

## TITLE 9

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## CHAPTER 9.04

### Offenses by or Against Public Officers and Government

#### **9.04.010 Peace officer defined.**

*Peace officer*, as used in this Title means the Police Chief, any police officer, special policemen, or other member of the Police Department of the Town; any county sheriff; any member of the state police; any federal law enforcement agent; and any deputy or assistant of any of them. (Ord. 79-17 §H(7))

#### **9.04.020 Assisting an officer.**

It is the duty of all persons within the Town, when called upon by any peace officer, to promptly aid and assist him or her in the discharge of his or her duties. It is unlawful for any person to refuse such assistance when called upon. (Ord. 79-17 §H(8))

#### **9.04.030 Aid in escape.**

It is unlawful for any person to aid, abet or assist any person to escape or attempt to escape from lawful confinement or from the custody of any peace officer within the Town. (Ord. 79-17 §H(9))

#### **9.04.040 Aid to an offense.**

It is unlawful for any person, with the intent to promote or facilitate the commission of an offense or violation of any provision of this Code, to aid, abet, counsel, advise or encourage any other person in planning or committing such offense or violation. (Ord. 79-17 §H(10))

#### **9.04.050 Resisting arrest.**

It is unlawful for any person within the Town to intentionally prevent or attempt to prevent any peace officer, acting under color of his or her official authority, from effecting an arrest of the person by the use or threat of physical force or violence against the peace officer or by the use of any other means which creates a substantial risk of causing physical injury to the peace officer. (Ord. 79-17 §H(11)(part))

#### **9.04.060 Obstructing a peace officer.**

It is unlawful for any person within the Town to intentionally use or threaten to use violence, force or physical interference to obstruct, impair or hinder the enforcement of the provisions of this Code or the preservation of the peace by a peace officer acting under color of his or her official authority, or intentionally obstruct, impair or hinder the prevention, control or abatement of fire by a fireman acting under color of his or her official authority. (Ord. 79-17 §H(11)(part))

#### **9.04.070 Impersonating an officer.**

It is unlawful for any person to falsely pretend to be a peace officer and perform an act in that pretended capacity. (Ord. 79-17 §H(12))

**9.04.080 Furnishing weapons to prisoners.**

It is unlawful for any person to furnish or attempt to furnish or take into jail or to deliver or attempt to deliver to any prisoner confined therein, or in the custody of any officer, any weapon, tool, intoxicating liquors, drug or other article without the consent of the law enforcement officer in charge. (Ord. 79-17 §H(13))

**9.04.090 False reports.**

It is unlawful for any person willfully to give or make, or cause to be given or made, in any manner, any false report to any police officer of the Town or to any person authorized to receive reports in behalf of the police of the Town. (Ord. 79-17 §H(14))

**9.04.100 False alarms.**

It is unlawful for any person to willfully give or make or cause to be given or made in any manner a false alarm of fire, avalanche, missing person or other emergency or disaster. (Ord. 79-17 §H(15))

**9.04.110 Intimidating a witness.**

No person shall, by use of a threat or act of harm or injury to any person or property directed to or committed upon a witness or to a person he or she believes has been or is to be called as a witness in any official proceeding, intentionally attempt to do or do any of the following acts:

- (1) Influence him or her to testify falsely or to unlawfully withhold any testimony; or
- (2) Induce him or her to avoid legal process summoning him or her to testify; or
- (3) Induce him or her to absent himself or herself from an official proceeding to which he or she has been legally summoned; or
- (4) Inflict such harm or injury as retribution for such testimony or expected testimony. (Ord. 83-9 §2)

**9.04.120 Tampering with a witness.**

No person shall intentionally attempt without threats to induce a witness or a person he or she believes is to be called as a witness in any official proceeding to:

- (1) Testify falsely or unlawfully withhold any testimony; or
- (2) Absent himself or herself from any official proceeding to which he or she has been legally summoned; or
- (3) Avoid legal process summoning him or her to testify. (Ord. 83-9 §3)

#### **9.04.130 Unlawful conduct on public property.**

(a) It is unlawful for any person to enter or remain in any building or on any property owned by the Town or over which the Town has management authority or to conduct himself or herself in or on the same in violation of any order, rule or regulation concerning any matter prescribed in Subsection (b) of this Section, limiting or prohibiting the use or activities or conduct in such building or on such property.

(b) The Town Manager is empowered with the control, management and supervision of such buildings and property and is further empowered to issue orders, rules and regulations limiting or preventing the use or activities or conduct on such property, which orders, rules or regulations shall be effective only upon resolution of the Town Council. In addition to any authority granted by any other law, the Town Manager may adopt such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of such buildings and property, specifically, orders, rules and regulations upon the following matters:

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

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

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

(4) Necessary sanitation, health and safety measures, consistent with Section 25-13-113, C.R.S.;

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

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

(7) Control and limitation of fires and designation of places where fires are permitted;

(8) Possession and consumption of fermented malt and alcoholic beverages;

(9) Use of water improvements, including but not limited to boating and fishing;

(10) Standards for permitting special events.

(c) No conviction may be obtained under this Section:

(1) Unless notice of such limitations or prohibitions is prominently posted:

a. At all public entrances to such building or property, or

b. At points reasonably expected to be seen by persons entering such property, in the case of property not having limited identifiable entrances; or

(2) Unless such notice is actually first given the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this Section.

(d) Any person who violates Subsection (a) of this Section is guilty of a violation of this Code, and shall be punished in accordance with the general penalty provision of this code. (Ord. 84-6 §1)

**9.04.140 Crime of violation of bail bond conditions.**

(a) It shall be unlawful for any person released on bail bond of whatever kind to knowingly fail to appear for trial or other proceedings in the case in which the bond was filed or to knowingly violate any condition of the bail bond.

(b) Penalty. Any violation of this Section shall be deemed a violation of this Code, punishable by a fine or imprisonment or both in accordance with the general penalty provisions of this Code. (Ord. 02-23 §1)

**CHAPTER 9.08**

**Offenses Against the Person**

*Article I  
Assault*

**9.08.010 Assault and battery.**

It is unlawful for a person to purposely, knowingly or recklessly cause or attempt to cause bodily injury to another person. (Ord. 79-17 §H(16)(part))

**9.08.020 Reporting required.**

It is the duty of the owner or manager of any premises licensed by the Town to serve, sell or dispense alcoholic beverages or fermented malt beverages to report or cause to be reported to the Police Department all incidents involving violations of Section 9.08.010 occurring within or upon their premises within twenty-four (24) hours of such incidents. (Ord. 79-17 §H(16)(part))

*Article II  
Larceny, Fraud and Related Offenses*

**9.08.030 Definitions.**

For the purposes of this Chapter, the following definitions shall have the meanings indicated:

*Larceny* means to take or exercise control over property of another having a value of less than three hundred dollars (\$300.00), without authorization or by threat or deception, and:

- a. With the intention to deprive the owner permanently of the use or benefit of such property; or

b. To knowingly use, conceal or abandon such property in a manner so as to deprive the owner permanently of its use or benefit; or

c. To use, conceal or abandon such property intending that such use, concealment or abandonment will deprive the owner permanently of its use and benefit; or

d. To demand any consideration for which one is not legally entitled as a condition of restoring such property to the owner.

*Recreational facility* means any golf course, tennis court, bowling alley or any recreational property or any related property, facility or thing whatsoever. (Ord. 89-6 §1; Ord. 81-6 §1(part); Ord. 80-7 §2(part); Ord. 79-17 §H(17)(part))

**9.08.040 Larceny unlawful.**

It is unlawful for any person to commit larceny in the Town. (Ord. 79-17 §H(17)(part))

**9.08.050 Deceptive use of recreational facilities.**

It is unlawful for any person within the Town, knowingly to obtain or attempt to obtain the use, benefit or enjoyment of any recreational facility by any false pretense, trick or deceptive means, method or device whatsoever. (Ord. 81-6 §1(part); Ord. 80-7 §2(part); Ord. 79-17 §H(17)(part))

**9.08.060 Using false ticket.**

It is unlawful for any person within the Town knowingly to possess, offer, use, present, sell or give away any false, simulated, bogus, spurious, sham, altered, forged, counterfeit, defaced or mutilated ticket, token, pass, badge, pin or other device which is not genuine and authorized for obtaining the use, benefit or enjoyment of any recreational facility by the owner, proprietor, lessee, licensee or operator of such recreational facility. (Ord. 81-6 §1(part); Ord. 80-7 §2 (part); Ord. 79-17 §H(17)(part))

**9.08.070 Making false ticket.**

It is unlawful for any person within the Town to knowingly falsify, alter, forge, counterfeit, deface or mutilate any ticket, pass, badge, pin or other device entitling the holder thereof to the use, benefit or enjoyment of any recreational facility, or to make or manufacture any simulated, bogus, spurious or sham ticket, token, pass, badge, pin or other device purporting to entitle the holder thereof to the use, benefit or enjoyment of any recreational facility. (Ord. 81-6 §1(part); Ord. 80-7 §2(part); Ord. 79-17 §H(17)(part))

**9.08.080 Procuring food or accommodations with intent to defraud.**

Any person who, with intent to defraud, procures food or accommodations in any public establishment without making payment therefor in accordance with his or her agreement with such public establishment is guilty of the offense of procuring food or accommodations with intent to defraud. Removal of baggage from the premises of a public establishment without having made payment for accommodations constitutes prima facie evidence of intent to defraud. (Ord. 81-6 §1(part); Ord. 80-7 §2(part); Ord. 79-17 §H(17)(part))

**9.08.090 Fraud by check.**

(a) Definitions.

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

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

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

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

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

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

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

(b) Fraud by check. Any person, knowing he or she has insufficient funds with the drawee, who, with intent to defraud, issues a check for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check. (Ord. 81-6 §1(part))

**9.08.100 Theft by receiving.**

No person shall receive, retain, loan money by pawn or pledge on, or dispose of anything of value of another, knowing or believing that said thing of value has been stolen, intending to deprive the lawful owner permanently of the use or benefit of the thing of value. (Ord. 83-9 §1)

## CHAPTER 9.12

### Offenses Against Public Decency

#### 9.12.010 Window peeping.

It is unlawful for any person to trespass upon the property owned or occupied by another in the Town for the purpose of looking or peeping into any window, door, skylight or other opening in a house, room or building, or to loiter in a public place for the purpose of wrongfully observing the actions of the occupants of a house, room or building. (Ord. 79-17 §H(18))

#### 9.12.020 Indecent exposure.

It is unlawful for any person to intentionally expose his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Ord. 79-17 §H(19))

#### 9.12.025 Public urination.

It is unlawful for any person to urinate in any public place other than in a public toilet. (Ord. 81-10 §1)

#### 9.12.030 Prohibited conduct – liquor-licensed premises.

(a) No licensee for the sale of spirituous, vinous or malt beverages or 3.2 beer shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine, apparatus or other thing contrary to this Section or to state law or which is kept or used for the purpose of gambling either directly or indirectly. This Section shall not be construed to prohibit the use of bona fide amusement devices which do not and cannot be adjusted to pay anything of value, and which may not be used for gambling, directly or indirectly, and for the scoring, achievement, use or operation of which no prize, reward or thing of value is offered or paid by any person.

(b) Each licensee shall conduct his or her establishment in a decent, orderly and respectable manner, and shall not permit within or upon the licensed premises lewd or indecent displays, profanity, rowdiness, undue noise or other disturbance or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the establishment is located.

(c) No licensee, manager or agent shall employ or permit upon any liquor-licensed premises, for consumption on the premises any employee, waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg, procure, or solicit the purchase or sale of drinks or beverages for the use of the one begging, procuring or soliciting or for the use of any other employee.

(d) No licensee, manager or agent shall permit upon any liquor-licensed premises, for consumption on the premises, anyone to loiter in or about said premises for the purpose of begging and soliciting any patron or customer of, or visitor in such premises to purchase any drinks or beverages of any type or nature whatsoever, for the one soliciting or begging.

(e) No licensee for retail sale by the drink of spirituous, vinous or malt beverages or 3.2 beer shall permit any person or persons to appear in a state of nudity or simulated nudity within or upon the premises.

(f) No licensee for retail sale by the drink of spirituous, vinous or malt beverages or 3.2 beer shall permit the showing of film, still pictures, electronic reproduction or other visual reproductions depicting any act or live performance prohibited by this Section.

(g) For the purposes of this Section, the following definitions shall apply:

*Lewd or indecent displays* means performing acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

b. The touching, caressing or fondling on the breast, buttocks, anus or genitals;

c. The displaying of the pubic hair, anus, vulva or genitals;

d. The displaying of the post-pubertal human female breast below a point immediately above the top of the areola, or the displaying of the post-pubertal human female breast where the nipple only or the nipple and areola only are covered.

*Nudity* means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

(h) No licensee, manager or agent shall sell, serve, give away, dispose of, exchange or deliver or permit the sale, serving, giving or procuring of any malt, vinous or spirituous liquor to or for any person under the age of twenty-one (21) years, to a visibly intoxicated person, or to a known habitual drunkard.

(i) No licensee, manager or agent shall sell, serve or distribute any malt, vinous or spirituous liquors at any time other than the following:

(1) For consumption on the premises, on any Monday through Saturday and on any Sunday which falls on a December 31st, beginning each day at twelve 12:00 a.m. until 2:00 a.m. and from 7:00 a.m. until 12:00 a.m.;

(2) For consumption on the premises, on any Sunday other than any Sunday which falls on a December 31st, and on Christmas, beginning at 12:00 a.m. until 2:00 a.m. and from 8:00 a.m. until 8:00 p.m.;

(3) Notwithstanding Subsections (1) and (2) of this Section, for consumption on the premises, on the day following Christmas, beginning at 7:00 a.m. until 12:00 a.m.;

(4) In sealed containers, on Monday through Saturday, beginning at 8:00 a.m. until 12:00 a.m. each day, but no alcoholic beverage shall be sold, served or distributed in a sealed container on any such weekday which is also Christmas.

(j) Notwithstanding any of the provisions of this Subsection, a hotel and restaurant licensee, beer and wine licensee, tavern licensee, club licensee or arts licensee may obtain, for an additional fee, from the local licensing authority, a special license to sell, serve or distribute malt, vinous and spirituous liquors by

the drink after the hour of 8:00 p.m. and until 12:00 a.m., on any Sunday other than a Sunday which falls on a December 31st, and Christmas. (Ord. 92-20 §1; Ord. 86-24 §1; Ord. 79-17 §H(20))

**9.12.040 Sales to intoxicated persons.**

It is unlawful for anyone to sell, give or dispense any intoxicating beverage of any kind, including fermented malt beverages, commonly known as 3.2 beer, to any person who is visibly intoxicated, and it is the responsibility of anyone licensed by the Town and State to dispense any malt, vinous and spirituous liquor, as well as fermented malt beverages, commonly known as 3.2 beer, to determine if any such person is visibly intoxicated before selling, serving or delivering such beverages to any such person. (Ord. 79-17 §H(22))

**9.12.050 False identification.**

It is unlawful for any person to make false statements or to furnish, present or exhibit any fictitious or false registration card, identification card, note or any other document; or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same, for the purpose of gaining admission to any prohibited place or for the purpose of procuring the sale, gift or delivery of prohibited articles, including fermented malt beverages, malt, vinous or spirituous liquors. (Ord. 87-3 §1(part))

**9.12.060 Possession or consumption of liquors by underage person.**

(a) It is unlawful for any person under the age of twenty-one (21) to possess or consume ethyl alcohol anywhere within the Town limits. For the purposes of this Chapter, *possession* shall include the presence of a detectable level of ethyl alcohol in a person's body, which alcohol may have been ingested outside the Town limits.

(b) It shall be an affirmative defense to the offense that the ethyl alcohol was possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

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

(2) The possession or consumption took place for religious purposes protected by the First Amendment of the United States Constitution.

(c) An underage person and one (1) or two (2) other persons shall be immune from criminal prosecution under this Section if they establish the following:

(1) One (1) of the underage persons called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(2) The underage person who called 911 and, if applicable, one (1) or two (2) other persons acting in concert with the underage person who called 911 provided each of their names to the 911 operator;

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

(4) The underage person and, if applicable, one (1) or two (2) other persons acting in concert with 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 and law enforcement personnel on the scene. (Ord. 06-14 §1; Ord. 02-21 (part))

**9.12.070 Sale to underage persons.**

(a) It is unlawful for any person to procure for, sell to or give away within the Town any malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years.

(b) It is unlawful for any person to procure for, sell to or give away within the Town limits any fermented malt beverages to any person under the age of twenty-one (21) years. (Ord. 02-21 (part))

**9.12.080 Drinking in streets prohibited.**

(a) It is unlawful for any person to consume any malt, vinous or spirituous liquors or fermented malt beverages upon any street, alley, sidewalk, park, public building or public parking lot in the Town or in any vehicle upon the streets, alleys, sidewalks, parks or public parking lots in the Town; provided that:

(1) It shall not be unlawful for any person to consume any malt, vinous or spirituous liquor in any such location when a special events permit has been issued pursuant to Article 48, Title 12, C.R.S.; and

(2) It shall not be unlawful for persons twenty-one (21) years of age and over to consume fermented malt beverages, labeled as "3.2% beer," in Nottingham Park in areas permitted for such consumption by the recreation department of the Town.

(b) It is unlawful for any person to possess or have in his or her possession or under his or her control in or upon any street, alley, sidewalk, park, public building or public parking lot in the Town, any malt, vinous or spirituous liquors or fermented malt beverages in any container of any kind or description which has been opened or which is not sealed or upon which the seal is broken, except in areas permitted pursuant to Subsection (a) of this Section. The word *sealed* means the regular seal applied by the United States Government over the cap of all malt, vinous or spirituous liquors or fermented malt beverages. It shall not be unlawful for any person to have in his or her possession or under his or her control one (1) opened container of vinous liquor removed from a licensed premises pursuant to Section 12-47-411(3.5), C.R.S. (Ord. 04-10 §1; Ord. 95-11 §1; Ord. 94-16 §1)

**CHAPTER 9.16**

**Offenses Against Public Peace**

**9.16.010 Unlawful assembly.**

It is unlawful for two (2) or more persons to assemble together, or being assembled together, to act in concert to commit, or conspire to commit, any unlawful act. (Ord. 79-17 §H(23))

**9.16.020 Disorderly conduct.**

It is unlawful for a person to intentionally, knowingly or recklessly:

(1) Make a coarse and obviously offensive utterance in a public place, and the language by its very utterance tends to incite an immediate breach of the peace; or

(2) Make a coarse and offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace; or

(3) Fight with another in a public place, except in an amateur or professional contest of athletic skill; or

(4) Make an unreasonable noise in a public place or near a private residence that he or she has no right to occupy. (Ord. 79-17 §H(24))

#### **9.16.030 Tumultuous and violent conduct.**

It is unlawful for a person to participate with two (2) or more others in tumultuous and violent conduct which creates grave danger of damage or injury to property or persons or substantially obstructs the performance of any governmental function. (Ord. 79-17 §H(25))

#### **9.16.040 Harassment.**

(a) It is unlawful for a person to intentionally harass, annoy or alarm another person by:

(1) Insults, taunts or challenges to another in a manner likely to provoke a violent or disorderly response;

(2) Following a person in or about a public place;

(3) Initiating communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily harm or property damage, or making any comment, request, suggestion or proposal by telephone which is obscene; or

(4) Making a telephone call or causing a telephone to ring repeatedly, whether or not a conversation ensues, with no legitimate conversation;

(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 sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.

(c) Any act prohibited by Subsection (a)(4) 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. 94-6 §1; Ord. 79-17 §H(26)(part))

#### **9.16.050 Loitering.**

(a) *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 loitering if he or she does any of the following:

- (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 about a school building or grounds, not having any reason or responsibility for a pupil or any other specific legitimate reason for being there, and not having written permission from a school administrator; or in or about a public building except in the exercise of the right of assembly, free speech or peaceful petition; or
- (5) Loiters with one (1) or more persons for the purpose of unlawfully using or possessing a narcotic or dangerous drug; or
- (6) Remains in or upon any private premises or place of business after having been asked by the owner, lessee or manager thereof to leave. (Ord. 81-6 §2 (part); Ord. 80-7 §3; Ord. 79-17 §H(26)(part))

**9.16.060 Cannabis defined.**

*Cannabis* includes all parts of the plant *Cannabis, Sativa L.* whether growing or not; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant or resin, but shall not include the stalks of said plant, fiber produced from its stalks, oil or cake made from the seeds of said plant, or any other compound or manufacture, salt, derivative, mixture or preparation of its stalks, except the resin extracted therefrom, fiber, oil or cake, or seed of such plant. (Ord. 87-14 §1(part); Ord. 81-6 §2(part))

**9.16.070 Unlawful acts designated.**

It is unlawful to possess, use or attempt to obtain or procure less than one (1) ounce of cannabis. (Ord. 87-14 §1(part))

**9.16.080 Penalty for possession.**

Any person who possesses not more than one (1) ounce of cannabis shall be guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with the provisions of Section 1.08.010 of this Code. (Ord. 87-14 §1(part))

**9.16.090 Summons and complaint issuance and contents.**

Whenever a person is arrested or detained for a violation of Section 9.16.070, the arresting or detaining officer shall prepare a written notice or summons to appear in court, which written notice or summons shall contain the name and address of such arrested or detained person, the time and place where such person shall appear and a place for such person to execute his or her promise to appear at the time and place indicated on the summons or notice. The time specified in such notice to appear or summons must be at least five (5) days after such arrest or detention unless the arrested or detained person demands an earlier hearing, and the Town is able to provide such an earlier hearing. The place specified in said notice to appear must be before the Municipal Judge. The arrested or detained person must give his or her written

promise to appear in court by signing the notice or summons prepared by the arresting or detaining officer. (Ord. 87-14 §1 (part))

**9.16.100 Penalty for public display or consumption.**

Any person who openly and publicly displays or consumes not more than one (1) ounce of cannabis is guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with the provisions of Section 1.08.010 of this Code. (Ord. 87-14 §1(part))

**9.16.110 Abuse of toxic vapors prohibited.**

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 herein, nor shall any person knowingly aid any other person to use any such substance for the purposes described herein. This Section shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(1) For purposes of this Section, the term *toxic vapors* means the following substances or products containing such substances: Alcohols including methyl, isopropyl, propyl or butyl; aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate; acetone; benzene; carbon tetrachloride; cyclohexane; freons including freon 11 and freon 12; hexane; methyl ethyl ketone; methyl isobutyl ketone; naphtha; perchlorethylene; toluene; trichlorethane or xylene.

(2) In prosecution of a violation of this Section, evidence that a container lists one (1) or more of the substances described in Subsection (1) of this Section as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. 94-2 §1)

**9.16.115 Drug paraphernalia – definitions.**

*Drug paraphernalia* means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state law. *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 state law;

(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 devises 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 screens, permanent screens, hashish heads or punctured metal bowls,

b. Water pipes,

c. Carburetion tubes and devices,

d. Smoking and carburetion 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. (Ord. 96-24 §1(part))

**9.16.117 Drug paraphernalia – determination – considerations.**

(a) In determining whether an object is drug paraphernalia, a 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 on the object;

(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

or she knows or reasonably should know, could use the object to facilitate a violation of Sections 9.16.115 through 9.16.119;

- (5) Instruction, 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;
- (11) Expert testimony concerning its use.

(b) In the event a case brought pursuant to Sections 9.16.115 to 9.16.119 is tried before a jury, the court shall hold an evidentiary hearing on issues raised pursuant to this Section. Such hearing shall be conducted in camera. (Ord. 96-24 §1(part))

**9.16.119 Possession of drug paraphernalia.**

A person commits 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 state law. (Ord. 96-24 §1(part))

**CHAPTER 9.20**

**Offenses Against Property**

**9.20.010 Criminal injury to property.**

It is unlawful for any person to knowingly or recklessly injure, deface, mutilate, remove, pull down, break or in any way interfere with, molest, desecrate or destroy any trees or real or personal property belonging to or under control of the Town or any person, including property owned by the person jointly with another person or property owned by the person in which another person has a possessory or proprietary interest, within the limits of the Town. (Ord. 07-04 §1; Ord. 79-17 §H(27))

**9.20.020 Trespassing.**

It is unlawful for a person to enter upon any property within the Town owned or occupied by another without license or privilege to do so, or to remain upon any such property after having been requested to leave by the owner of the property or by any person having charge of the property. (Ord. 79-17 §H(28))

**9.20.030 Posting handbills.**

It is unlawful for any person to stick, paint or post any handbill, poster or placard of any description upon any private property within the Town without the permission of the owner of or occupant of the property; or for any person to stick, paint or post any handbill, poster or placard upon any post, pole or other premises located upon the public buildings, streets, alleys or sidewalks of the Town without the permission of the Town Council. (Ord. 79-17 §H(29))

**9.20.040 Obstructing passage.**

It is unlawful for any person or group of persons to obstruct or impede public travel upon any public street, highway or sidewalk or in any place of a public nature within the Town, or to interfere with the free and unobstructed use of a public street, way, sidewalk or place by any other person or persons; and it is the duty of any person or group of persons to comply with a request of the Mayor, Police Chief or any police officer of the Town to disperse or to discontinue any obstruction or interference with the use of any public street, way, sidewalk or place within the Town. (Ord. 79-17 §H(30)(part))

**9.20.050 Use of skimobiles on public ways.**

It is unlawful for any person or group of persons to operate a skimobile, ski-horse, skidoo or other similar type of snow vehicle upon any public street, way or sidewalk within the Town, except upon the written authorization of the Town Council and under the conditions set forth by the Town Council. (Ord. 79-17 §H(30)(part))

**9.20.060 Camping on public ways.**

It is unlawful for any person to sleep, spend the night, cook or establish a place of abode in any vehicle, trailer or camper on any public street, way, sidewalk or place within the Town. (Ord. 79-17 §H(30)(part))

**9.20.070 Camping restricted.**

It is unlawful for any person to reside temporarily on any parcel in the Town not specifically designated therefor, for a period longer than two (2) nights in any tent, shelter, mobile home, recreational vehicle, trailer or any other temporary or movable shelter that has not been permanently attached to the land and/or received appropriate approvals from the Town. (Ord. 79-17 §H(30)(part))

**9.20.080 Injuring street.**

It is unlawful for any person to operate tractors with lug wheels, or any vehicle with wheels injurious to pavements, upon the paved public streets in the Town unless the operator first makes adequate provision to protect the streets and receives approval from the Police Chief for the method of protection. (Ord. 79-17 §H(30)(part))

## CHAPTER 9.24

### Offenses by or Against Minors

#### 9.24.010 *Minor defined.*

*Minor* or *minor child* means any person under the age of sixteen (16) years. (Ord. 80-18 §3)

#### 9.24.020 **Curfew – parent's responsibility.**

It is unlawful for any parent, guardian or other person having care or custody of any child under the age of sixteen (16) years to allow or permit any such child to be or remain on any street, alley or other public place subsequent to the hours of 11:00 p.m., or prior to the hour of 6:00 a.m., except for lawful employment or unless there exists a reasonable necessity therefor; or unless such child is accompanied by a parent, guardian or other person of the age of twenty-one (21) years or older having permission of the parent or guardian to have the custody and care of such child. (Ord. 80-18 §1)

#### 9.24.030 **Curfew – child's responsibility.**

It is unlawful for any child under the age of sixteen (16) years to be or remain on any street, alley, or public place subsequent to the hour of 11:00 p.m. or prior to the hour of 6:00 a.m., except for lawful employment or unless there is a reasonable necessity therefor; or unless such child is accompanied by a parent, guardian or other person of the age of twenty-one (21) years or older having permission of the parent or guardian to have the custody and care of such child. (Ord. 80-18 §2)

#### 9.24.040 **Instruction by parent or guardian required.**

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

(b) It shall be the duty of any parent, or person or persons standing in the place of or position of the parent, not living within the Town, but who shall permit the minor child or children in their care to come into the Town, to instruct the minor child or children on the provisions of the ordinances of the Town and to supervise the minor child or children while within the Town so as to prevent such minor child or children from violating an ordinance of the Town. (Ord. 80-18 §4)

#### 9.24.050 **Violation – prima facie evidence.**

Any violation of an ordinance of the Town by a minor child subject to the care, supervision and control of any parent or person shall be prima facie evidence that the parent or parents, person or persons standing in relationship of parent or parents, have failed to properly instruct the minor child on the ordinances of the Town or have failed to properly supervise the child within the Town and that such failure has resulted in the violation of the ordinance. (Ord. 80-18 §5)

**9.24.060 Abandoned ice boxes, refrigerators and containers.**

It is unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, structure or dwelling under his or her control, within the Town, 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 the door or lid, snaplock or other locking device. (Ord. 79-17 §H(32))

**CHAPTER 9.28**

**Weapons**

**9.28.010 Concealed weapon.**

It is unlawful for any person, without legal authority to do so, to wear under his or her clothes or conceal about his or her person, or to display in a threatening manner, any dangerous or deadly weapon within the Town. A Town peace officer is authorized and empowered to conduct a limited search of a person for the purpose of determining the existence of such a weapon when he or she has reasonable grounds to believe that the individual is armed and dangerous and that such action is necessary in order to protect himself or herself or others. Any weapon so found shall be confiscated and turned over to the Police Chief for disposition. (Ord. 79-17 §H(33))

**CHAPTER 9.31**

**Violation of Restraining Order**

**9.31.010 Definitions.**

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

*Protected person* means the person or persons identified in the restraining order as the person or persons for whose benefit the restraining order was issued.

*Restrained person* means the person identified in the order as the person prohibited from doing the specified act or acts.

*Restraining order* means any order which prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening or touching any person, or from entering or remaining on premises or from coming within a specified distance of a protected person or premises which is issued by a court of this State or the Municipal Court, and which is issued pursuant to Sections 14-4-101 to 14-4-105, C.R.S., Section 14-10-107, C.R.S., Section 14-10-108, C.R.S., Section 18-1-1001, C.R.S., Section 19-3-316, C.R.S., Section 19-4-111, C.R.S. or Rule 365 of the Colorado Rules of County Court Civil Procedure, and orders issued as part of the proceedings concerning criminal municipal ordinance violation or any other order of a court which prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening or touching any person or from entering or remaining on premises or from coming within a specified distance of a protected person or premises.

*Subsequent order* means an order which amends, modifies, supplements or supersedes a restraining order. (Ord. 02-25 §1(part))

**9.31.020 Crime of violation of a restraining order; penalty; peace officers' duties.**

(a) A person commits the crime of violation of a restraining order if such person commits an act which is prohibited by any court pursuant to a valid order issued pursuant to Sections 14-4-101 to 14-4-104, C.R.S., Section 18-1-1001, Rule 365 of the Colorado Rules of County Court Civil Procedure or an order issued by any district court, as provided for in Section 14-10-108, C.R.S., which restrains and enjoins any person from threatening, beating, striking or assaulting any other person or requires a person to leave certain premises and refrain from entering or remaining on such premises, or a municipal ordinance which provides for an order to issue which restrains any person from threatening, molesting or injuring any person or entering or remaining on the premises, or any protective order issue pursuant to Title 19, C.R.S., or if such person fails to perform any act mandated by any such order, after such person has been personally served with any such order or otherwise has acquired from the court actual knowledge of the contents of any such order.

(b) A peace officer shall arrest, or, if an arrest would be impractical under the circumstances, seek a warrant for the arrest of, a restrained person when the peace officer has information amounting to probable cause that:

(1) The restrained person has violated or attempted to violate any provision of a restraining order; and

(2) The restrained person has been properly served with a copy of the restraining order or the restrained person had received actual notice of the existence and substance of such order.

(c) Any sentence imposed for violation of this section shall run consecutively and not concurrently with any sentence imposed for any crime which gave rise to the issuing of the restraining order.

(d) Nothing in this Section shall be construed to alter or diminish the inherent authority of the Court to enforce its orders through civil or criminal contempt proceedings.

(e) No person charged with violation of a restraining order pursuant to this Section shall be permitted, in the criminal action resulting from such charge, to collaterally attack the validity of the order which such person is accused of violating.

(f) A peace officer arresting a person for violating a restraining order or otherwise enforcing a restraining order shall not be or she held criminally or civilly liable for such arrest or enforcement unless the peace officer acts in bad faith and with malice or does not act in compliance with rules adopted by the Colorado Supreme Court. (Ord. 02-25 §1(part))

**CHAPTER 9.32**

**Penalty\***

*\* Editor's Note: Chapter 1.08 of this Code, General Penalty, contains penalties for violation of Code provisions. For penalties for violations of certain sections in this Title, see Subsection 1.08.010(b).*

**9.32.010 Violations and penalties – nuisance declared.**

(a) It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Title. Any person who violates any provisions of this Title shall be punished in accordance with the provisions of Section 1.08.010 of this Code.

(b) In addition to the penalty provided in this Section, any condition caused or permitted to exist in violation of any of the provisions of this Title shall be deemed a public nuisance, and may be summarily abated by the Town as such. (Ord. 80-7 §1(part); Ord. 79-17 §G(part); Ord. 04-05 §1)