Title 10

PUBLIC PEACE, SAFETY AND MORALS

Chapters:

Chapter 10.04

GENERAL PROVISIONS

Sections:

10.04.010 Authority. The Town adopts this Title relating to public peace, safety and morals in accordance with the powers granted it in Section 31-15-401, C.R.S. 1973, as amended. (Ord. 135 §1(part), 1982).

10.04.020 Purpose. This Title shall be construed in such manner as to promote maximum fulfillment of its general purposes, namely:

A. To define offenses, to define adequately the act and mental state which constitute each offense, to place limitations upon the condemnation of conduct as criminal when it is without fault, and to give fair warning to all persons concerning the nature of the conduct prohibited and the penalties authorized upon conviction;

B. To forbid the commission of offenses, and to prevent their occurrence through the deterrent influence of the sentences authorized; to provide for the rehabilitation of those convicted, and their punishment when required in the interest of public protection. (Ord. 135 §1(part), 1982).

Chapter 10.08

PRINCIPLES OF CRIMINAL CULPABILITY

Sections:

10.08.010 Applicability. This Chapter shall be applicable to all offenses defined in this Title as well as any other criminal offenses prosecuted in the De Beque Municipal Court. (Ord. 135 §1(part), 1982).

10.08.020 Definitions. The following definitions are applicable to the determination of culpability requirements for offenses defined in this Title as well as any other criminal offenses prosecuted in the De Beque Municipal Court.

"Act" means a bodily movement, and includes words and possession of property.

"Conduct" means an act or omission and its accompanying state of mind or, where relevant, a series of acts or omissions.

Criminal Negligence. A person acts with "criminal negligence" when, through gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

"Culpable mental state" means intentionally, or with intent, or knowingly, or wilfully, or recklessly, or with criminal negligence, as these terms are defined in this Section.

Intentionally or With Intent. All criminal offenses in which the mental culpability requirement is expressed as "intentionally" or "with intent" are declared to be specific intent offenses. A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute defining the offenses. It is immaterial to the issue of specific intent whether or not the result actually occurred.

Knowingly or Wilfully. All criminal offenses in which the mental culpability requirement is

expressed as "knowingly" or "wilfully" are declared to be general intent crimes. A person acts "knowingly" or "wilfully" with respect to conduct or to a circumstance described by a section defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts "knowingly" or "wilfully" with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

"Omission" means a failure to perform an act as to which a duty of performance is imposed by law.

Recklessly. A person acts "recklessly" when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

"Voluntary act" means an act performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it. (Ord. 135 §1(part), 1982).

10.08.030 Requirements for Criminal Liability. The minimum requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is physically capable of performing. If that conduct is all that is required for commission of a particular offense, or if an offense or some material element thereof does not require a culpable mental state on the part of the actor, the offense is one of strict liability. If a culpable mental state on the part of the actor is required with respect to any material element of an offense, the offense is one of mental culpability. (Ord. 135 §1(part), 1982).

10.08.040 Construction of Sections with Respect to Culpability Requirements. A. When the commission of an offense, or some element of on offense, requires a particular culpable mental state, that mental state is ordinarily designated by use of the terms "intentionally," "with intent," "knowingly," "wilfully," "recklessly" or "criminal negligence."

B. Although no culpable mental state is expressly designated in a Section defining an offense, a culpable mental state may nevertheless be required for the commission of that offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such a culpable mental state.

C. If a Section provides that criminal negligence suffices to establish an element of an offense, that element also is established if a person acts recklessly, knowingly or intentionally. If recklessness suffices to establish an element, that element also is established if a person acts knowingly or intentionally. If acting knowingly suffices to establish an element, that element also is established if a person acts intentionally.

D. When a Section defining an offense prescribes as an element thereof a specified culpable mental state, that mental state is deemed to apply to every element of the offense unless an

intent to limit its application clearly appears.

(Ord. 135 §l(part), 1982).

10.08.050 Effect of Ignorance or Mistake. A. A person is not relieved of criminal liability for conduct because he engaged in that conduct under a mistaken belief of fact, unless:

1. It negatives the existence of a particular mental state essential to commission of the offense; or

2. The Section defining the offense or any Section relating thereto expressly provides that a factual mistake or the mental state resulting therefrom constitutes a defense or exemption; or

3. The factual mistake or the mental state resulting therefrom is of a kind that supports a defense of justification as defined in this Title.

B. A person is not relieved of criminal liability for conduct because he engages in that conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless the conduct is permitted by one of the following:

1. A statute or ordinance binding in this State and Town;

2. An administrative regulation, order or grant of permission by a body or official authorized and empowered to make such order or grant the permission under the laws of the Town and the State of Colorado;

3. An official written interpretation of the ordinance or law relating to the offense, made or issued by a public servant, agency or body legally charged or empowered with the responsibility of administering, enforcing or interpreting an ordinance, regulation, order or law. If such interpretation is by judicial decision, it must be binding in the Town and the State of Colorado.

C. Any defense authorized by this Section is an affirmative defense.

(Ord. 135 §l(part), 1982).

10.08.060 Consent. A. The consent of the victim to conduct charged to constitute an offense or to the result thereof is not a defense unless the consent negatives an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

B. When conduct is charged to constitute an offense because it causes or threatens bodily

injury, consent to that conduct or to the infliction of that injury is a defense only if the bodily injury consented to or threatened by the conduct consented to is not serious, or the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport, or the consent established a justification under this Title.

C. Unless otherwise provided by this Title or by the law defining the offense, assent does not constitute consent if:

1. It is given by person who is legally incompetent to authorize the conduct charged to constitute the offense; or

2. It is given by a person who, by reason of immaturity, mental disease or mental defect, or intoxication, is manifestly unable and is known or reasonably should be known by the defendant to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

3. It is given by a person whose consent is sought to be prevented by the law defining the offense; or

4. It is induced by force, duress or deception.

D. Any defense authorized by this Section is an affirmative defense.

(Ord. 135 §l(part), 1982).

Chapter 10.12

PARTIES TO OFFENSES--ACCOUNTABILITY

Sections:

10.12.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offenses prosecuted in the De Beque Municipal Court. (Ord. 135 §l(part), 1982).

10.12.020 Liability Based Upon Behavior. A person is guilty of an offense if it is committed by the behavior of another person for which he is legally accountable as provided in this Chapter. (Ord. 135 §1(part), 1982).

10.12.030 Accountability for Behavior of Another. A. A person is legally accountable for the behavior of another person if:

1. He is made accountable for the conduct of that person by the law defining the offense or by specific provision of this Title; or

2. He acts with the culpable mental state sufficient for the commission of the offense in question and he causes an innocent person to engage in such behavior.

B. As used in subsection (A) of this Section, "innocent person" includes any person who is not guilty of the offense in question, despite his behavior, because of duress, legal incapacity or exemption, or unawareness of the criminal nature of the conduct in question or of the defendant's criminal purpose, or any other factor precluding the mental state sufficient for the commission of the offense in question.

(Ord. 135 §l(part), 1982).

10.12.040 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 aids, abets or advises the other person in planning or committing the offense. (Ord. 135 §l(part), 1982).

10.12.050 Exemptions from Liability Based Upon Behavior of Another. A. Unless otherwise provided by the Section defining the offense, a person shall not be legally accountable for behavior of another constituting an offense if he is a victim of that offense or the offense is so defined that his conduct is inevitably incidental to its commission.

B. It shall be an affirmative defense to a charge under Section 10.12.030 if, prior to the commission of the offense, the defendant terminated his effort to promote or facilitate its commission and either gave timely warning to law enforcement authorities or gave timely warning to the intended victim.

(Ord. 135 §1(part), 1982).

10.12.060 Liability Based on Behavior of Another--No Defense. In any prosecution for an offense in which criminal liability is based upon the behavior of another pursuant to this Chapter, it is no defense that the other person has not been prosecuted for or convicted of any offense based upon the behavior in question or has been convicted of a different offense or degree of offense, or the defendant belongs to a class of persons who by definition of the offense are legally incapable of committing the offense in an individual capacity. (Ord. 135 §1(part), 1982).

Chapter 10.16

JUSTIFICATION AND EXEMPTIONS FROM CRIMINAL RESPONSIBILITY

Sections:

10.16.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offenses prosecuted in the De Beque Municipal Court. (Ord. 135 §1(part), 1982).

10.16.020 Execution of Public Duty. Unless inconsistent with other provisions of this Chapter, defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by a provision of law or a judicial decree binding in De Beque, Colorado. (Ord. 135 §1(part), 1982).

10.16.030 Justifiable Conduct--Choice of Evils. A. Unless inconsistent with other provisions of this Chapter, defining justifiable use of physical force or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of the actor, and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the law defining the offense in issue.

B. The necessity and justifiability of conduct under subsection (A) of this Section shall not rest upon considerations pertaining only to the morality and advisability of the ordinance, either in its general application or with respect to its application to a particular class of cases arising

thereunder. When evidence relating to the defense of justification under this Section is offered by the defendant, before it is submitted for the consideration of the jury, the Court shall first rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a justification.

(Ord. 135 §1(part), 1982).

10.16.040 Use of Physical Force--Special Relationships. A. The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

1. A parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person, and a teacher or other person entrusted with the care and supervision of a minor, may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent it is reasonably necessary and appropriate to maintain discipline or promote the welfare of the minor or incompetent person.

2. A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use reasonable and appropriate physical force when and to the extent that it is necessary to maintain order and discipline.

3. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use reasonable and appropriate physical force upon that person to the extent that it is reasonably necessary to thwart the result.

4. A duly licensed physician, or a person acting under his direction, may use reasonable and appropriate physical force for the purpose of administering a recognized form of treatment which he reasonably believes to be adapted to promote the physical or mental health of the patient if:

a. The treatment is administered with the consent of the patient, or if the patient is a minor or an incompetent person, with the consent of his parent, guardian or other person entrusted with his care and supervision; or

b. The treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient would consent.

(Ord. 135 §1(part), 1982).

10.16.050 Use of Physical Force in Defense of a Person. A. Except as provided in

subsection (B) of this Section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the infliction or imminent infliction of bodily harm, if there exists an actual and real danger of such physical harm. A person may use a minimum degree of force which he reasonably believes to be necessary and is actually necessary for that purpose. Provided, however, a person justified in using such physical force may not at any time become an aggressor.

B. Notwithstanding the provisions in subsection (A) of this Section, a person is not justified in using physical force if:

1. The physical force involved is used to resist any arrest or to interfere with any arrest which he knows is being made by a peace officer, even though the arrest is unlawful; or

2. With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical force by that other person; or

3. He is the aggressor, except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the infliction of bodily harm; or

4. The physical force involved is the product of a combat by agreement not specifically authorized by law.

(Ord. 135 §1(part), 1982).

10.16.060 Use of Physical Force in Defense of Premises. A person in possession or control of any building, realty or other premises, or a person who is licensed or privileged to be thereon, is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably and actually necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission of an unlawful trespass by the other person in or upon the building, realty or premises. (Ord. 135 §1(part), 1982).

10.16.070 Use of Physical Force in Defense of Property. A person is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably and actually necessary to prevent what he reasonably believes to be an attempt by the other person to commit theft, criminal mischief, or criminal tampering involving property. (Ord. 135 §1(part), 1982).

10.16.080 Use of Physical Force in Making an Arrest. A. A peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he

reasonably believes it necessary:

1. To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

2. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

B. For purposes of this Section, a "reasonable belief that a person has committed an offense" means a reasonable belief in facts or circumstances which, if true, would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsection (A) of this Section unless the warrant is invalid and is known by the officer to be invalid.

C. A person who has been directed by a peace officer to assist him to effect an arrest or to prevent an escape from custody is justified in using reasonable and appropriate physical force when and to the extent that he reasonably believes that force to be necessary to carry out the peace officer's direction, unless he knows that the arrest or prospective arrest is not authorized.

D. A private person acting on his own account is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest, or to prevent the escape from custody of an arrested person who has committed an offense in his presence.

(Ord. 135 §l(part), 1982).

10.16.090 Duress. A person may not be convicted of an offense, based upon conduct in which he engaged because of the use or threatened use of unlawful force upon him or upon another person, which force or threatened use thereof a reasonable person in his situation would have been unable to resist. This defense is not available when a person intentionally or recklessly places himself in a situation in which it is foreseeable that he will be subjected to such force or threatened use thereof. (Ord. 135 §1(part), 1982).

10.16.100 Entrapment. The commission of acts which would otherwise constitute an offense is not criminal if the defendant engaged in the proscribed conduct because he was induced to do so by a law enforcement official or other person acting under his direction, seeking to obtain evidence for the purpose of prosecution, and the methods used to obtain that evidence were such as to create a substantial risk that the acts would be committed by a person who, but for such inducement, would not have conceived of or engaged in conduct of the sort induced. Merely

affording a person an opportunity to commit an offense is not entrapment even though representations or inducements calculated to overcome the offender's fear of detection are used. (Ord. 135 §1(part), 1982).

10.16.110 Affirmative Defense. The issues of justification or exemption from criminal liability under this Chapter are affirmative defenses in any prosecution of a criminal offense in the De Beque Municipal Court. (Ord. 135 §l(part), 1982).

Chapter 10.20

RESPONSIBILITY

Sections:

10.20.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offense prosecuted in the De Beque Municipal Court. (Ord. 135 §l(part), 1982).

10.20.020 Insufficient Age. No child under ten (10) years of age shall be found guilty of any offense prosecuted in the De Beque Municipal Court. (Ord. 135 §1(part), 1982).

10.20.030 Intoxication. A. Intoxication of the accused is not a defense to any criminal offense, except as provided in subsection (B) of this Section.

B. A person is not criminally responsible for his conduct if, by reason of intoxication that is not self induced at the time he acts, he lacks capacity to conform his conduct to the requirements of the law.

C. "Intoxication" as used in this Section means a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

D. "Self-induced intoxication" means intoxication caused by substances which the defendant knows or ought to know have the tendency to cause intoxication and which he knowingly introduced or allowed to be introduced into his body, unless they were introduced pursuant to medical advice or under similar circumstances that would afford a defense to a criminal offense.

(Ord. 135 §1(part), 1982).

10.20.040 Responsibility--Affirmative Defense. The issue of responsibility under this Chapter is an affirmative defense in any prosecution of a criminal offense in the De Beque Municipal Court. (Ord. 135 §l(part), 1982).

Chapter 10.24

OFFENSES RELATING TO PUBLIC PEACE, ORDER AND SAFETY

Sections:

10.24.010 Obstructing Highway or Other Passageway. A. An individual or corporation commits an offense if without legal privilege he intentionally, knowingly or recklessly:

1. Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others; or

2. Disobeys a reasonable request or order to move issued by a person he knows to be a peace officer, a fireman or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.

B. For purposes of this Section, "obstruct" means to interfere with, to render impassable,

or to render passage unreasonably inconvenient or hazardous.

(Ord. 135 §1(part), 1982).

C. Any person who violates this Section commits a Class B municipal offense. (Ord. 258 §38(part), 2001).

10.24.020 Disrupting Lawful Assembly. A person commits the Class A municipal offense of disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means. (Ord. 135 §1(part), 1982; Amended Ord. 258 §39(part), 2001).

10.24.030 Interference With Staff, Faculty or Students of Educational Institution. A. No person shall, on or near the premises or facilities of any educational institution, wilfully deny to students, school officials, employees and invitees:

1. Lawful freedom of movement on the premises;

2. Lawful use of the property or facilities of the institution;

3. The right of lawful ingress and egress to the institution's physical facilities.

B. No person shall, on the premises of any educational institution or at or in any building or other facility being used by any educational institution, wilfully impede the staff or faculty of such institution in the lawful performance of their duties or wilfully impede a student of the institution in the lawful pursuit of his educational activities through the use of restraint, abduction, coercion or intimidation or when force and violence are present or threatened.

C. No person shall wilfully refuse or fail to leave the property of or any building or other facility used by any educational institution upon being requested to do so by the Chief Administrative Officer, or his designee charged with maintaining order on the school premises and in its facilities, if such person is committing, threatens to commit, or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of the institution.

D. It shall be an affirmative defense that the defendant was exercising his right to lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor, or any employee thereof.

(Ord. 135 §1(part), 1982).

E. Any person who violates this Section commits a Class A municipal offense. (Ord. 258 §40(part), 2001).

10.24.040 Public Buildings--Trespass, Interference. A. No person shall so conduct himself at or in any public building owned, operated or controlled by the Town as to wilfully 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 such public building, wilfully impede any public official or employee in the lawful performance of duties or activities through the use of restraining, abduction, coercion or intimidation or by force and violence or threat thereof.

C. No person shall wilfully refuse or fail to leave any such public building upon being requested to do so by the Chief Administrative Officer, or his designee 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 wilfully 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, wilfully 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 permanently or temporarily used by a public officer or employee in the discharge of his official duties.

G. It shall be an affirmative defense that the defendant was exercising his right to lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between the Town and its employees, any contractor or subcontractor, or any employee thereof.

(Ord. 135 §l(part), 1982).

H. Any person who violates this Section commits a Class A municipal offense. (Ord. 258

§41(part), 2001).

10.24.050 Harassment. A. A person commits the Class B municipal offense of harassment if, with intent to harass, annoy or alarm another person, he:

1. Follows a person in or about a public place; or

2. Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily injury or property damage, or make any comment, request, suggestion or proposal by telephone which is obscene; or

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

4. Makes repeated communications at inconvenient hours or in offensively course language; or

5. Repeatedly insults, taunts or challenges 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.

As used in this Section, unless the context otherwise requires, "annoy" means to irritate with a nettling or exasperating effect.

As used in this Section, unless the context otherwise requires, "alarm" means to arouse to a sense of danger, to put on the alert, to strike with fear, to fill with anxiety as to threaten danger or harm.

C. Any act prohibited by subsections (2), (3) and (4) of subsection (A) of this Section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

(Ord. 135 §1(part), 1982; Amended Ord. 258 §42, 2001; Amended Ord. 299 §3(part), 2004).

10.24.060 Disturbing the Peace. A. A person commits the offense of disturbing the peace if he intentionally, knowingly or recklessly disturbs the peace and quiet of others by violent or tumultuous carriage or conduct or by making loud, unusual, or unreasonable noise in a public place or near or in a private residence, whether or not he has a right to occupy said residence. (Ord. 135

§1(part), 1982).

B. A person commits the offense of disturbing the peace if he knowingly allows or permits other persons to congregate in a dwelling or other premises under his control where the conduct of such persons disturbs the peace and quiet of others by violent or tumultuous carriage or conduct or by making loud, unusual or unreasonable noise near a private residence. (Ord. 258 §43(part), 2001).

C. Any person who violates this Section commits a Class B municipal offense.(Ord. 258 §43(part), 2001).

10.24.065 Unnecessary Noise.

a. Public and private places. It shall be unlawful for any person to make, continue or cause to be made or continued any unnecessary, unusually loud or unusual noise between the hours of 10:00 p.m. and 6:00 a.m. which either annoys, injures, or endangers the comfort, repose, health, or safety of other persons. For the purpose of this Section, a member of the Marshal's Department is empowered to make a prima facie determination of whether such noise constitutes a public nuisance.

b. Schools. It shall be unlawful for any person by himself or in the operation of any instrument, machine or vehicle to make any unnecessary noise within one hundred fifty feet (150') of any school during school hours.

c. Speakers and Amplifiers. It shall be unlawful to maintain or operate any loud speaker or amplifier connected with any radio, phonograph, tape player, compact disc player, microphone, or other device by which sounds are magnified and may be heard in or upon any public street or public place without having first secured a permit therefor or written permission from the Mayor or Town Marshal.

1. Exclusions. This subsection (C) shall not apply to radios, phonographs, tape players, or compact disc players in homes or in private motor vehicles when the same are operated in such a manner as not to be audible at a distance of fifty feet (50') from such vehicle or home, nor to noise devices, bands or other musical devices used in any public parade or procession which is operated under a permit in accordance with the De Beque Municipal Code.

d. Construction Hours. It shall be unlawful for any person to construct, build, permit or allow construction, dig, excavate, grade any dirt, operate or allow to be operated any construction tools or equipment between the hours of 9:00 p.m. and 7:00 a.m. The use of non-powered hand tools is not prohibited as long as such noise does not annoy, injure or endanger the comfort, repose, health or safety of other persons. For the purpose of this subsection, a member of the Marshal's Department is empowered to make a prima facie determination of whether such noise constitutes a

public nuisance. This Section shall not prohibit the emergency repair of any public utility.

e. Penalty. Any person who violates any of the provisions of this Section commits a non-criminal municipal offense.

(Ord. 290 §1(part), 2004).

10.24.070 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 B municipal offense if he knowingly:

1. Loiters for the purpose of begging; or

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

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

4. Loiters in or upon a school building or grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil, or not having any other reason or relationship involving the business, functions or mission of the school and impairs the orderly educational process; or

5. Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 12-22-303(7), C.R.S., as amended. (Amended Ord. 258 §44(part), 2001).

C. It shall be an affirmative defense that the defendant's acts were lawful and he was exercising his rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise.

(Ord. 135 §l(part), 1982).

10.24.080 Hindering Transportation. A person commits a Class B municipal offense if he knowingly and without lawful authority forcibly stops or hinders the operation of any vehicle used in providing transportation of any kind to the public or to any person, association or corporation. (Ord. 135 §1 (part), 1982; Amended Ord. 258 §45(part), 2001).

10.24.090 Throwing Missiles. No person shall knowingly throw or shoot any stone, snowball or other missile at or upon any person, animal, motor vehicle, public property or at or upon

any building, structure, tree or other private property not belonging to that person. Violation of this Section shall constitute a Class B municipal offense. (Ord. 135 §1(part), 1982; Amended Ord. 258 §46(part), 2001).

10.24.100 Unlawful to Carry Concealed Weapon. A. A person commits a Class A municipal offense if he knowingly and unlawfully, wears or carries under his clothes, or concealed about or upon his person, any dangerous or deadly weapon including, but not by way of limitation, any firearm; explosive or incendiary device; blackjack; cross knuckles or knuckles of lead, brass or other metal; knife, dagger, dirk or stiletto with a blade over three and one-half inches (3 ½") in length; any switchblade or gravity knife; nunchakus, stun gun; or any other dangerous or deadly weapon.

B. Any person convicted of any violation of this Section shall forfeit to the Town such dangerous or deadly weapon so concealed or displayed.

C. It shall be an affirmative defense that the defendant was:

1. A person in his own dwelling or place of business, or on property owned or under his control at the time of the act of carrying; or

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

3. A person who, at the time of carrying a concealed weapon, held a valid written permit to carry a concealed weapon issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to its repeal, or, if the weapon involved was a handgun, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Article 12 of Title 18, C.R.S.; except that it shall be an offense under this Section if the person was carrying a concealed handgun in violation of the provisions of Section 18-12-214, C.R.S.; or

4. A peace officer as defined in Section 16-2.5-101 C.R.S., as amended.

(Ord. 135 §l(part), 1982; Amended Ord. 289 §1(part), 2004).

10.24.110 Prohibited Use of Weapons. A. A person commits a Class A municipal offense if:

1. He knowingly and unlawfully displays or aims a deadly weapon at another person in a manner calculated to alarm; or

2. Not being a peace officer, he knowingly fires or discharges any cannon, gun,

pistol, revolver or any other firearm anywhere within the Town except at a lawfully authorized target range; or

3. He knowingly or unlawfully discharges any air gun, gas operated gun, BB gun, pellet gun, slingshot or spring gun, or bow and arrow anywhere in the Town; or

4. He knowingly and unlawfully sets off, or explodes any firecracker, torpedo ball, rocket or other fireworks, except on the celebration of some holiday or event and with the consent of the Mayor, Marshal or Fire Chief; or

5. He knowingly and unlawfully explodes or sets off any combustible or explosive material; or

6. He knowingly sets a loaded gun, trap or device designed to cause explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present; or

7. He has in his possession a firearm while he is under the influence of intoxicating liquor or of a controlled substance, as defined in Section 12-22-303(7), C.R.S., as amended, unless such person held a valid written permit to carry a concealed weapon issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to its repeal, or if the weapon involved was a handgun, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Article 12 of Title 18, C.R.S.; except that it shall be an offense under this Section if the person was carrying a concealed handgun in violation of the provisions of Section 18-12-214, C.R.S. (Amended Ord. 258 §48(part), 2001)

(Amended Ord. 289 §§2, 3, 7(part), 2004).

B. The Mayor or Marshal may grant an exception to this Section, in writing, for contests, sporting events, construction and/or maintenance work. Said permission shall limit the time and place of such firing, and shall be subject to revocation by the Board of Trustees at any time after the same has been granted. (Amended Ord. 289 §4(part), 2004).

C. Every person convicted of any violation of this Section shall forfeit to the Town such gun, firearm or weapon illegally discharged. (Amended Ord. 289 §5(part), 2004).

(Ord. 135 §l(part), 1982).

10.24.120 Storage of Explosives Prohibited. It is unlawful for any person to knowingly store within the Town limits or within one (1) mile thereof any amount of gunpowder, blasting powder, nitro-glycerin, dynamite or other high explosive in excess of one (1) fifty-pound (50 lb.) box

or in excess of five hundred (500) caps or other devices used for the detonation of such high explosives. Violation of this Section shall constitute a Class A municipal offense. (Ord. 135 §1(part), 1982; Amended Ord. 258 §50(part), 2001).

10.24.130 Fireworks Prohibited. A. For the purposes of this Section, the designated words and phrases have the following meaning.

"Fireworks" means any article, devise, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation which meets the description of fireworks as set forth in Section 12-28-101 (3)(a), C.R.S., as amended.

"Permissible fireworks" means any item designed primarily to produce visual or audible effects by combustion, including certain devices designed to produce audible or visual effects, and includes all items described in Section 12-28-101 (8)(a-n, inclusive), C.R.S., as amended. No device or component that is considered a permissible firework by State statute shall, upon functioning, project or disburse any metal, glass, or brittle plastic fragments.

B. No person shall possess or discharge fireworks within the Town's limits.

C. No person shall discharge permissible fireworks within the Town's limits; provided, however, that the Town's Fire Chief or Marshal may designate specified dates or periods in which it is permitted to discharge permissible fireworks, as defined by in this Section, after consideration by the Fire Chief or Marshal of wind, accumulated rainfall, temperature patterns, and other meteorological factors. The Fire Chief and the Marshal are also authorized to designate locations in the Town for the discharge of permitted fireworks, and if so designated, no permitted fireworks may be discharged by any person outside of such designated area.

D. No person under the age of sixteen (16) years shall possess or discharge any permissible fireworks within the Town's limits except under the supervision and guidance of a parent or adult, and only during those dates or periods and at those locations designated by the Fire Chief or the Marshal pursuant to this Section.

E. No person shall knowingly furnish to any person who is under sixteen (16) years of age, by gift, sale, or any other means, any fireworks not permitted by law; provided, however, that at all times that it is permissible for a person under sixteen (16) years of age to possess or discharge permitted fireworks within Town limits under adult supervision. It is lawful for any person to provide permitted fireworks to a person under sixteen (16) years of age. (Amended Ord. 299 §6(part), 2004).

F. Notice of the designation of specified dates or periods and locations during which permissible fireworks may be discharged in the Town's limits shall be made by posting the dates or periods and locations at the Town Hall, or by publication of the same in the Town's newsletter.

(Ord. 248 §1, 1999).

G. Any person who violates this Section commits a non-criminal municipal offense. (Ord. 261 §2(part), 2001).

10.24.140 Disorderly Conduct. It is unlawful for any person to commit disorderly conduct. A person commits disorderly conduct if he intentionally, knowingly or recklessly:

A. Makes a course and obviously offensive utterance, gesture, or display in a public or private place, and the utterance, gesture or display tends to incite an immediate breach of the peace; or

B. Abuses or threatens a person in a public or private place in a manner which tends to incite an immediate breach of the peace; or

C. Urinates or defecates in any public or private place not designed for such purposes; or

D. Exposes his genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person; or

E. Strikes, shoves, kicks, or otherwise touches a person or subject him to physical contact with the intent to harass, annoy, or alarm such person.

(Ord. 260, 2001; Amended Ord. 261 §1(part), 2001).

Any person who violates subsection (A), (B), (D) and (E) of this Section commits a Class B municipal offense. Any person who violates subsection (C) of this Section commits a non-criminal municipal offense. (Ord. 258 §51(part), 2001).

10.24.147 Disorderly House. Any person who knowingly keeps any common, ill governed or disorderly house which encourages, suffers or permits any drunkenness, the furnishing or selling of intoxicating liquor to under age persons, the use, sale and distribution of unlawful controlled substances, the disturbance of the peace or where the conduct of persons in or about the house is such as to annoy or disturb residents in the vicinity or persons traveling on the public streets, quarreling, fighting or disorderly conduct in any house, used, owned, kept or controlled by him within the Town commits a Class B municipal offense. (Ord. 290 §2(part), 2004).

10.24.150 Reckless Endangerment. Any person who recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person commits the Class A municipal offense of reckless endangerment. (Amended Ord. 258 §52(part), 2001; Ord. 260, 2001).

10.24.160 Assault and Battery. A. Any person who intentionally, knowingly, or recklessly assaults, strikes, fights, injures or commits battery upon the person of another, except in an amateur or professional contest of athletic skill, commits a Class A municipal offense.

B. "Assault" as used in this Section shall mean an attempt, coupled with a present ability, to commit a bodily injury upon the person of another. "Battery" as used in this Section shall mean any use of force or violence upon the person of another.

(Ord. 258 §53(part), 2001).

Chapter 10.28

OFFENSES AGAINST PERSONAL AND REAL PROPERTY

Sections:

10.28.010 Petty Theft. A. A person commits the offense of petty theft when he knowingly obtains or exercises control over anything of a value of five hundred dollars ($500.00) or less belonging to another without authorization or, if applicable, without paying the purchase price therefor, and knowingly uses, conceals or abandons the thing of value in such a manner as to deprive the other person permanently of its use or benefit. (Ord. 219 §1, 1994; Amended Ord. 299, §7(part), 2004).

B. If any person wilfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or mercantile establishment, whether the concealment be on his own person or otherwise, and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to obtain control over a thing of value and intended to deprive the owner permanently of its use or benefit without paying the purchase price therefor. (Ord. 135 §1(part), 1982).

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

D. For the purpose of this Section, when theft occurs from a store, evidence of the retail value of the thing involved shall be prima facie evidence of the value of the thing involved. Evidence offered to establish retail value may include, but shall not be limited to, affixed labels and tags, signs, shelf tags, and notices.

E. For the purposes of this Section, in all cases where theft occurs, evidence of the value of the thing involved may be established through the sales price of other similar property and may

include, but shall not be limited to, testimony regarding affixed labels and tags, signs, shelf tags, and notices tending to indicate the price of the thing involved. Hearsay evidence shall not be excluded in determining the value of the thing involved.

F. Where the value of the thing of value is less than one hundred dollars ($100.00), petty theft shall constitute a Class B municipal offense. Where the value of the thing of value is more than one hundred dollars ($100.00) but less than five hundred dollars ($500.00), petty theft shall constitute a Class A municipal offense.

(Amended Ord. 258 §54(part), 2001).

10.28.015 Fraud by Check. A. As used in this Section, unless the context otherwise requires:

1. "Check" means a written, unconditional order to pay a sum certain in money, drawn on a bank or other financial institution, 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 or other financial institution 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 be that of himself or of a person authorized to draw the check on himself.

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 makes, draws, delivers, or passes it or causes it to be made, drawn, delivered, or passed.

6. "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 parties or otherwise.

7. "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, or 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 withdrawals by negotiable order of withdrawal or share draft.

B. Any person knowing he has insufficient funds with the drawee, who, with intent to defraud, issues a check in the sum of 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 the offense of fraud by check. Where the check is in the sum of one hundred dollars ($100.00) to five hundred dollars ($500.00), the offense shall be deemed a Class A municipal offense. If the check is in the sum of less than one hundred dollars ($100.00), such offense shall constitute a Class B municipal offense.

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 is the payee, holder, or bearer of the check.

D. Any person who opens a checking account, negotiable order withdrawal account, or share draft account using false identification or an assumed name for the purposes of issuing fraudulent checks commits a Class A municipal offense. (Amended Ord. 299, §8(part), 2004).

E. If a deferred prosecution or judgment and sentence is ordered, the Court as a condition of probation 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 probation in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

F. 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 has no account upon which the check or order is drawn with the bank or other drawee at the time he issued the check or order; or

2. He has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within twelve (12) days after issue.

(Ord. 258 §55(part), 2001).

10.28.020 Procuring Food or Accommodations with Intent to Defraud. A. Any person who, with intent to defraud, procures food or accommodations in any public establishment, without making payment therefor in accordance with his agreement with such public establishment, is guilty of a Class B municipal offense if the total amount due under such agreement is five hundred dollars ($500.00) or less. Upon conviction thereof, a person shall be punished by a fine not to exceed more than five hundred dollars ($500.00), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. (Amended Ord. 258 §56(part), 2001).

B. "Agreement with such public establishment" means any written or verbal agreement as to the price to be charged for, and the acceptance of, food, beverage, service or accommodations where the price to be charged therefor is printed on a menu or schedule of rates shown to or made available by a public establishment to the patron and includes the acceptance of such food, beverage, service or accommodations for which a reasonable charge is made.

C. "Public establishment" means any establishment selling or offering for sale prepared food or beverages to the public generally, or any establishment leasing or renting overnight sleeping accommodations to the public generally, including, but not exclusively, restaurants, cafes, dining rooms, lunch counters, coffee shops, boarding houses, hotels, motor hotels, motels and rooming houses, unless the rental thereof is on a month-to-month basis or a longer period of time.

D. It shall be evidence of an intent to defraud that food, service or accommodations were given to any person who gave false information concerning his name or address, or both, in obtaining such food, service or accommodations, or that such person removed or attempted to remove his baggage from the premises of such public establishment without giving notice of his intent to do so to such public establishment. These provisions shall not constitute the sole means of establishing evidence that a person accused under subsection (A) of this Section had an intent to defraud. Proof of such intent to defraud may be made by any facts or circumstances sufficient to establish such intent to defraud beyond a reasonable doubt as provided by law.

(Ord. 135 §1(part), 1982).

10.28.025 Theft of Rental Property. A. A person commits the municipal offense of theft of rental property if he:

1. Knowingly obtains the temporary use of personal property of another with a value of less than five hundred dollars ($500.00), which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or

2. Having lawfully obtained possession for temporary use of the personal property of another with a value of less than five hundred dollars ($500.00), which is

available only for hire, knowingly fails to reveal the whereabouts of or to return said property to the owner thereof or his representative or to the person from whom he has received it within seventy-two (72) hours after the time at which he agreed to return it.

B. For the purposes of this Section, personal property is that of "another" if anyone other than the defendant has a possessory or proprietary interest therein.

C. If a person signs a rental agreement or a similar agreement for the temporary use of the personal property of another, and said agreement provides that failure to reveal the whereabouts of said property or to return said property within seventy two (72) hours after the time at which he agreed to return it shall constitute a wrongful or unlawful retention of the rental property, such agreement shall constitute prima facie evidence of the culpable mental state required under subsection (A)(2) of this Section.

D. Any violation of this Section shall constitute a Class A municipal offense where the value of the personal property is more than one hundred dollars ($100.00) and less than five hundred dollars ($500.00), and shall constitute a Class B municipal offense if the value of the personal property is less than one hundred dollars ($100.00).

(Ord. 258 §57(part), 2001).

10.28.030 Injuring or Destroying Public Property. A. No person shall intentionally, knowingly, negligently or recklessly injure, deface, destroy or remove real property or improvements thereto or movable or personal property belonging to the Town.

B. No person shall intentionally, knowingly, negligently or recklessly tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fire plug, topographical survey monument or any other personal property erected or placed by the Town. (Ord. 135 §1(part), 1982).

C. Any violation of this Section shall constitute a Class A municipal offense. (Ord. 258 §58, 2001).

10.28.040 Criminal Mischief. A. Any person who intentionally, knowingly, negligently, or recklessly damages, injures, defaces, destroys, removes, or causes, aids in, or permits the damaging, injuring, defacing, destruction, or removal of real property or improvements thereto, or movable or personal property of another 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) but more than one hundred dollars ($100.00) commits a Class A municipal offense; and if the damage is less than one hundred dollars ($100.00), such person commits a Class B municipal offense.

B. For the purposes of this Section, property shall be deemed to be injured or damaged

when physical effort or the expenditure of monies is required to restore the property to its previous condition.

C. For the purposes of this Section, property shall be deemed to belong to "another," if anyone other than the defendant has a possessory or proprietary interest therein.

(Amended Ord. 258 §59(part), 2001).

10.28.050 Criminal Trespass. A person commits the Class A municipal offense of criminal trespass if he intentionally, knowingly or wilfully:

A. Unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced or if he unlawfully enters or remains in or upon the premises of a hotel, motel, bar, lounge, restaurant, condominium or apartment building;

B. Unlawfully enters or remains in or upon any other premises or a motor vehicle;

C. A person "unlawfully enters or remains" in or upon premises when he is not licensed, invited or otherwise privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of the premises or some other authorized person in charge or control thereof. License or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice forbidding entry is given by posting with signs at intervals of not more than four hundred forty (440) yards, or, if there is a readily identifiable entrance to the land, by posting with signs at such entrance to the private land or the forbidden part of the land.

D. As used in this Section, "premises" means real property, buildings and other improvements thereon. (Ord. 135 §l(part), 1982; Amended Ord. 258 §60(part), 2001).

10.28.060 Littering of Public and Private Property. A. Any person who knowingly deposits, throws or leaves any litter on any public or private property or in any waters, or permits the same, commits the Class B municipal offense of littering. (Amended Ord. 258 §61(part), 2001).

B. It shall be an affirmative defense that:

1. Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property; or

2. The litter is placed in a receptacle or container installed on such property for that purpose; or

3. Such person is the owner or tenant in lawful possession of such property, or he has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

C. The term "litter" as used in this Section means all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description.

D. The phrase "public or private property" as used in this Section includes, but is not limited to, the right-of-way of any road or highway, any body of water or water course, including frozen areas or the shores or beaches thereof, any park, playground or building, any refuge, conservation or recreation area, and any residential, commercial, farm or ranch properties.

E. Littering is punishable, upon conviction, by a fine of up to one hundred dollars ($100.00). (Amended Ord. 314 §1 (part), 2006).

F. It is in the discretion of the Court, upon the conviction of any person and the imposition of a fine under this Section, to suspend the fine upon the condition that the convicted person gather and remove from specified public property or specified private property, with prior permission of the owner or tenant in lawful possession thereof, any litter found thereon.

G. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom.

(Ord. 135 §1(part), 1982).

10.28.070 Abandoned Containers. It is unlawful for any person to knowingly 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 control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has a door or lid, snaplock or other locking device which may not be released from the inside without first removing said door or lid, snaplock or other locking device. Any violation of this Section shall constitute a Class A municipal offense. (Ord. 135 §l(part), 1982; Amended Ord. 258 §62(part), 2001).

Chapter 10.32

OFFENSES RELATING TO INTOXICATING LIQUORS AND DRUGS

Sections:

10.32.010 Definitions. Definitions applicable to Chapter 10.32 as used in the sections below, unless the context otherwise requires:

A. “Alcoholic beverage” shall mean any fermented malt beverage or malt, vinous, or spirituous liquors, including 3.2 percent beer, of any kind and in any quantity.

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

C. “Ethyl alcohol" means any substance which is or contains ethyl alcohol.

D. “Fermented malt beverage” shall mean 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 alcohol by volume and not more than three and two-tenths percent alcohol by weight or four percent alcohol by volume; except that “fermented malt beverage” shall not include confectionery containing alcohol within the limits prescribed by section 25-5-410 (1)(i)(II), C.R.S.

E. “Malt liquors” 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 of alcohol by weight or four percent alcohol by volume.

F. "Marijuana" has the same meaning as in Section 16 (2) (f) of Article XVIII of the Colorado Constitution.

G. “Marijuana paraphernalia" has the same meaning as marijuana accessories in Section 16 (2) (g) of Article XVIII of the Colorado Constitution.

H. “Marijuana Accessories” means any equipment, products or material of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana or ingesting, inhaling or otherwise introducing marijuana into the human body.

I. “Marijuana Club” means any place of private assembly for the purpose of inviting members, their guests or members of the general public to use or consume marijuana/and or marijuana products on the premises of any commercial or industrial zoned property except for those spaces which are occupied for residential use in accordance with the Town’s Land Use Regulations governing residential uses.

J. “Marijuana Enterprise” means any commercial operation, facility, machine or business which sells or dispenses marijuana or marijuana products, including but not limited to, marijuana or marijuana products in vending machines.

K. "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.

L. "Possession of marijuana" means that a person has or holds any amount of marijuana anywhere on his or her person or that a person owns or has custody of marijuana or has marijuana within his or her immediate presence and control.

M. "Private Property" means any dwelling and its curtilage which is being used by a

natural person or natural persons 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:

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

2. Any establishment which sells ethyl alcohol or upon which ethyl alcohol is sold; or

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

N. "Spirituous liquor" means any alcohol 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 alcohol by volume and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in subsections (C) and (M) of this Section, shall not be construed to be fermented malt or malt or vinous liquor but shall be construed to be spirituous liquor.

O. "Transfer" means to deliver or convey in a manner not permissible pursuant to Section 16 of Article XVIII of the Colorado Constitution.

P. "Vinous liquors" means wine and fortified wines that contain not less than one-half of one percent and not more than twenty-one percent alcohol by volume and shall be construed to mean an alcohol beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

(Repealed & Reenacted Ord. 448, §2, 2014)

10.32.020 Establishment Restrictions. A. It shall constitute a Class B municipal offense for the licensee, proprietor, agent or employee of any establishment having a license to sell fermented malt beverages or malt, vinous, or spirituous liquors for consumption on the premises, to permit or allow the following:

1. Persons under the age of twenty-one (21) years to enter, frequent, visit, or be present in any establishment where fermented malt beverages or malt, vinous, or spirituous liquors are sold for consumption on the premises.

2. Persons, customers, and guests to be in places where fermented malt beverages, malt, vinous, or spirituous liquors are sold for consumption on the premises during the hours and days that State law prohibits the sale, serving or distribution of fermented malt beverages, or malt, vinous, or spirituous liquors.

(Amended Ord. 258 §63(part), 2001).

B. A licensee or proprietor of any establishment having a license to sell fermented malt beverages or malt, vinous or spirituous liquors for consumption on the premises shall be legally accountable for the conduct of any agent or employee of said licensee or proprietor who violates any provision of this Section. The licensee or proprietor shall be guilty of any offense created under this Section if it is committed by any agent or employee of such licensee or proprietor.

C. Any offense created under this Section shall be one of "strict liability".

D. It shall be an affirmative defense to any prosecution for violation of this Section if the licensee, proprietor, agent or employee of the licensed establishment can establish, by a preponderance of the evidence, that he required a minor to exhibit a state of Colorado operator's license, chauffeur's license or identification card prior to entry by such person into the establishment, and such proof of age exhibited was fraudulent.

(Ord. 135 §l(part), 1982; Ord. 177 (part), 1990).

10.32.030 Warning Display Required. Every licensee or proprietor of an establishment where fermented malt beverages, or malt, vinous, or spirituous liquors are sold for consumption on the premises shall display, at all times in a prominent place near each entry way of the establishment, a printed card with a minimum height of fourteen inches (14") and a width of eleven inches (11"), with each letter to be of a minimum of one-half (1/2") inch in height, which shall read as follows:

A. For establishments selling fermented malt beverages or malt, vinous or spirituous liquors, for consumption on the premises and not serving regular meals:

"WARNING

IT IS ILLEGAL TO SELL 3.2 BEER OR WHISKEY, WINE, OR BEER TO ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE TO POSSESS OR ATTEMPT TO PURCHASE THE SAME.

IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE TO BE IN OR VISIT THIS ESTABLISHMENT.

IF YOU ARE TWENTY ONE (21) YEARS OF AGE OR OLDER, IT IS ILLEGAL FOR YOU TO PURCHASE 3.2 BEER OR WHISKEY, WINE OR BEER FOR A PERSON UNDER TWENTY ONE (21) YEARS OF AGE.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN

PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THIS ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS."

(Ord. 135 §1(part), 1982; Ord. 177 (part), 1990; Ord. 219 §4, 1994).

B. For establishments holding a hotel and restaurant license and selling fermented malt beverages or malt, vinous or spirituous liquors, for consumption on the premises:

"WARNING

IT IS ILLEGAL TO SELL 3.2 BEER OR WHISKEY, WINE OR BEER TO ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE TO POSSESS OR ATTEMPT TO PURCHASE THE SAME.

IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE TO VISIT OR BE IN THIS ESTABLISHMENT UNLESS HE IS ACTUALLY CONSUMING A MEAL SERVED BY THIS ESTABLISHMENT PRIOR TO 8:00 P.M.

IF YOU ARE TWENTY ONE (21) YEARS OF AGE OR OLDER, IT IS ILLEGAL FOR YOU TO PURCHASE 3.2 BEER OR WHISKEY, WINE OR BEER FOR A PERSON UNDER TWENTY ONE (21) YEARS OF AGE.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THIS ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS."

C. Any violation of this Section shall constitute a non-criminal municipal offense.

(Amended Ord. 258 §64(part), 2001).

10.32.040 Minors on Premises Prohibited. A. It shall constitute a non-criminal municipal offense for any person under the age of twenty-one (21) years to enter, visit, frequent, or

be present in any establishment where fermented malt beverages or malt, vinous, or spirituous liquors are sold for consumption on the premises.

B. Any offense created under this Section shall be one of "strict liability". (Ord. 135 §l(part), 1982; Amended Ord. 177 (part), 1990).

(Amended Ord. 258 §65(part), 2001).

10.32.050 Exceptions. Nothing contained in Sections 10.32.010 and 10.32.030 shall prohibit:

A. Minors from entering and remaining in the dining room portion of a licensed establishment when the dining room portion of said establishment is separated by a physical barrier from the bar portion of said establishment;

B. Minors from entering or remaining in a licensed establishment regularly serving food, that does not have a separate dining room, for the limited purpose of consuming food actually and regularly served; provided, however, a minor must leave the premises after consuming such food unless the minor is accompanied by a parent or legal guardian of legal drinking age;

C. Minors from passing through the bar portion of an establishment for the necessary ingress and egress to and from restrooms;

D. Owners or necessary maintenance employees from being in the establishment which they own or where they work;

E. Minors who are members of an entertainment group paid or employed by the licensee from being present in a licensed establishment during the period of time they are performing.

(Ord. 135 §1(part), 1982; Ord. 177 (part), 1990)

10.32.060 Distribution of Alcohol to Underage Persons and Others Prohibited. It shall constitute a Class B municipal offense for any person to sell, serve, give away, dispose of, exchange, procure, or deliver or permit the sale, serving, giving or procuring of any fermented malt beverages or malt, vinous, or spirituous liquors to or for any person under the age of twenty-one (21) years, or to a visibly intoxicated person, or to a known habitual drunkard. Said offense shall be one of "strict liability". "Fermented malt beverages or malt, vinous, or spirituous liquors shall have the same meaning as defined in Title 12, C.R.S., as amended, which is incorporated herein by this reference. (Ord. 135 §l(part), 1982; Amended Ord. 219 §5, 1994; Amended Ord. 258 §66(part), 2001).

10.32.070 Possession of Open Alcoholic or Fermented Malt Beverage Container Prohibited. A. It is unlawful for any person to intentionally, knowingly, willfully or negligently

have either in his possession or within a motor vehicle under his control, while in or upon any public street, highway, alley, sidewalk, park, elementary or secondary school building or grounds, or other publicly owned property located within the Town limits, or parking area open to the public, a bottle, can or other receptacle which is open, or which has a broken seal, or the contents of which have been partially removed, and which contains any alcoholic or fermented malt beverage. Any violation of this Section shall constitute a non-criminal municipal offense. (Amended Ord. 258 §67(part), 2001).

B. Nothing in this Section shall prohibit the consumption, possession or sale of alcoholic or fermented malt beverage if the Town Administrator or Town Clerk has issued a permit therefor; provided, that:

1. Any permit for the sale of alcoholic or fermented malt beverages on Town-owned property shall be a special event permit issued pursuant to state law, and said permit shall not be issued for longer than fifteen (15) days in any calendar year;

2. In the event no alcoholic beverages are available for sale, the Town Administrator or Town Clerk may issue a permit for the use of Town-owned property, including the community center and Town parks, allowing for the possession and consumption of alcoholic beverages thereon, which permit shall be subject to any rules and regulations regarding such property;

3. The Town Administrator or Town Clerk shall have determined that either of the foregoing permits is necessary or desirable for conducting a public or private event or celebration and that adequate provisions have been made for police supervision and area maintenance; and

4. The permit applicant shall have paid all necessary permit application fees and deposits.

(Ord. 135 §1(part), 1982). (Ord. 482 § 2. 2017)

10.32.080 Illegal Possession Or Consumption Of Ethyl Alcohol Or Marijuana By An Underage Person – Illegal Possession Of Marijuana Paraphernalia By An Underage Person.

A. Except as described by Section 18-1-711, C.R.S. and subsection (K) of this Section, a person under twenty-one (21) years of age who possesses or consumes ethyl alcohol anywhere in the State of Colorado commits illegal possession or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

B. Except as described by Section 14 of Article XVIII of the Colorado Constitution and Section 18-18-406.3, C.R.S., a person under twenty-one (21) years of age who possesses one (1) ounce or less of marijuana or consumes marijuana anywhere in the Town of De Beque commits

illegal possession or consumption of marijuana by an underage person. Illegal possession or consumption of marijuana by an underage person is a strict liability offense.

C. Except as described by Section 14 of Article XVIII of the Colorado Constitution and Section 18-18-406.3, C.R.S, a person under twenty-one (21) years of age who possesses marijuana paraphernalia anywhere in the Town of De Beque and knows or reasonably should know that the drug paraphernalia could be used in circumstances in violation of the laws of this Town of De Beque commits illegal possession of marijuana paraphernalia by an underage person. Illegal possession of marijuana paraphernalia by an underage person is a strict liability offense.

D. Any violation of this Section 10.32.080 shall constitute a municipal offense.

E. Upon conviction of a first offense under this Section, the Court shall sentence the underage person to a fine of not more than one hundred dollars ($100.00), or the Court shall order that the underage person complete a substance abuse education program approved by the Court, or both.

F. Upon conviction of a second offense under this Section, the Court shall sentence the underage person to a fine of not more than one hundred dollars, ($100.00) and the Court shall order the underage person to:

1. Complete a substance abuse education program approved by the Court;

2. If determined necessary and appropriate, submit to a substance abuse assessment approved by the court and complete any treatment recommended by the assessment; and

3. Perform up to twenty-four (24) hours of useful public service.

G. Upon conviction of a third or subsequent offense under this Section, the Court shall sentence the defendant to a fine of up to two hundred fifty dollars ($250.00), and the Court shall order the underage person to:

1. Submit to a substance abuse assessment approved by court and complete any treatment recommended by the assessment; and

2. Perform up to thirty-six (36) hours of useful public service.

H. Nothing in this section prohibits the Town Attorney from entering into a deferred judgment agreement with any underage person for any offense under this Section, and the Town Attorney is encouraged to enter into those agreements when they are consistent with this Section and in the interests of justice.

I. It is an affirmative defense to the offense described in subsection (A) of this Section 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;

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 within the limits prescribed by Section 25-5-410 (1) (i) (ii), C.R.S.; or the ingestion of any substance which was manufactured, designed, or intended primarily for a purpose other than oral human ingestion; or the ingestion of any substance which was manufactured, designed, or intended solely for medicinal or hygienic purposes; or solely from the ingestion of a beverage which contained less than one-half of one percent (.5%) of ethyl alcohol by weight; or

3. The person is a student who:

(a) Tastes but does not imbibe an alcohol beverage only while under the direct supervision of an instructor who is at least twenty-one (21) years of age and employed by a post-secondary school;

(b) Is enrolled in a university or a post-secondary school accredited or certified by an agency recognized by The United States Department Of Education, a nationally recognized accrediting agency or association, or the "Private Occupational Education Act of 1981", Article 59 of Title 12, C.R.S.;

(c) Is participating in a culinary arts, food service, or restaurant management degree program; and

(d) Tastes but does not imbibe the alcohol beverage for instructional purposes as a part of a required course in which the alcohol beverage, except the portion the student tastes, remains under the control of the instructor.

J. The possession or consumption of ethyl alcohol or marijuana 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.

K. An underage person shall be immune from criminal prosecution under this Section if

he or she establishes the following:

(a) The underage person called 911 and reported in good faith that another underage person was in need of medical assistance due to alcohol or marijuana consumption;

(b) The underage person who called 911 provided his or her name to the 911 operator;

(c) The underage person was the first person to make the 911 report; and

(d) The underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

L. Prima facie evidence of a violation of subsections (A), (B) or (C) of this Section shall consist of:

1. Evidence that the defendant was under twenty-one (21) years of age and possessed or consumed ethyl alcohol or marijuana or possessed marijuana paraphernalia anywhere in the Town of De Beque ; or

2. Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment or marijuana impairment while present anywhere in the Town of De Beque.

M. During any trial for a violation of subsection (A) of this Section, any bottle, can, or any 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 be admissible into evidence and 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 or marijuana. 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 was composed in whole or in part of ethyl alcohol.

N. 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 ethyl alcohol to or by a person under twenty-one (21) years of age under the conditions described in subsection (I)(1) of this Section. This subsection (N) shall not be construed to permit any establishment which is licensed 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.

O. Nothing in this Section shall be construed to limit or preclude prosecution for any offense pursuant to Articles 46, 47, or 48 of Title 12, C.R.S., except as provided in such Articles.

P. Sealing of Record. (1) upon dismissal of a case pursuant to this Section after completion of a deferred judgment or any other action resulting in dismissal of the case or upon completion of the court-ordered substance abuse education and payment of any fine for a first conviction of subsections (a), (B), or (C) of this Section, the Court shall immediately order the case sealed and provide to the underage person and the Town Attorney a copy of the order sealing the case for distribution by the appropriate party to all law enforcement agencies in the case.

2. Upon the expiration of one (1) year from the date of a second or subsequent conviction for a violation of subsections (A), (B), or (C) of this Section, the underage person convicted of such violation may petition the Municipal Court for an order sealing the record of the conviction. The petitioner shall submit a verified copy of his or her criminal history, current through at least the twentieth (20^{th}) day prior to the date of the filing of the petition, along with the petition at the time of filing, but in no event later than the tenth (10^{th}) day after the petition is filed. The petitioner shall be responsible for obtaining and paying for his or her criminal history record. The court shall grant the petition if the petitioner has not been arrested for, charged with, or convicted of any felony, misdemeanor, petty offense, or municipal offense during the period of one (1) year following the date of the petitioner's conviction for a violation of subsections (A), (B), or (C) of this Section.

Q. The qualitative result of an alcohol or marijuana test or tests shall be admissible at the trial of any person charged with a violation of subsections (A) or (B) of this Section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting alcohol or marijuana by the Executive Director of the Department of Public Health and Environment.

R. Official records of the Colorado Department of Public Health And Environment relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions, and certification of laboratories shall be official records of the State. Copies of such records, attested by the Executive Director of the Department of Public Health and Environment or his or her designee and accompanied by a certificate bearing the official seal for said Department, which state that the Executive Director of the Department has custody of such records, shall be admissible in the Municipal Court and shall constitute prima facie evidence of the information contained in such

records. The official seal of the Department described in this subsection (R) may consist of a watermark of the State seal within the document.

S. In any proceeding in the Municipal Court concerning a charge under subsection (A) or (B) of this Section, the Court shall take judicial notice of methods of testing a person's blood, breath, saliva, or urine for the presence of alcohol or marijuana and of the design and operation of devices certified by the Department of Public Health and Environment for testing a person's blood, breath, saliva, or urine for the presence of alcohol or marijuana. This subsection (S) shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection (S) shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

T. A law enforcement officer may not enter upon any private property to investigate any violation of this Section without probable cause.

(Repealed & Reenacted Ord. 448 §6, 2014)

Section 10.32.090 Possession of More Than One Ounce of Marijuana by A Person Twenty-One Years Of Age and Over – Prohibited.

A. It is unlawful for any person twenty-one (21) years of age and over to knowingly possess more than one (1) ounce of marijuana. A person who possesses not more than two (2) ounces of marijuana commits a non-criminal municipal offense and shall be punished by a fine of up to $500.00. A person who possesses more than two (2) ounces of marijuana but not more than six (6) ounces of marijuana commits a Class B municipal offense.

B. During any trial for a violation of subsection (A) of this Section, any container with labeling indicating the contents of the container is admissible into evidence, and the information contained on the label on the container is admissible into evidence and is not hearsay. A jury or a judge, whichever is appropriate, may consider the information upon the label in determining whether the contents of the container were composed in whole or in part of marijuana.

C. Nothing in this Section shall be construed to limit or preclude prosecution for any offense pursuant to the Colorado Medical Marijuana Code, Article 43.3 of title 12, C.R.S., or the Colorado Retail Marijuana Code, Article 43.4 of title 12, C.R.S., except as provided in such Articles.

D. The qualitative result of a drug test or tests performed by or on behalf of a law enforcement agency with relevant jurisdiction shall be admissible at the trial of any person charged with a violation of subsection (A) of this Section upon a showing that the device or devices used to

conduct such test or tests have been approved as accurate in detecting drugs by the Executive Director of the Colorado Department of Public Health and Environment.

(Ord. 448, §7, 2014)

10.32.100 Possession Of Drug Paraphernalia Prohibited.

A. "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagation, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injection, ingestion, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of this State. "Drug paraphernalia" includes, but is not limited to:

1. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances under circumstances in violation of the laws of this State;

2. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

3. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

4. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

5. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

6. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; or

7. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screen, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetor tubes and devices;

d. Smoking and carburetor masks;

e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums

l. Bongs; or

m. Ice pipes or chillers.

B. Drug paraphernalia does not include any marijuana accessories as defined in Section 16(2)(g) of Article XVIII of the Colorado Constitution, if possessed or used by a person age twenty-one (21) years or older.

C. In determining whether an object is drug paraphernalia, the Municipal Court, in its discretion, may consider in addition to all other relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. The proximity of the object to controlled substances;

3. The existence of any residue of controlled substances;

4. Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he knows or reasonably should know, could use the object to facilitate a violation of this Section or other applicable law;

5. Instructions, oral or written, provided with the object concerning its use;

6. Descriptive materials accompanying the object which explain or depict its use;

7. National or local advertising concerning its use;

8. The manner in which the object is displayed for sale;

9. Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;

10. The existence and scope of legal uses for the object in the community; and

11. Expert testimony concerning its use.

D. 1. Except as described in Section 18-1-711 C.R.S., concerning immunity for persons who suffer or report an emergency drug or alcohol overdose, a person commits the offense of possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of this State or the Town of De Beque.

2. Any person twenty-one (21) years of age or older who commits possession of drug paraphernalia commits a non-criminal municipal offense and upon conviction thereof, shall be punished by a fine of up to $500.00.

(Ord. 448, §8, 2014)

10.32.110 Open And Public Use Of Marijuana – Prohibited.

A. Except as described in Section 18-1-711, C.R.S., concerning immunity for persons who suffer or report and emergency drug or alcohol overdose, a person who openly and publicly displays, consumes, or uses two (2) ounces or less of marijuana, commits a non-criminal municipal offense and upon conviction thereof, shall be punished by a fine of up to $500.00 and up to twenty-four (24) hours of useful public service. The open and public display, consumption, or use of more than two (2) ounces of marijuana or any amount of marijuana concentrate shall be deemed possession thereof and a violation shall be punished as provided for in this Chapter or in the Colorado Revised Statutes.

B. As used in this Section, “open and public” means a place open to the general public which includes a place to which the public or a substantial number of the public has access without restriction including but not limited to streets, highways, public sidewalks, transportation facilities including rest areas, recreation areas, golf courses, places of amusement, parks, playgrounds, Town owned property including open space, bicycle and pedestrian trails, common open space owned by

owners' associations, common areas of public buildings and facilities that are generally open or accessible to members of the public without restriction, parking lots and areas, and shopping centers or shopping areas.

C. As used in this Section, "openly" means not protected from unaided observation lawfully made from outside the perimeter of the subject building or property not involving physical intrusion.

D. As used in this Section, "publicly" means an area that is open to general access with or without some restrictions and includes marijuana social clubs.

(Ord. 448, §10, 2014)

10.32.120 Transfer Of Marijuana Prohibited.

Any person who knowingly transfers or dispenses more than one (1) ounce, but not more than two (2) ounces of marijuana, from one person to another for no consideration commits a non-criminal municipal offense and shall not be deemed dispensing or the sale thereof which shall be punishable by a fine of up to $500.00.

(Ord. 448 §11, 2014)

10.32.130 Marijuana Clubs – Prohibited.

It shall be unlawful for any person to knowingly own, operate or maintain a Marijuana Club within the Town of De Beque. Any person who violates this Section commits a Class A municipal offense. Each and every day a violation of the provisions of this Section is committed, exists or continues shall be deemed a separate and distinct offense.

(Ord. 448 §12, 2014)

10.32.140 Marijuana Enterprises – Prohibited.

It shall be unlawful for any person to own, operate or maintain a Marijuana Enterprise within the Town of De Beque unless duly licensed pursuant to the Colorado Medical or Retail Marijuana Code, Articles 43.3 and 43.4 of Title 12, C.R.S., Chapter 5.22 of the Town Municipal Code, and permitted pursuant to the Town's Land Use and Development Code and Title 14 of the De Beque Municipal Code. Any person who violates this Section commits a Class A municipal offense. Each and every day a violation of the provisions of this Section is committed, exists or continues shall be deemed a separate and distinct offense.

(Ord. 448 §13, 2014) (Ord. 488 § 6, 2017)

10.32.150 Consumption Of Marijuana And Open Marijuana Containers In Motor Vehicles Prohibited.

A. As used in this Section, unless the context otherwise requires:

1. "Open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and:

a. That is open or has a broken seal;

b. The contents of which are partially removed; AND

c. There is evidence that marijuana has been consumed within the motor vehicle.

2. "Passenger area" means the area designed to seat the driver and passengers including seating behind the driver, while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

B. 1. Except as otherwise permitted in subsection (2) of this subsection (B), a person while in the passenger area of a motor vehicle that is on a public street, highway or the right-of-way of a public street or highway within the Town of De Beque shall not knowingly:

a. Use or consume marijuana; or

b. Have in his or her possession an open marijuana container.

2. The provisions of this subsection (B) shall not apply to:

a. Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

b. The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, camper, motor home, as defined in Section 42-1-102(57), C.R.S., or trailer coach, as defined in Section 42-1-102(106)(a), C.R.S.;

c. Possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

d. The possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

3. Any person who violates the provisions of this subsection (B) commits a non-criminal municipal offense and shall be punished by a fine of up to $500.00.

(Ord. 448 §14, 2014)

10.32.160 Abusing Toxic Vapors -- Prohibited. A. 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 subsection (A), nor shall any person knowingly aid any other person to use any such substance for the purposes described in this subsection (A). This subsection (A) shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

B. Any person who knowingly violates the provisions of subsection (A) of this Section commits the Class B municipal offense of abusing toxic vapors; except that no person shall receive a sentence to confinement in jail for being convicted of a first offense pursuant to this subsection (B). Any person convicted of a second (2nd) or subsequent offense pursuant to this subsection (B) may receive a sentence to confinement in jail.

C. For the purposes of this Section, the term "toxic vapors" means the following substances or products containing such substances:

1. Alcohols, including methyl, isopropyl, propyl, or butyl;

2. Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;

3. Acetone;

4. Benzene;

5. Carbon tetrachloride;

6. Cyclohexane;

7. Freons, including Freon 11 and Freon 12;

8. Hexane;

9. Methyl ethyl ketone;

10. Methyl isobutyl ketone;

11. Naphtha;

12. Perchlorethylene;

13. Toluene;

14. Trichloroethane; or

15. Xylene.

D. In a prosecution for a violation of this Section, evidence that a container lists one or more of the substances described in subsection (C) of this Section as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof.

(Ord. 448 §15, 2014)

10.34 Repealed.

(Ord. 448 §16, 2014)

Chapter 10.36

OFFENSES RELATING TO MORALS

Sections:

10.36.010 Prostitution Prohibited. A. Any person who knowingly performs or offers or agrees to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation or anal intercourse with any person not his spouse in exchange for money or other thing of value commits the Class A municipal offense of prostitution. (Amended Ord. 258 §72(part), 2001).

B. 1. "Fellatio," as used in this Section, means any act of oral stimulation of the penis.

2. "Cunnilingus," as used in this Section, means any act of oral stimulation of the vulva or clitoris.

3. "Masturbation," as used in this Section, means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

4. "Anal intercourse," as used in this Section, means contact between human beings of the genital organs of one and the anus of another.

(Ord. 135 §1(part), 1982).

10.36.020 Soliciting for Prostitution. A person commits the Class A municipal offense of soliciting for prostitution if he knowingly:

A. Solicits another for the purpose of prostitution; or

B. Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or

C. Directs another to a place knowing such direction is for the purpose of prostitution. (Ord. 135 §1(part), 1982).

10.36.030 Pandering. Any person who knowingly arranges or offers to arrange a situation in which a person may practice prostitution commits the Class A municipal offense of pandering. (Ord. 135 §1(part), 1982; Amended Ord. 258 §74(part), 2001).

10.36.040 Keeping a Place of Prostitution. Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits the Class A municipal offense of keeping a place of prostitution if he:

A. Knowingly grants or permits the use of such place for the purpose of prostitution; or

B. Knowingly permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

(Ord. 135 §1(part), 1982; Amended Ord. 258 §75(part), 2001).

10.36.050 Patronizing a Prostitute. Any person who performs any of the following with a person not his spouse commits the Class A municipal offense of patronizing a prostitute:

A. Knowingly engages in an act of sexual intercourse or of deviate sexual conduct with a prostitute; or

B. Knowingly enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse or deviate sexual conduct.

(Ord. 135 §1(part), 1982; Amended Ord. 258 §76(part), 2001).

10.36.060 Prostitute Making Display. Any person who knowingly by word, gesture or action endeavors to further the practice of prostitution in any public place or within public view commits a Class A municipal offense. (Ord. 135 §1(part), 1982; Amended Ord. 258 §77(part), 2001).

10.36.070 Public Indecency. Any person who knowingly 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 the Class A municipal offense of public indecency:

A. An act of sexual intercourse; or

B. An act of deviate sexual intercourse; or

C. A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or

D. A lewd fondling or caress of the body of another person.

(Ord. 135 §l(part), 1982; Amended Ord. 258 §78(part), 2001).

10.36.080 Indecent Exposure. A person commits the Class A municipal offense of indecent exposure if he knowingly exposes his genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 135 §1(part), 1982; Amended Ord. 258 §79(part), 2001).

10.36.090 Sale of Sexually Explicit Materials Harmful to Children--Prohibited. A. It is unlawful for any person knowingly to sell or loan for monetary consideration to a child:

1. Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to children; or

2. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in subsection (A)(1) of this Section, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to children.

B. It is unlawful for any person knowingly to sell to a child an admission ticket or pass, or knowingly to admit a child to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to children or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by children not admitted to any such premises.

C. It is unlawful for any child to knowingly and falsely represent to any person mentioned in subsection (A) or (B) of this Section, or to his agent, that he is eighteen (18) years of age or older, with the intent to procure any material set forth in subsection (A) of this Section, or

with the intent to procure his admission to any motion picture, show, or other presentation, as set forth in subsection (B) of this Section.

D. It is unlawful for any person knowingly to make a false representation to any person mentioned in subsection (A) or (B) of this Section, or to his agent, that he is the parent or guardian of any juvenile, or that any child is eighteen (18) years of age or older, with the intent to procure any material set forth in subsection (A) of this Section, or with the intent to procure any child's admission to any motion picture, show or other presentation, as set forth in subsection (B) of this Section.

E. It is unlawful for any person knowingly to exhibit, expose or display in public at newsstands or any other business or commercial establishment frequented by children or where children are or may be invited as part of the general public:

1. Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to children; or

2. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in subsection (E)(l) of this Section, or explicit verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to children.

F. Any person, firm or corporation who violates any of the provisions of this Section commits a Class A municipal offense. Each day during which the violation occurs shall constitute a separate offense. (Amended Ord. 258 §80(part), 2001).

(Ord. 135 §l(part), 1982).

10.36.100 Sexually Explicit Materials Harmful to Children--Definitions. As used in this Section unless the context otherwise requires:

"Child" means a person under the age of eighteen (18) years.

"Harmful to children" means that quality of any description or representation, in whatever form, of sexually explicit nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

1. Taken as a whole, predominantly appeals to the prurient interest in sex of children;

2. Taken as a whole, is patently offensive to prevailing standards in the adult community within the Town with respect to what is suitable material for children; and

3. Is, when taken as a whole, lacking in serious literary, artistic, political and scientific value for children.

"Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry, or both, of:

1. The character and content of any material described herein which is reasonably susceptible of examination; and

2. The age of the child; however, an honest mistake shall constitute an excuse from liability hereunder if a reasonable bona fide attempt is made to ascertain the true age of such child.

"Sadomasochistic abuse" means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or other wise physically restrained on the part of one so clothed.

"Sexual conduct" means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse, sodomy or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.

"Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

"Sexually explicit nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the depiction of covered or uncovered male genitals in a discernibly turgid state. (Ord. 135 §l(part), 1982).

10.36.110 Sexually Explicit Materials Harmful to Children--Applicability. Nothing contained within this Section or Section 10.36.100 shall be construed to apply to:

A. The purchase, distribution, exhibition or loan of any work of art, book, magazine or other printed or manuscript material by any accredited museum, library, school or institution of higher education;

B. The exhibition or performance of any play, drama, tableau or motion picture by any

theater, museum, school or institution of higher education, either supported by public appropriation or which is an accredited institution supported by private funds.

(Ord. 135 §1(part), 1982).

Chapter 10.40

OFFENSES RELATING TO GAMBLING

Sections:

10.40.010 Legislative Declaration--Construction. A. Pursuant to Section 31-15-401(g), C.R.S. 1973, as amended, it is declared to be the policy of the Board of Trustees, recognizing the close relationship between professional gambling and other organized crime, to restrain all persons from seeking profit from gambling activities in this Town; to restrain all persons from patronizing such activities when conducted for the profit of any person; to safeguard the public against the evils induced by common gamblers and common gambling houses; and at the same time to preserve the freedom of the press and to avoid restricting participation by individuals in sport and social pastimes which are not for profit, do not affect the public, and do not breach the peace.

B. All the provisions of this Chapter shall be liberally construed to achieve these ends and administered and enforced with a view to carrying out the declaration of policy stated in subsection (A) of this Section.

(Ord. 135 §1(part), 1982).

10.40.020 Definitions. As used in this Chapter, unless the context otherwise requires:

"Gain" means the direct realization of winnings; "profit" means any other realized or unrealized benefit, direct or indirect, including without limitation benefits from proprietorship, management or unequal advantage in a series of transactions.

"Gambling" means risking any money, credit, deposit or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device, or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but does not include:

1. Bona fide contests of skill, speed, strength, or endurance in which awards are made only to entrants or the owners of entries; or

2. Bona fide business transactions which are valid under the law of contracts; or

3. Other acts or transactions now or hereafter expressly authorized by law; or

4. Any game, wager or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in professional gambling.

5. Gambling conducted by an organization pursuant to the provisions of Section 12-47-128(5)(n), C.R.S. 1973.

"Gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine.

"Gambling information" means a communication with respect to any wager made in the course of, and any information intended to be used for, professional gambling. In the application of this definition the following shall be presumed to be intended for use in professional gambling: information as to wagers, betting odds or changes in betting odds. Legitimate news reporting of an event for public dissemination is not gambling information within the meaning of this Chapter.

"Gambling premises" means any building, room, enclosure, vehicle, vessel or other place, whether open or enclosed, used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found is presumed to be intended to be used for professional gambling.

"Gambling proceeds" means all money or other things of value at stake or displayed in or in connection with professional gambling.

"Gambling record" means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

"Professional gambling" means:

1. Aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom; or

2. Participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one or more of the other

participants. (Ord. 135 §1(part), 1982).

10.40.030 Gambling--Professional Gambling--Offenses. A. Any person who knowingly engages in gambling or professional gambling, except as may be authorized by the laws of the State of Colorado, commits a Class A municipal offense.

B. Any person who knowingly engages in gambling, including any wager or game which is incidental to a bonafide social relationship, within any licensed liquor establishment or any licensed fermented malt beverage establishment commits a Class A municipal offense.

(Ord. 135 §1(part), 1982; Amended Ord. 258 §81(part), 2001).

10.40.040 Gambling Devices--Gambling Records--Gambling Proceeds. A. Except as provided in subsection (B) of this Section, all gambling devices, gambling records and gambling proceeds are subject to seizure by any peace officer and may be confiscated and destroyed by order of a court. Gambling proceeds shall be forfeited to the Town and shall be transmitted by Court order to the general fund of the Town.

B. If a gambling device is an antique gambling device and is not operated for gambling purposes for profit or for business purposes, it shall not be confiscated or destroyed pursuant to subsection (A) of this Section. If a gambling device is confiscated and the owner shows that such gambling device is an antique gambling device and is not used for gambling purposes, the Court shall order such gambling device returned to the person from whom it was confiscated. For the purpose of this Section, a gambling device shall be conclusively presumed to be an antique gambling device if it was manufactured prior to 1950.

(Ord. 135 §1(part), 1982).

10.40.050 Possession of a Gambling Device or Record. A person who owns, manufactures, sells, transports, possesses or engages in any transaction designed to affect the ownership, custody or use of a gambling device, except as may be authorized by the laws of the State of Colorado, commits the Class A municipal offense of possession of a gambling device or record. (Ord. 135 §1(part), 1982; Amended Ord. 258 §82(part), 2001).

10.40.060 Gambling Information. A. Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, or other means or knowingly installs or maintains equipment for the transmission or receipt of gambling information, except as may be authorized by the laws of the State of Colorado, commits a Class A municipal offense. (Amended Ord. 258 §83(part), 2001).

B. Facilities and equipment furnished by a public utility in the regular course of business, and which remain the property of the utility while so furnished, shall not be seized except in

connection with an alleged violation of this Chapter by the public utility and shall be forfeited only upon conviction of the public utility therefor.

(Ord. 135 §1(part), 1982).

10.40.070 Gambling Premises. Whoever as owner, lessee, agent, employee, operator or occupant knowingly maintains, aids or permits the maintaining of gambling premises for professional gambling commits the Class A municipal offense of maintaining gambling premises. (Ord. 135 §l(part), 1982; Amended Ord. 258 §84(part), 2001).

Chapter 10.44

PUBLIC NUISANCES

Sections:

10.44.010 Definitions. As used in this Chapter, unless the context otherwise requires:

"Action to abate a public nuisance" means any action authorized by this Chapter to restrain, remove, terminate, prevent, abate or perpetually enjoin a public nuisance.

"Building" means any house, office building, store, warehouse or structure of any kind, whether or not such building is permanently affixed to the ground upon which it is situate, and includes any trailer, semi-trailer, trailer coach, mobile home or other vehicle designed or used for occupancy by persons for any purposes. (Ord. 135 §1(part), 1982).

10.44.020 Public Nuisances--Policy. It is the policy of the Town pursuant to Section 31-15-401(c), C.R.S. 1973, as amended, that every public nuisance shall be restrained, prevented, abated and perpetually enjoined. It is the duty of the Town Attorney to bring and maintain an action, pursuant to the provisions of this Chapter, to restrain, prevent, abate and perpetually enjoin any such public nuisance. Nothing contained in this Chapter shall be construed as an amendment or repeal of any of the other criminal offenses of this Town, or the repeal of any of the criminal laws of this State, but the provisions of this Chapter, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws. (Ord. 135 §1(part), 1982).

10.44.030 Public Nuisances--Defined. The following are deemed to be a public nuisance:

A. Any place where people congregate, which encourages the disturbance of the peace, or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the

occupants of or persons attending such place, or the residents in the vicinity, or the passerby on the public streets or highways; or

B. Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquors or fermented malt beverages to persons under the age of twenty-one (21) years, solicitation for prostitution, or trafficking in stolen property; or

C. Any offensive or unwholesome business or establishment, or any business or establishment carried on in a manner dangerous to the public health, safety or welfare within the Town or within one (1) mile beyond the outer limits of the Town; or

D. Any building, fence, structure or land within the Town, the condition of which presents a substantial danger or hazard to public health or safety; or

E. Any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm, soil erosion or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter; or

F. Any unlawful pollution or contamination of any surface or subsurface waters in this Town or of the air, or any water, substance or material intended for human consumption, but no action shall be brought under this subsection if the State Department of Health or any other agency of the State of Colorado charged by and acting pursuant to statute or duly adopted regulation has assumed jurisdiction by the institution of proceedings on that pollution or contamination; or

G. Any cellar, vault, sewer, drain, place, property or premises within the Town which is damp, unwholesome, nauseous, offensive or filthy, or which is covered for any portion of the year with stagnant or impure water, or which is in such condition so as to produce unwholesome or offensive odors, or which is injurious to the public health, or;

H. Any building, land, premises, or business, occupation or activity, operation or condition which, after being ordered abated, corrected or discontinued by lawful order of the Town or any officer thereof, continues to be conducted or continues to exist in violation of:

1. Any ordinance of this Town, expressly including Chapter 7.04 of this Code; and

2. Any regulation enacted pursuant to the authority of an ordinance of this Town.

I. Those offenses which are known to the common law of the land and the statutes of

Colorado as nuisances when the same exist within the Town limits or within a mile thereof.

(Ord. 135 §1(part), 1982; Ord. 233 §2, 1996) (Ord. 473 §2, 2016)

10.44.040 Jurisdiction—Parties--Process. A. An action to abate a public nuisance shall be brought in Municipal Court.

B. Except as otherwise may be provided in this Chapter, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado Rules of Civil Procedure.

C. An action to abate a public nuisance may be brought by the Town attorney in the name of the people of the State of Colorado and the Town.

D. An action to abate a public nuisance, and any action in which a temporary restraining order, temporary writ of injunction or preliminary injunction is requested, shall be commenced by the filing of a Complaint, which shall be verified or supported by affidavit. A Summons shall be issued and served as in civil cases.

(Ord. 135 §1(part), 1982).

10.44.050 Temporary Restraining Order--Preliminary Injunction--When to Issue. A. If the existence of a public nuisance is shown in such action to the satisfaction of the Municipal Court or Judge thereof, either by verified complaint or affidavit, the Court or Judge may issue a temporary restraining order to abate and prevent the continuance or reoccurrence of the nuisance. Such temporary restraining order may direct the Town Marshal to seize and close the public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. While the temporary restraining order remains in effect, the building or place seized and closed shall remain in the custody of the Court. Within ten (10) days following the filing of a motion of any person adversely affected by a temporary restraining order, the Court shall conduct a hearing and determine whether the temporary restraining order shall be continued pending final determination of the action.

B. The Court may, as part of a preliminary injunction, direct the Town Marshal to seize and close such public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. While the preliminary injunction remains in effect, the building or place seized and closed shall be subject to the orders of the Court. Preliminary injunctions may issue as provided by the Colorado Rules of Civil Procedure. No bond or security shall be required of the Town Attorney or the People of the State or the Town in any action to abate a public nuisance.

(Ord. 135 §1(part), 1982).

10.44.060 Judgment--Relief. A. The judgment in an action to abate a public nuisance may include a permanent injunction to restrain, abate and prevent the continuance or reoccurrence of the nuisance. The Court may grant declaratory relief, mandatory orders or any other relief deemed necessary to accomplish the purposes of the injunction and enforce the same, and the Court may retain jurisdiction of the case for the purpose of enforcing its order.

B. The judgment in an action to abate a public nuisance may include an order directing the Town Marshal to seize and close the public nuisance, and to keep the same effectually closed until further order of the Court, not to exceed one (1) year.

C. The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to other injunctive relief, an order requiring the removal, correction or other abatement of a public nuisance, in whole or in part, by the Town Marshal at the expense of the owner or operator of the public nuisance.

D. The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to any other relief authorized by the provisions of this Chapter, the imposition of a fine of not more than one thousand dollars ($1,000.00), conditioned upon failure or refusal of compliance with the orders of the Court within any time limits therein fixed.

(Ord. 135 §1(part), 1982; Amended Ord. 314 §2 (part), 2006).

10.44.070 Redelivery of Seized Premises. If the owner or operator of a building or place seized and closed as a public nuisance has not been guilty of any contempt of Court in the proceedings, and demonstrates by evidence satisfactory to the Court that the public nuisance has been abated and will not reoccur, the Court may order the premises delivered to the owner or operator. As a condition of such order, the Court may require the posting of bond, in an amount fixed by the order by the Court, for the faithful performance of the obligation of the owner or operator thereunder to prevent recurrence or continuance of the public nuisance. (Ord. 135 §l(part), 1982).

10.44.080 Violation of Injunction--Penalty. Any violation or disobedience of any injunction or order issued by the Court in an action to abate a public nuisance shall be punished as a contempt of Court and deemed a Class A municipal offense. The Court may treat each day on which the violation or disobedience of an injunction order continues or recurs as a separate offense. (Ord. 135 §1(part), 1982; Amended Ord. 258 §85(part), 2001).

10.44.090 Costs and Fines--Liens and Collection. A. For seizing and closing any building or premises as provided in this Chapter, or for performing other duties pursuant to the direction of the Court pursuant to the provisions of this Chapter, the Town Marshal shall be entitled to a reasonable sum fixed by the Court, in addition to the actual costs incurred or expended.

B. All fees and costs allowed by the provisions of this Section, the costs of a Court action to abate any public nuisance, and all fines levied by the Court in contempt proceedings incident to any action to abate a public nuisance shall be a first and prior lien upon any real property seized or closed under the provisions of this Chapter, and the same shall be enforceable and collectible by execution issued by order of the Court, from the property of any person liable therefor.

C. Nothing in this Chapter shall be construed in such a manner as to destroy the validity of a bona fide lien upon real or personal property appearing of record prior to recording of Court orders involving real estate as authorized under this Chapter.

(Ord. 135 §1(part), 1982).

Chapter 10.48

OFFENSES RELATING TO GOVERNMENTAL OPERATIONS

Sections:

10.48.010 Obstructing Government Operations. A. A person commits the Class A municipal offense of obstructing governmental operations if he intentionally obstructs, impairs or hinders the performance of a governmental function by a public servant, by using or threatening to use violence, force or physical interference or obstacle. "Public servant" as used herein, means any officer or employee of the Town of De Beque, whether elected or appointed, or otherwise performing a governmental function of Town, but does not include peace officers or witnesses. (Amended Ord. 258 §86(part), 2001).

B. It shall be an affirmative defense that:

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

2. The obstruction, impairment or hindrance of a governmental function was by lawful activities in connection with a labor dispute with the government.

(Ord. 135 §1(part), 1982).

10.48.020 Resisting or Interfering With a Peace Officer. It is unlawful to resist arrest or interfere with a peace officer.

A. Resisting Arrest. A person resists arrest if he knowingly prevents or attempts to prevent a peace officer, acting under color of his official authority, from effecting the actor's arrest by:

1. Using or threatening to use physical force or violence against the peace officer; or

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

B. Interfering With a Peace Officer. A person interferes with a peace officer if he knowingly prevents or attempts to prevent a peace officer, acting under color of his official authority, from effecting an arrest or pursuing an investigation, by:

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

2. Refusing or disobeying a request by the peace officer to withdraw from the immediate area of the peace officer to a reasonable distance from the officer to allow the peace officer to effect the arrest or pursue the investigation; or

3. Using any other means which create a risk of 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 or pursue an investigation which in fact was unlawful, if he was acting under color of his official authority. A peace officer acts under the color of his official authority when, in the regular course of his assigned duties, he is called upon to make, and does make a judgment in good faith based upon surrounding facts and circumstances that an arrest or investigation should be made by him.

D. The term "peace officer," as used in this Section, means the Town Marshal or any deputy marshal in uniform or if out of uniform, one who has identified himself by exhibiting his credentials as a De Beque Town Marshal or deputy marshal to the actor, or a De Beque Marshal or deputy whom the actor knew was a Town peace officer at the time of the alleged offense.

(Ord. 135 §l(part), 1982).

E. Any violation of this Section shall constitute a Class A municipal offense. (Ord. 258 §87(part), 2001).

10.48.030 Obstructing a Peace Officer or Fireman. A. A person commits the Class A municipal offense of obstructing a peace officer or fireman when, by using or threatening to use violence, force or physical interference, or obstacle, he knowingly obstructs, impairs or hinders the enforcement of the penal law or the preservation of the peace by a peace officer, acting under color of his official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a fireman, acting under color of his official authority. (Amended Ord. 258 §88(part), 2001).

B. It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if he was acting under color of his official authority, as defined in the previous Section.

C. This Section does not apply to the interference with a peace officer making an arrest or pursuing an investigation.

(Ord. 135 §1(part), 1982).

10.48.040 Accessory to a 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 under the De Beque Municipal Code, he renders assistance to such person.

B. "Render assistance" means to:

1. Harbor or conceal the other; or

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; or

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

4. By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction 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. (Ord. 135 §1(part), 1982).

C. Any violation of this Section shall constitute a Class B municipal offense. (Ord. 258

§89 (part), 2001).

10.48.050 Refusal to Permit Inspection. A. A person commits a Class B municipal offense if, knowing that a public servant, as defined in Section 10.48.010, is legally authorized to inspect property:

1. He refuses to produce or make available the property for inspection at a reasonable hour; or

2. If the property is available for inspection he refuses to permit the inspection at a reasonable hour.

(Amended Ord. 258 §90(part), 2001).

B. For the purposes of this Section, "property" means any real or personal property, including books, records and documents which are owned, possessed or otherwise subject to the control of the defendant. A "legally authorized inspection" means any lawful search, sampling, testing or other examination of property, in connection with the regulation of a business or occupation, that is authorized by a De Beque Town ordinance or lawful regulatory provision.

(Ord. 135 §l(part), 1982).

10.48.060 Refusing to Aid a Peace Officer. A person, eighteen (18) years of age or older, commits a Class A municipal offense when, upon command by a person known to him to be a peace officer, he unreasonably refuses or fails to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense. (Ord. 135 §1(part), 1982; Amended Ord. 258 §91(part), 2001).

10.48.070 Compounding. A. A person commits the Class A municipal offense of compounding if he accepts or agrees to accept any pecuniary benefit as consideration for:

1. Refraining from seeking prosecution of an offender; or

2. Refraining from reporting to law enforcement authorities the commission or suspected commission of any municipal offense or information relating to a municipal offense.

(Amended Ord. 258 §92(part), 2001).

B. It is an affirmative defense to prosecution under this Section that the benefit received by the defendant did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the offense.

(Ord. 135 §l(part), 1982).

10.48.080 False Reporting to Authorities. A person commits the Class B municipal offense of false reporting to authorities if:

A. He 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; or

B. He knowingly 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 knows that it did not occur; or

C. He knowingly 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 knows that he has no such information or knows that the information is false.

(Ord. 135 §l(part), 1982; Amended Ord. 258 §93(part), 2001).

10.48.100 Impersonating a Public Servant. A. A person commits the Class A municipal offense of impersonating a public servant if he knowingly and falsely pretends to be a public servant, as defined in Section 10.48.010, other than a peace officer, and performs any act in that pretended capacity. (Amended Ord. 258 §95(part), 2001).

B. It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist.

(Ord. 135 §l(part), 1982).

10.48.110 Aiding Escape. A. Any person who knowingly aids, abets or assists another person in custody or confinement and charged with, held for or convicted of a municipal offense, to escape or attempt to escape from custody or confinement commits the Class A municipal offense of aiding escape. (Amended Ord. 258 §96(part), 2001).

B. "Escape" is deemed to be a continuing activity commencing with the conception of the design to escape and continuing until the escapee is returned to custody or the attempt to escape is thwarted or abandoned.

C. "Assist" includes any activity characterized as rendering assistance in Section 10.48.040.

(Ord. 135 §l(part), 1982).

10.48.120 Escapes. A. A person commits a Class A municipal offense if, while being in custody or confinement and held for or charged with a municipal offense, or while being in custody or confinement under a sentence following conviction of a municipal offense, he knowingly escapes from said place of custody or confinement. (Amended Ord. 258 §97(part), 2001).

B. Upon conviction of the offense of escape, said person shall be punished by imprisonment in the County jail for not less than one (1) month nor more than three (3) months. Any sentence imposed following conviction of this offense shall run consecutively and not concurrently with any sentence which the offender was serving at the time of the escape.

(Ord. 135 §1(part), 1982).

10.48.130 Attempt to Escape. If a person, while in custody or confinement and held for or charged with a municipal offense, or while in custody or confinement following conviction of a municipal offense, knowingly attempts to escape from said custody or confinement, he is guilty of a Class A municipal offense, and, upon conviction thereof, shall be punished by imprisonment for not less than one (1) month. Any sentence imposed pursuant to this Section shall run consecutively with any other sentences being served by the offender. (Ord. 135 §l(part), 1982; Amended Ord. 258 §98(part),2001).

10.48.140 Failure to Appear in Court. A. It is unlawful for any person to knowingly fail to appear in the De Beque Municipal Court to answer any offense pursuant to a Summons and Complaint or Penalty Assessment Notice issued to said person at the time and place specified in such Summons and Complaint or Penalty Assessment Notice, unless said person has paid the penalty assessment as permitted by law; and it is unlawful for such person to knowingly fail to appear for any subsequent proceedings in such case.

B. A person who is released on bail bond of whatever kind, and either before, during, or after release is accused by a complaint of any offense contained in this Code arising from the conduct for which he was arrested, commits a criminal offense if he knowingly fails to appear for trial or other proceedings in the De Beque Municipal Court in the case in which the bail bond was filed.

C. Any person who violates this Section commits a Class A municipal offense. Any such sentence shall be served consecutively to any sentence for the offense on which the person failed to appear or was on bail.

(Ord. 258 §99(part), 2001).

Chapter 10.52

OFFENSES RELATING TO JUVENILES

Sections:

10.52.010 Curfew for Minors. A. It is unlawful for any child under the age of eighteen (18) years to knowingly wander, loiter, idle or play in or upon any public street, highway, road, alley or other public ground, public place or public building, vacant lot, or other unsupervised place subsequent to the hour of eleven (11:00) p.m. or prior to the hour of five (5:00) a.m. except for lawful employment, an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the child, or unless such child is accompanied by the parent, guardian, or other person of the age of twenty-one (21) years, having permission of the parent or guardian to have temporary custody and care of such child.

B. Violation of this Section shall constitute a non-criminal municipal offense. Each violation of the provisions of this Section shall constitute a separate offense.

(Ord. 135 §1(part), 1982; Amended Ord. 258 §100(part), 2001).

10.52.020 Responsibility of Parents or Guardians. A. It is unlawful for a parent, guardian or other person having care or custody of any child under the age of eighteen (18) years to intentionally, knowingly or recklessly allow or permit any such child to loiter, wander, idle or play in or upon a public street, highway, road, alley or other public ground, public place or public building, vacant lot, or other unsupervised place in violation of the provisions of Section 10.52.010.

B. The fact that the child is upon the street, highway, road, alley or other public ground, public place, public building, vacant lot or other unsupervised place contrary to the provisions of Section 10.52.010 shall be prima facie evidence that the parent, guardian or other person having custody of the child, is guilty of violating this Chapter.

(Ord. 135 §l(part), 1982).

C. Any violation of this Section shall constitute a Class B municipal offense. (Ord. 258 §101(part), 2001).

10.52.030 Aiding or Abetting a Minor. Any person who knowingly permits any minor child or children to aid, abet, or encourage in; or approves, encourages, allows, permits, tolerates or consents to the violation by any minor child or children of any provisions of this Title or any other ordinances of the Town; commits a Class B municipal offense. (Ord. 135 §1(part), 1982; Amended Ord. 258 §102(part), 2001).

Chapter 10.54

OFFENSES RELATING TO THE FURNISHING, PURCHASING OR POSSESSING OF TOBACCO PRODUCTS

Sections:

10.54.010 Furnishing Tobacco Products to Underage Persons Prohibited. It shall constitute a Class B municipal offense for any person to knowingly furnish to any person under the age of eighteen (18) years, by gift, sale, through a readily accessible retail display or any other means, any cigarettes, smokeless tobacco product or tobacco product, as defined in Section 39-28.5-101(5) C.R.S. (Ord. 264 §1, 2002).

10.54.020 Access to Tobacco Products by Underage Persons Prohibited. It shall constitute a Class B municipal offense for any business proprietor, manager or other person in charge or control of a retail business of any kind to knowingly stock or display a tobacco product in any way which allows a customer to access such tobacco products without first securing the physical assistance of a business employee for each transaction. The provisions of this Section shall not apply to places where minors are prohibited by law. (Ord. 264 §1, 2002).

10.54.030 Repackaging of Tobacco Products Prohibited. It shall constitute a Class B municipal offense for any business proprietor, manager or other person in charge or control of a retail business of any kind to knowingly stock, sell or offer for sale tobacco products in any form or condition other than in the packaging provided by their manufacturer or to permit or allow their agent, servant or employee to sell tobacco products in any form or condition other than in the packaging provided by their manufacturer. (Ord. 264 §1, 2002).

10.54.040 Purchase of Tobacco Products by Underage Persons Prohibited. It shall be unlawful for any person who is under the age of eighteen (18) years to purchase any cigarette, smokeless tobacco product or tobacco product as defined in Section 39-28.5-101(5) C.R.S. by misrepresentation of age or by any other method. Any person who knowingly violates this Section for the first time within twelve (12) consecutive months commits a non-criminal municipal offense. Any person who knowingly violates this Section for the second or subsequent time within twelve (12) consecutive months commits a Class B municipal offense, provided however, no jail sentence

shall be imposed. The Court, upon sentencing a defendant for a second or subsequent offense may, in addition to any fine, order the defendant to attend a stop smoking program. (Ord. 264 §1, 2002).

10.54.050 Possession of Tobacco Products by Underage Persons Prohibited. It shall be unlawful for any person who is under the age of eighteen (18) years to have in his or her possession any cigarettes, smokeless tobacco product or tobacco product, as defined in Section 39-25.8-101(5) C.R.S. Any person who knowingly violates this Section for the first time within twelve (12) consecutive months commits a non-criminal municipal offense. Any person who knowingly violates this Section for the second or subsequent time within twelve (12) consecutive months commits a Class B municipal offense, provided however, no jail sentence shall be imposed. The Court, upon sentencing a defendant for a second or subsequent offense may, in addition to any fine, order the defendant to attend a stop smoking program. (Ord. 264 §1, 2002).

Chapter 10.56

PUBLIC PARKS AND COMMUNITY FACILITIES

Sections:

10.56.010 Applicability and Scope. The provisions of this Chapter shall apply to any park, recreation site or community facility owned, operated, or hereafter owned or operated by the Town of De Beque. This Chapter applies to all persons entering, using or visiting any such park, recreation site or community facility.

10.56.020 Prohibited Acts. It is unlawful for any person, firm or organization using a Town park, recreation site, or community facility to either perform or permit to be performed any of the following acts:

A. Fail to dispose of all garbage, including paper, cans, bottles, waste materials and rubbish, by removal from the park, recreation site, or facility, or by disposal at places provided by the Town for rubbish removal;

B. Drain or dump refuse or waste from any trailer or other vehicle except in places or receptacles provided for such uses;

C. Clean fish or food, or wash clothes or articles of household use at any water faucets, restrooms or water hydrants;

D. Pollute or contaminate water supplies or water use for human consumption, or any creeks or rivers;

E. Use refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought from private property;

F. Destroy, deface or remove any natural feature or plant;

G. Destroy, injure, deface, remove, or disturb in any manner any public building, sign, equipment, or other facilities or property whatsoever, either real or personal;

H. Sell or offer for sale any merchandise without the prior written consent of the Board of Trustees;

I. Distribute any handbills or circulars or post, place or erect any handbills, notices, paper or advertising devices of any kind without the prior written permission of the Board of Trustees;

J. Discharge firearms, firecrackers, rockets, or any fireworks;

K. Operate or use any audio devices, including radios, music players, televisions or musical instruments, or any other noise producing devices in such a manner and at such time so as to disturb other persons using the park, recreation site or community facility;

L. Operate or use public address systems, whether fixed or portable, except with the prior written permission of the Board of Trustees;

M. Build or place any tent, building, booth, stand or other structure in or upon any park without first having obtained written permission from the Board of Trustees;

N. Violate any rule for use of the park, recreation site or community facility made or approved by the Board of Trustees;

Any person who knowingly or willfully violates subsections D, F, G and J commits a Class B municipal offense. Any person who violates subsections A, B, C, E, H, I, K, L, M and N of this Section commits a non-criminal municipal offense.

10.56.030 Hours of Operation. Town parks shall be open daily to the public during the hours of 6:00 a.m. to 11:00 p.m. each day; and it shall constitute a non-criminal municipal offense for any person, or persons, other than Town personnel conducting Town business therein, to occupy or be present in said park during any hours the park is not open to the public for any interval of time.

10.56.040 Required Permit-Group Activity. Whenever any group, association or organization desires to use park facilities, recreation sites, or community facilities for a particular purpose, including but not limited to, parties, celebrations, meetings, or entertainment performances, a representative of said group, association or organization shall first obtain a permit from the Town Clerk for such purposes. The Board of Trustees may adopt an application form to be used by the Town Clerk for such purposes. The Town Clerk shall grant the application if it appears that the group, association or organization meets all conditions contained in the application. The application may contain a requirement for an indemnity bond to protect the Town from any liability of any kind

or character and to protect Town property from damage.

10.56.050 Promulgation of Rules and Regulations; Effect. The Board of Trustees is hereby authorized to promulgate rules and regulations governing conduct and activities within all public parks, recreation sites and community facilities which are subject to the jurisdiction of the Town pursuant to Section 10.56.010. Such regulations shall be designed for the purpose of ensuring the public health, safety and welfare, by providing for proper use by all users of the Town's public parks, recreation sites and community facilities. Upon approval of regulations by resolution of the Board of Trustees, such regulations shall become effective when signs or notices are in place within the public park, recreation site or community facility reasonably calculated to give notice to the public of such regulations.

10.56.060 Fees and Charges. The Town may assess fees or user charges for the use of any public park, recreation site or community facility as defined in this Chapter. Such fees shall become effective when approved by resolution of the Board of Trustees. All fees and charges imposed by the authority granted within this Section shall be paid to the Town Treasurer, in such manner as he shall prescribe.

(Ord. 282 §1, 2003).