

**CITY OF RIFLE, COLORADO
ORDINANCE NO. 2
SERIES OF 2015**

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, AMENDING SECTIONS 10-2-40, 10-3-60, AND 10-9-40 OF THE RIFLE MUNICIPAL CODE REGARDING ACTS CONSTITUTING THE CRIMINAL OFFENSES OF OBSTRUCTING PEACE OFFICERS, DISORDERLY CONDUCT, AND PROHIBITED USES OF WEAPONS.

WHEREAS, Chapter Ten of the Rifle Municipal Code (“Code) defines criminal offenses within the City of Rifle (“City”), describes the acts which constitute such criminal offenses and sets forth the penalties therefor; and

WHEREAS, Section 10-2-40 of the Code defining and describing the offense of obstructing peace officers or firefighters and Section 10-3-60 of the Code defining and describing disorderly conduct are inconsistent with state statutes regarding the same offenses and other provisions of the Code, and Section 10-9-40 defining and describing prohibited uses of weapons does not describe certain acts which City Council finds should be included in the acts constituting a prohibited use of weapons or provides inconsistent mental states for culpability thereunder.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIFLE, COLORADO, THAT:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Section 10-2-40 of the Rifle Municipal Code is hereby repealed and reenacted, the following ~~strike through~~ text depicting the repealed language of Section 10-2-40, and the following **bold, double underlined text** depicting the enacted language:

~~Sec. 10-2-40. -- Obstructing a peace officer or firefighter.~~

- ~~(a) No person shall willfully fail or refuse to comply with any lawful order, signal or direction of a police officer made or given in the discharge of the police officer's duties.~~
- ~~(b) No person shall, in any way, interfere with or hinder any police officer who is discharging or apparently discharging the duties of the position.~~
- ~~(c) It is unlawful to obstruct a peace officer or firefighter.~~
- ~~(d) A person commits the Class A municipal offense of obstructing a peace officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, such person knowingly obstructs, impairs or hinders the enforcement of the law or the preservation of the peace by a peace officer, acting under color of his or her official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his or her official authority.~~

- ~~(e) It is no defense to a prosecution under this Section that the peace officer or firefighter was acting in an illegal manner, if the peace officer or firefighter was acting under color of his or her official authority, as defined in Section 10-2-30(c) above.~~
- ~~(f) This Section does not apply to the interference with a peace officer making an arrest or pursuing an investigation.~~

Section 10-2-40. Obstructing a peace officer, firefighter, emergency medical services provider, rescue specialist, or volunteer.

- (a) (1) A person commits obstructing a peace officer, firefighter, emergency medical services provider, rescue specialist, or volunteer when, by using or threatening to use violence, force, physical interference, an obstacle, or providing false or misleading information such person 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 or her official authority.**
- (2) To assure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force, physical interference, an obstacle, or misleading information he or she knowingly obstructs, impairs, or hinders any such animal.**
- (b) It is not a defense to a prosecution under this section that the peace officer was acting in an illegal manner, if he or she was acting under color of his or her official authority. A peace officer acts “under color of his or her official authority” if, in the regular course of assigned duties, he or she makes a judgment in good faith based on surrounding facts and circumstances that he or she must act to enforce the law or preserve the peace.**
- (c) Obstructing a peace officer, firefighter, emergency medical service provider, rescue specialist, or volunteer is a Class A municipal offense.**
- (d) For purposes of this section, unless the context otherwise requires:**
 - (1) “Emergency medical service provider” means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as such emergency medical service provider.**
 - (2) “Rescue specialist” means a member of a public or private rescue agency, whether that person is a volunteer or receives compensation for services rendered as such rescue specialist.**

Section 3. Sections 10-3-60 of the Rifle Municipal Code is hereby amended, the following ~~strike through~~ text depicting the deleted language of Section 10-3-60, and the additions being depicted in **bold, double underlined text**:

Sec. 10-3-60. Disorderly conduct.

- (a) (4) Not being a peace officer, discharges, swings, or throws a deadly weapon in a public place within the City except when engaged in lawful target practice or hunting the ritual discharge of blank ammunition cartridges from a firearm as an attendee at a funeral for a deceased person who was a veteran of the armed forces of the United States or a local law enforcement unit, or any activity for which an exception was granted to the prohibition against discharging firearms within the City pursuant to Section 10-9-40(b) of this Code.

- (b) For purposes of Subsection (a), unless the context otherwise requires, “deadly weapon” means a firearm, whether loaded or unloaded, or a knife, bludgeon, or any other weapon, device, instrument, material, or substance, whether animate or inanimate, that, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury.

(c)(b) Any violation of Paragraph (a)(1) or (a)(2) above is a Class C municipal offense; any violation of Paragraph (a)(3), (a)(4) and (a)(5) above is a Class A municipal offense; and any violation of the other paragraphs of this Section is a Class B municipal offense.

- (d) It is an affirmative defense to Subsection (a) above that the actor was a member of the armed forces of the United States or Colorado National Guard, acting in the lawful discharge of his or her duties.

- (e) Every person convicted of any violation of this Section shall forfeit to the City such firearm or weapon involved in the violating act.

Section 4. Sections 10-9-40 of the Rifle Municipal Code is hereby amended, the following ~~strike through~~ text depicting the deleted language of Section 10-9-40, and the additions being depicted in **bold, double underlined text**:

Sec. 10-9-40. Prohibited use of weapons.

- (a) A person commits an offense under this Section if he or she:

- (1) Knowingly and ~~unlawfully displays or aims~~ a deadly weapon at another person, another person’s property, or a domestic animal in a manner calculated to alarm.

- (2) Recklessly or with criminal negligence fires, ~~or discharges,~~ swings, or throws any firearm, any bow and arrow, or other deadly weapon not specifically addressed by this Subsection (a) anywhere within the City.
 - (3) Recklessly or with criminal negligence ~~D~~discharges any air gun, gas-operated gun, B.B. gun, pellet gun, or slingshot, ~~or spring gun anywhere~~ within the City.
 - (4) Sets off or explodes any firecracker, torpedo ball, rocket or other fireworks, except on the celebration ~~or some~~ of a holiday or event by the consent of the Mayor or City Manager.
 - (5) Explodes or sets off a bomb or any combustible or explosive material.
 - (6) Knowingly sets a loaded gun, trap or device designed to cause explosion, discharge or fire upon being tripped or approached, ~~and leaves it unattended by a competent person immediately present.~~
 - (7) Has in his or her possession a firearm while he or she is under the influence of intoxicating liquor or of a controlled substance, as defined in Section 18-18-102(5), C.R.S. Possession of a permit under Section 18-12-105(2)(c), C.R.S., or a temporary emergency permit issued pursuant to part 2 of article 12, Title 18 C.R.S. is no defense to a violation of this Subsection.
 - (8) ~~Knowingly aims, swings or throws a throwing star or nunchaku at another person, or~~ Knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.
 - (9) Unless the context otherwise requires, "deadly weapon" means for this Subsection (a) a firearm, whether loaded or unloaded, or a knife, bludgeon, or any other weapon, device, instrument, material, or substance, whether animate or inanimate, that, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury.
- (b) The Mayor or the City Manager may grant an exception to the prohibitions contained in Subsection (a) above, in writing, for contests, sporting events, historical reenactments, indoor shooting galleries, arcade games, ~~or~~ construction and/or maintenance work, or other valid reasons or for the use of any such instruments in any private grounds or residences under circumstances when such instrument can be fired, discharged or operated in such a

manner as not to endanger persons or property and also in such manner as to prevent ~~the a~~ projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence. **If the acts described in Subsection (a) are committed under an exception granted pursuant to this Subsection (b), such acts shall not constitute an offense under this Section 10-9-40.** ~~Nothing herein contained shall be construed to prevent the carrying of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.~~ Such permission shall limit the time and place of firing and shall be subject to being revoked by the City Council at any time after the same has been granted.

- (c) Any violation of Paragraph (a)(4) above is a Class B municipal offense; any violation of the other paragraphs of this Section is a Class A municipal offense.
- (d) It is an affirmative defense to Subsection (a) above that the actor was a peace officer or member of the armed forces of the United States or Colorado National Guard, acting in the lawful discharge of his or her duties.
- (e) Every person convicted of any violation of this Section shall forfeit to the City such firearm or weapon **involved in the violating act** ~~illegally discharged or displayed.~~

INTRODUCED on March 4, 2015, read by title, passed on first reading, and ordered published by title as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on March 18, 2015, passed without amendment, approved, and ordered published in full as required by the Charter.

Dated this ___ day of _____, 2015.

CITY OF RIFLE, COLORADO

BY: _____
Mayor

ATTEST:

City Clerk