving object or living person or animal, such Jake braking or compression braking was used in conjunction with the avoidance of a collision as anticipated in this

Subsection, then the defendant shall be exonerated from any liability under Subsection (a) above as to the criminal offense anticipated herein. Nothing contained herein shall expand or limit any civil liability, if any.

Section 4 Animals

It is unlawful for any person to use, keep, have in his or her possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals licensed for the treatment of small animals or to premises occupied or used by the Town animal shelter.

Section 5 Sirens, whistles, gongs and red lights.

It is unlawful for any person to carry or use upon a vehicle, other than Police or Fire Department vehicles or emergency vehicles for public use, any gong, siren, whistle or red light similar to that used on ambulances or vehicles of the Police and Fire Departments.

Section 6 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article IX shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

ARTICLE X Miscellaneous Offenses

Section 1 Posting of handbills.

No person shall attach to, place upon or lean against, or cause or allow any agent or employee to attach to, place upon or lean against any telegraph pole, telephone pole, hydrant, hitching post, awning or other structure or building in or upon any of the streets, avenues, alleys, sidewalks, crosswalks or other public ways of the Town, or upon any public structure or building adjoining any public street, avenue, alley, sidewalk, crosswalk or other public way, any bills, notices, letters, pictures or character of any kind whatsoever, for the purpose of advertising any show, performance, business or entertainment; provided that nothing in the Section shall affect the posting of bills, notices, letters, pictures or characters by licensed bill posters upon public property, as may be provided by this Code or any other regulation of the Town, and that the owner or occupant of any building shall be permitted to attach securely to such building any sign, etc. advertising the business carried on in such building, so as not to project over twenty-two (22) inches from such building and elevated over the alley or sidewalk at least eight (8) feet from the surface of any alley or sidewalk.

Section 2 Peddlers and solicitors.

It is unlawful and a nuisance for any person to be in and upon any private residence in the Town as a solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise, without having been requested or invited by the owner or occupant of such private residence for the purpose of soliciting orders for the sale of goods, wares and merchandise, or for the purpose of disposing of, peddling or hawking the same.

Section 3 Spitting.

No person shall expectorate upon any Town sidewalk or upon the floor or stairway of any building within the Town.

Section 4 Destroying or defacing trees or shrubs.

No unauthorized person shall destroy, mutilate, cut, remove, break, injure or tie any horse or other animal to any tree, shrub, plant or other ornament whatsoever upon any street, alley, sidewalk or public ground.

Section 5 Violation; penalty

Any person convicted of violating the prohibitions of any section or subsections of this Article X shall be punished in accordance with the provisions of Paragraph 1 of this Ordinance.

Paragraph 3. *All ordinances, resolutions, bylaws and regulations of the Town in conflict with this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or regulation, or part thereof, heretofore repealed.*

Paragraph 4. *If any section, paragraph, clause or provision of this Ordinance shall be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other provision of this Ordinance.*

Paragraph 5. *This Ordinance shall be in full force and effect 30 days after publication, following final passage. This Ordinance shall be recorded in a book kept for that purpose, shall be authenticated by the signatures of the Mayor and the Town Clerk, and shall be published in accordance with law.*

INTRODUCED, READ IN FULL, AND PASSED on this 5th day of June, 2024 in accordance with the laws of the State of Colorado. (first reading)

TOWN OF HOLLY, COLORADO

/s/ Larry Sitts, Mayor

ATTEST:

/s/ Cynthia S. Humrich, Town Clerk/Treasurer

INTRODUCED, READ IN FULL, AND ADOPTED ON SECOND READING this 10th day of July, 2024 in accordance with the laws of the State of Colorado.

TOWN OF HOLLY, COLORADO

/s/ Larry Sitts, Mayor

ATTEST:

/s/ Cynthia S. Humrich, Town Clerk/Treasurer