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## **I. Offenses Against Public Officers and Government**

### **Chapter 9-02**

#### **Obstructing Justice**

##### **9-02-010 Impeding police, firemen, or other officials by vehicle prohibited when.**

It is unlawful for any person to drive a vehicle or to park close by the scene of a fire, explosion, traffic accident, riot, or impending riot, or other disaster or investigation in such a manner as to obstruct or impede the arrival, departure, or operation of any fire truck, police vehicle, ambulance, or any other emergency vehicle, or to fail to move a vehicle from the scene when ordered to do so by a police officer, fireman, emergency personnel, or military personnel in the performance of their duties in coping with such fire, explosion, traffic accident, riot or impending riot, or other disaster or investigation. (Ord. 291 §1, 1977)

##### **9-02-020 Interference with police officers, firemen, city employees, and public officials prohibited.**

(A) It is unlawful for any person to knowingly resist, interfere with, or impede or obstruct any police officer, fireman, city employee, or other public official who is attempting to discharge or is in the course of discharging an official duty.

(B) It is unlawful for any person to threaten violence, reprisal, or any other injurious act to any police officer, fireman, city employee, or other public official who is engaged in the performance or attempted performance of his or her official duties, or to make such a threat by reason or on account of the performance or attempted performance of his or her official duties.

(C) Police officer or fireman engaged in the performance of his or her duties means a police officer or fireman who is engaged or acting in, or who is present for the purpose of engaging or acting in, the performance of any duty, service, or function imposed, authorized, required, or permitted by law to be performed by a police officer or fireman, whether or not the police officer or fireman is within the territorial limits of his or her jurisdiction, if the police officer or fireman is in uniform; or the person committing an assault upon or offense against or otherwise acting toward such police officer or fireman knows or reasonably should know that the victim is a police officer or fireman. (Ord. 291 §2, 1977)

##### **9-02-030 Resisting arrest; escaping; rescuing a prisoner.**

(A) It is unlawful for any person to prevent or attempt to prevent a police officer or any person duly empowered with police authority, acting under color of his or her official authority, from effecting an arrest of any person by the use or threatened use of force or physical violence, or any other means which creates a reasonable risk of causing injury to such police officer.

(B) Police officer, as used in this chapter, means any person defined as a peace officer under section 1-04-010 who is in uniform or who has displayed his or her credentials to the person whose arrest is attempted. The word uniform, as used in this chapter, shall refer to the dress or apparel and insignia required to be worn by the police officers and agents of the city.

(C) A police officer is acting under color of his or her official authority when, in the course of his or her duties, he or she is called upon to make or does in fact make a good-faith judgment, based on surrounding facts and circumstances, that an arrest should be made. It is no defense to a prosecution under this section that the arrest was unlawful, if the police officer was acting under color of his or her authority and did not use unreasonable or excessive force in effecting the arrest.

(D) It is unlawful for any person to escape or attempt to escape from, or in any manner aid another who is in the custody of a police officer, to escape, or attempt to rescue a person from the custody of a police officer or from the custody of any person aiding such police officer after being commanded by such police officer to do so; provided, however, that the provisions of this section shall not apply whenever the escapee is being held on account of a felony or charged with or held for any felony. (Ord. 291 §3, 1977; Ord. 1459 §6, 2000)

##### **9-02-040 Disobeying an order of a police officer or fireman; refusing to aid a police officer.**

(A) It is unlawful for any person to knowingly disobey the lawful or reasonable order of any police officer, fireman, emergency personnel, or military personnel given incident to the discharge of the official duties of such

police officer or fireman, or incident to the duties of emergency personnel or military personnel when such personnel are coping with an emergency, explosion, or other disaster.

(B) A person commits an unlawful act when, upon command by a person known to him or her as a police officer, he or she unreasonably refuses to aid the police officer in coping with any emergency situation. (Ord. 291 §4, 1977)

**9-02-050 Impersonating officers and employees prohibited.**

(A) It is unlawful for any person other than an official police officer of the city to wear the uniform, apparel, or any other insignia of office like or similar to, or a colorable imitation of that adopted and worn by the official police officers.

(B) It is unlawful for any person to counterfeit, imitate, or cause to be counterfeited, imitated, or colorably imitated, the uniform, apparel, or insignia of office used by the police department.

(C) It is unlawful for any person, without due authority, to exercise or attempt to exercise the authority of any police officer, member of the police department, person duly empowered with police authority, sheriff, deputy sheriff, prison steward, deputy warden, public officer, or any investigator, inspector, deputy or clerk in any department of the city, or of any other law enforcement officer, for any purpose; or for any person falsely to assume, pretend to be or hold himself or herself out to be such officer or official, for any purpose. (Ord. 291 §5, 1977)

**9-02-060 Giving false information prohibited.**

It is unlawful for any person to knowingly and willfully give false information to an officer or employee of the city acting in his or her official capacity, concerning the identity of any person participating in, connected with, or responsible for, or concerning the matter of the commission of any act, if the legality thereof or the identity of those participating therein or connected therewith or responsible therefor is being investigated, as part of his or her official duties or employment, by such officer or employee. (Ord. 291 §6, 1977)

**9-02-070 False reporting to authorities.**

(A) It is unlawful for any person to report the existence of a fire or other emergency to the police, fire department, or any other agency empowered to deal with an emergency involving risk or injury to persons or property, when such person knows the report to be false. For purposes of this subsection, fire department means any fire protection district or firefighting agency of the state, county, or municipality, whether the employees or officers of such agency are volunteers or receive compensation for their services as firemen, or both.

(B) It is unlawful for any person to report or cause to be reported to any police agency any information concerning the commission of any offense or other incident which would require police action when he or she knows that no such offense or other incident has occurred, or when he or she knows the information is false or that he or she has no such information.

(C) This section does not apply to reports of the existence of placement of a bomb or other explosive in any public or private place or vehicle designed for transportation of persons or property. (Ord. 291 §7, 1977)

**9-02-080 Reporting of disorderly conduct by liquor licensees.**

(A) It shall be unlawful for any person who is a holder of a fermented malt beverage, malt, vinous, or spirituous liquor license, or any manager or employee of such license holder, to fail to immediately report to the police department any disorderly conduct in violation of section 9-28-010(A), B.M.C., any disturbance in violation of section 9-34-020, B.M.C., or any other criminal act involving assault or battery in violation of section 9-08-030 or 9-08-040, B.M.C. which occur on the licensed premises or on the adjoining grounds under the management or control of the licensee.

(B) It shall be unlawful for any licensee or any manager or employee of a licensee to refuse to cooperate with the police department in the investigation of any disorderly conduct, disturbance, or criminal act, as set forth in subsection (A) above, occurring on the licensed premises or on the adjoining grounds under the management or control of the licensee. (Ord. 944 §1, 1992)

**9-02-090 Conduct of business and industrial guards.**

(A) It shall be unlawful for any business or industrial guard to:

- (1) Arrest any person except when that person commits a criminal offense in the presence of the person making the arrest;
- (2) Fail to release an arrestee immediately to the police department;
- (3) Hinder or interfere with any investigation under the jurisdiction of the police department;
- (4) Fail to report to the police department any violations of state or federal laws of which he or she has knowledge;
- (5) Represent himself or herself to be an officer of the police department or any municipal, county, state, or federal law enforcement agency, or for any vehicle used by a business or industrial guard within the city to exhibit colorings, markings, or equipment so similar to marked patrol vehicles of the city that they might be confused with the city's police vehicles, or be equipped with any lights or sirens in violation of the traffic code of the city or the laws of the state;
- (6) Fail to identify himself or herself or take any action which would obscure his or her presence from a police officer inspecting an area where the licensee is assigned;
- (7) Advertise, represent, or identify himself or herself as a police officer or use any acronym or initials that could cause him or her to be mistaken to be a member of a federal, state, or municipal law enforcement agency;
- (8) Carry any firearm not registered as provided by section 9-72-130 while in the performance of duties as a business or industrial guard as deemed in this section, or to draw or fire a firearm in the performance of his or her duties except when necessary to protect himself or herself or another from great bodily harm.

(B) No business or industrial guard shall have any greater authority to arrest than would another private citizen. Nothing in this section shall be construed to mean that a licensee may conduct criminal investigations, make arrests or reports of criminal activity, use deadly force, or take any other action on behalf of, under color of laws of, or under the authority of the city.

(C) *Business or industrial guard* means an individual who is employed for the purpose of watching, guarding, or otherwise providing protection to persons or property of others, or to preserve the peace on the property of others, but shall not include any individual so employed by any common carrier engaged in interstate commerce, maintenance men and installers, janitors, repairmen, or persons engaged in similar occupations. (Ord. 1470 §2, 2000)

## II. Offenses Against the Person

### Chapter 9-08

#### Assault and Battery

##### **9-08-010 Intent of provisions.**

It is the intent and purpose of this chapter not to cover and include those offenses which are felonies under state statutes, and this chapter shall be so construed, notwithstanding any language contained in it which might otherwise be construed to the contrary. (Ord. 290 §8, 1977)

##### **9-08-020 Definitions.**

The following words and terms, where used in this chapter, shall have the meanings given in this section:

(A) *Assault* means an intentional, unlawful attempt, or offer, coupled with the apparent present ability to make forceful contact with the *person of* another, under circumstances which create a reasonable apprehension of imminent forceful contact.

(B) *Battery* means an intentional, unlawful making of forceful contact with the person of another. (Ord. 290 §1, 1977)

##### **9-08-030 Assault prohibited.**

It is unlawful for any person to commit an assault within the city. (Ord. 290 §1, 1977)

**9-08-040 Battery prohibited.**

It is unlawful for any person to commit a battery within the city. (Ord. 290 §3, 1977)

**9-08-050 Criminal negligence; deadly weapon.**

It is unlawful for any person, with criminal negligence, to cause bodily injury to another person by means of a deadly weapon. (Ord. 290 §4, 1977)

**9-08-060 Menacing; without deadly weapon.**

It is unlawful for any person to intentionally place or attempt to place another person in fear of imminent bodily harm by any threat or physical action; provided, however, that if such be with the use of a deadly weapon, this section shall not apply. (Ord. 290 §5, 1977)

**9-08-070 Intimidation prohibited.**

It is unlawful for anyone without legal authority to threaten to confine, restrain, or cause bodily harm to the threatened person of another, or to damage the property or reputation of the threatened person of another with intent thereby to induce the threatened person of another against his or her will to do an act, or refrain from doing a lawful act. (Ord. 290 §6, 1977)

**9-08-080 Reckless endangerment prohibited.**

It is unlawful for any person to recklessly engage in conduct which creates risk of bodily harm to another person. (Ord. 290 §7, 1977)

**Chapter 9-10**

**Harassment**

**9-10-010 Harassment prohibited.**

(A) It shall be unlawful to commit harassment. A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she:

- (1) Strikes, shoves, kicks, or otherwise touches a person or subjects him or her to physical contact;
- (2) In a public place directs obscene language or makes an obscene gesture to or at another person;
- (3) Follows a person in or about a public place;
- (4) Initiates communication with a person, anonymously or otherwise by telephone, computer, computer network, or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system that is obscene;
- (5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
- (6) Repeatedly insults, taunts, or challenges another in a manner calculated to or likely to provoke a violent or disorderly response; or
- (7) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property.

(B) As used in this section, unless the context otherwise requires, *obscene* means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.

(C) Any act prohibited by paragraph (A)(4) or (A)(5) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail, or other electronic communication was either made or received. (Ord. 707 §1, 1986; Ord. 1545 §1, 2001)

### III. Offenses Against Public Decency

#### Chapter 9-14

#### Gambling

##### **9-14-010 Gambling prohibited generally.**

It is unlawful for any person to participate in gambling. 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:

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

(B) Bona fide business transactions which are valid under the law of contracts;

(C) Other acts or transactions now or hereafter expressly authorized by law; or

(D) 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. *Professional gambling* means aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom or 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. 15 §29, 1963; Ord. 1065 §1, 1994)

##### **9-14-020 Keeping gambling premises prohibited.**

It is unlawful for any person to keep any building, room, enclosure, vehicle, vessel, or other place, whether open or enclosed, used or intended to be used for professional gambling, as defined by subsection 9-14-010(D). Anyplace where a gambling device is found is presumed to be intended to be used for professional gambling. *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. (Ord. 15 §30, 1963; Ord. 1065 §2, 1994)

##### **9-14-030 Gambling devices; confiscation and destruction.**

(A) It shall be the right of the chief of police, and all members of the police department, to seize and take any gambling devices, gambling records, and gambling proceeds without warrant or complaint, and to convey the same before the municipal court of the city, which court shall order such devices destroyed. Gambling proceeds are forfeited to the city and disposed of in accordance with the provisions of chapter 8-24, B.M.C. *Gambling proceeds* means all money or other things of value at stake or displayed in or in connection with professional gambling.

(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 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 municipal court shall order such gambling device returned to the person from whom it was confiscated. For the purpose of this section, *antique gambling device* means a gambling device which was manufactured twenty-five years ago or earlier. (Ord. 15 §31, 1963; Ord. 1065 §3, 1994)

##### **9-14-040 Maintaining lotteries prohibited.**

It is unlawful for any person to get up, maintain, or carry on in any place occupied by him or her, or under his or her control, any lottery or chance gift distribution, except as otherwise provided in subsections (A) through (D) of section 9-14-010. (Ord. 15 §32, 1963; Ord. 1065 §4, 1994)

##### **9-14-050 Exceptions.**

Nothing contained in this chapter shall be construed to modify, amend, or otherwise affect the validity of any provisions contained in articles 9, 47.1, and 60 of title 12, C.R.S. (Ord. 1065 §5, 1994)

## Chapter 9-16

### Immoral Conduct

#### 9-16-010 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word *shall* is always mandatory, and not merely directory.

(A) *Adult* means a person who has reached his or her eighteenth birthday.

(B) *City* means the City of Broomfield.

(C) *Commercial purposes* means any purposes connected with the commercial sale of a product or type of product, the commercial offering of a service, or the commercial exhibition of any form of entertainment.

(D) *Deviate sexual conduct* means any act of sexual gratification between human beings who are not husband and wife, involving contact of the genital organ of one and the mouth or anus of another.

(E) *Display publicly* means the exposure, placement, posting, exhibition, or display, in any fashion, of an item, in any location, public or private, in such a manner that it may readily be seen and its content or character distinguished by normal unaided vision from a public thoroughfare, a vehicle on a public thoroughfare, or the property of another.

(F) *Facility* means any place or thing which provides seclusion, privacy, opportunity, protection, comfort, or assistance to or for a person engaging or intending to engage in sexual intercourse or deviate sexual activity.

(G) *Hard-core sexual conduct* means patently offensive acts, exhibitions, representations, depictions, or descriptions of:

(1) Intrusion, however slight, actual or simulated, by any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body; or

(2) Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory functions, actual or simulated.

(H) *Live sexual performance* means any live performance by one or more persons, or a person and an animal, which:

(1) Taken as a whole, appeals to the prurient interest of the average person, applying contemporary statewide standards;

(2) Presents or shows hard-core sexual conduct; and

(3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

(I) *Masturbation* means the stimulation of the genital organs by manual or other bodily contact, exclusive of sexual intercourse.

(J) *Material* means any physical object, facsimile, recording, transcription, pictorial representation, motion picture, or reproduction, whether mechanical, electrical, or chemical, which is used as a means of communicating sensation or emotion to human beings to or through the visual, aural, or tactile senses. The term does not include the printed or written word, except when used for commercial purposes.

(K) *Minor* means a person who has not reached his or her eighteenth birthday.

(L) *Obscene material* means that material, as defined in subsection (J) of this section, which:

(1) Taken as a whole, appeals to the prurient interest of the average person, applying contemporary statewide standards;

(2) Depicts or describes hard-core sexual conduct; and

(3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

(M) *Obscene performance* means that performance, as defined in subsection (N) of this section which:

- (1) Taken as a whole, appeals to the prurient interest of the average person, applying contemporary statewide standards;
- (2) Presents or shows hard-core sexual conduct; and
- (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

*Obscene performance* includes a live sexual performance, as defined in subsection (H) of this section.

(N) *Performance* means a presentation or exhibition, whether live or recorded, in a public place or place open to the public.

(O) *Person* means any individual, partnership, firm, corporation, association, or other legal entity.

(P) *Promote* means to produce, direct, perform in, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, or advertise, whether or not for consideration, or to offer or agree to do any of these things, whether or not for consideration.

(Q) *Prostitution* means the performance, the offer to perform, or agreement to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse, with any person not the spouse of such person, in exchange for money or other thing of value.

(R) *Public indecency* means the performance of any of the following in a public place or where the conduct may reasonably be expected to be viewed by the members of the public:

- (1) An act of sexual intercourse;
- (2) An act of deviate sexual intercourse;
- (3) A lewd exposure of the body done with the intent to arouse or to satisfy the sexual desire of any person; or
- (4) A lewd fondling or caress of the body of another person.

(S) *Public place* means any street, alley, highway, sidewalk, park, playground, or place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose. A public place shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, cafe, theater, drugstore, poolroom, shopping center, and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.

(T) *Sadomasochistic material* or *sadomasochistic performance* means that material, as defined in subsection (J) of this section, or performance, as defined in subsection (O) of this section, which:

- (1) Taken as a whole, appeals to the prurient interest of the average person, applying contemporary statewide standards;
- (2) Depicts, presents, shows, or describes flagellation, mutilation, or torture, actual or simulated, in a sexual context; and
- (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value. (Ord. 293 §1, 1977)

#### **9-16-020 Soliciting drinks prohibited.**

(A) It is unlawful for any person to frequent or loiter in any tavern, cabaret, nightclub, or other establishment where intoxicants are sold for the purpose of engaging in the practice of or with the purpose of soliciting another person to purchase drinks.

(B) It is unlawful for the proprietor or operator of any such establishment to allow the presence in the establishment of any person who violates the provisions of this section. (Ord. 293 §4, 1977)

#### **9-16-030 Indecent exposure prohibited.**

It is unlawful for any person to intentionally expose his or her or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to another person or persons. (Ord. 293 §5, 1977)

**9-16-040 Promoting live sexual performances prohibited.**

It is unlawful for any person to promote a live sexual performance in any public place, or in any place where adults or minors may view such live sexual performance. (Ord. 293 §6, 1977)

**9-16-050 Promoting sadomasochistic performances or material prohibited.**

It is unlawful for any person to promote sadomasochistic material or a sadomasochistic performance. A person commits promoting sadomasochistic material or a sadomasochistic performance if he or she knowingly:

- (A) Promotes, or possesses with intent to promote, any sadomasochistic material; and
- (B) Promotes any sadomasochistic performance. (Ord. 293 §7, 1977)

**9-16-060 Promoting obscenity to a minor prohibited.**

It is unlawful for any person to promote obscenity to a minor. A person commits promoting obscenity to a minor if he or she knowingly:

- (A) Promotes, or possesses with intent to promote, any obscene material to a minor; and
- (B) Promotes any obscene performance or live sexual performance to a minor. (Ord. 293 §8, 1977)

**9-16-070 Publicly displaying obscene material prohibited.**

It is unlawful for any person to publicly display obscene material. A person commits publicly displaying obscene material if he or she knowingly:

- (A) Displays publicly or causes to be displayed publicly obscene material; or
- (B) Permits any public display of obscene material on premises, owned, rented, or operated by him or her. (Ord. 293 §9, 1977)

**9-16-080 Urinating in public prohibited.**

It is unlawful for any person to urinate in any public way, or place which is public in nature, or any place within the city open to the public view. (Ord. 293 §10, 1977)

**Chapter 9-18**

**Prostitution**

**9-18-010 Prostitution and public indecency prohibited.**

It is unlawful for any person:

- (A) To solicit another for the purpose of prostitution;
- (B) To arrange or offer to arrange a meeting of persons for the purpose of prostitution;
- (C) To direct another person to a place, knowing such direction is for the purpose of prostitution;
- (D) Knowingly to arrange or offer to arrange for money or other thing of value a situation in which a person may practice prostitution;
- (E) To have or exercise or control the use of any place which offers seclusion or shelter for the practice of prostitution; and
  - (1) Knowingly to grant or permit the use of such facility for the purpose of prostitution; or
  - (2) Knowingly to permit the continued use of such facility for the purpose of prostitution, after becoming aware of facts or circumstances from which such person should reasonably know that such facility is being used for purposes of prostitution;
- (F) By word, gesture, or action, to endeavor to further the practice of prostitution in any place which is public in nature, or within public view;

- (G) To perform, offer, or agree to perform any act of prostitution; or
- (H) To perform an act of public indecency. (Ord. 293 §2, 1977)

**9-18-020 Patronizing a prostitute prohibited.**

It is unlawful for any person to engage in, or offer or agree to engage in an act of sexual intercourse or deviate sexual conduct with a prostitute, or to enter or remain in a place of prostitution with the intent to engage in an act of prostitution or deviate sexual conduct. (Ord. 293 §3, 1977)

#### **IV. Offenses Against the Public Peace**

##### **Chapter 9-19**

##### **Marijuana and Drug Paraphernalia**

**9-19-010 Marijuana defined.**

As used in this chapter *marijuana* shall mean all parts of the plant *cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, or the sterilized seed of such plant which is incapable of germination, if these items exist apart from any other item defined as *marijuana* in this subsection. *Marijuana* does not include marijuana concentrate as defined as hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols. (Ord. 343 §1, 1979; Ord. 1025 §2, 1993)

**9-19-020 Unlawful to possess marijuana.**

It shall be unlawful for any person to possess or publicly display or consume one ounce or less of marijuana as defined in section 9-19-010 above. (Ord. 343 §1, 1979; Ord. 1025 §3, 1993)

**9-19-030 Unlawful to possess drug paraphernalia.**

(A) Controlled substance means a controlled substance as that term is defined by section 18-18-102(5), C.R.S.

(B) Drug paraphernalia means drug paraphernalia as that term is defined by section 18-18-426, C.R.S.

(C) In determining whether an object is drug paraphernalia, the 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 any owner, or of anyone in control of the object, or evidence that such person reasonably knew, that it will be delivered to persons whom he or she knows or reasonably should know, could use the object to facilitate a violation of this section;
- (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) Advertising concerning the object's use;
- (8) The manner 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) In the event a case brought pursuant to this section is tried before a jury, the court shall hold an *in camera* evidentiary hearing on issues raised pursuant to this section.

(E) It shall be unlawful to possess 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 the laws of the State of Colorado or the City of Broomfield.

(F) It shall be unlawful to sell or deliver, possess with intent to sell or deliver, or manufacture with intent to sell or deliver equipment, products, or materials knowing, or under circumstances where one reasonably should know, that such equipment, products, or materials could be used as drug paraphernalia.

(G) It shall be unlawful to place an advertisement in any newspaper, magazine, handbill, or other publication with the intent thereby to promote the sale in the City of Broomfield of equipment, products, or materials designed and intended for use as drug paraphernalia. (Ord. 1025 §4, 1993)

**9-19-040 Penalty for violation.**

Violations of section 9-19-020 or subsections (E), (F), or (G) of section 9-19-030, B.M.C., shall be punishable by a fine not to exceed \$100.00. (Ord. 1025 §5, 1993)

**Chapter 9-28**

**Disorderly Conduct**

**9-28-010 Disorderly conduct prohibited.**

(A) It is unlawful for any person to intentionally, knowingly, or recklessly:

(1) Make a coarse and obviously offensive utterance, gesture, or display in a public place when such utterance, gesture, or display causes injury, or tends to invite fighting or an immediate breach of the peace;

(2) Fight with another in a public place except as a participant in a sporting event;

(3) Not being a peace officer, discharge a firearm in a public place except when engaged in lawful target practice or hunting; or

(4) Not being a peace officer, discharge or display a firearm, or display any article used or fashioned in a manner to cause a person to reasonably believe that the article is a firearm, or represents verbally or otherwise that he or she is armed with a firearm in a public place in a manner calculated to alarm.

(B) It is an affirmative defense to prosecution under paragraph (A)(2) of this section where the actor has significant provocation for his or her conduct. (Ord. 292 §1, 1977; Ord. 1545 §2, 2001)

**9-28-020 Expecting on sidewalk or in public building prohibited.**

It is unlawful for any person to expectorate or spit upon any sidewalk, or upon the floor of any public building or room used as a place of public assembly. (Ord. 15 §79, 1963)

**Chapter 9-30**

**Disturbing Assemblies**

**9-30-010 Disrupting lawful assembly prohibited.**

It is unlawful for any person to disrupt a lawful assembly if, with the intent to prevent or disrupt any lawful meeting, procession, or gathering, he or she significantly obstructs or interferes with the meeting, procession, or gathering by physical action, verbal utterance, or any other means. (Ord. 292 §2, 1977)

## Chapter 9-31

### Circulars and Handbills

#### 9-31-010 Distribution of certain circulars or pamphlets prohibited.

(A) It is unlawful for any person to publish or distribute, or cause to be published or distributed, any circular, pamphlet, card, or dodger, whether anonymous or not, which incites, counsels, promotes, or advocates hatred, violence, or hostility against any person or group of persons residing in the city, by reason of race, color, religion, or manner of worship.

(B) It shall be unlawful for any person, or producer, to knowingly distribute, deposit, place, throw, scatter, cast, or attach in any manner, or cause or direct the same to be done, any handbill of any kind to any property, real or personal, of another if notice is posted in a manner that is visible and legible which states "No Handbills," or if notice has been sent to the producer, by certified mail, return receipt requested, at least ten days previously, that handbills are not welcome on said property.

(C) *Handbill* is defined to mean any material in print which, in whole or in part, invites interest in or advertises a particular product, business, event, or attraction; or encourages concurrence in or support of a point of view; or encourages support of or opposition to a candidate for election; or encourages support of or opposition to a ballot issue or question; or offers information of any kind. *Handbills* include, but are not limited to, signs, posters, flyers, notices, announcements, pamphlets, or advertisements. The following are not included within the definition of handbill:

- (1) Newspapers or other printed material ordered by or sold to the owner or occupant of the premises;
- (2) Advertisements, circulars, notices, or other printed material delivered by or through the United States Postal Service;
- (3) Printed communications distributed by the local, state, or federal government;
- (4) Any printed material from utility, gas, telephone, or cable companies that presently provide or have a permit to provide service to the owner or occupant.

(D) *Producer* is defined to mean the person who either ordered the printing of the handbill for his or her own purposes, printed the handbill for his or her own purposes, or ordered the distribution of the handbill for his or her own purposes. *Producer* does not include anyone who printed the handbill, whether for a fee or not, regardless of whether such person is in the business of printing, so long as said printer did not print the handbill for his or her own purposes.

(E) The individual or individuals benefited by the handbill shall be prima facie evidence that the benefiter is the producer.

(F) Proof that any producer was given notice by return receipt requested at least ten days previous to the distribution that handbills are not welcome, along with evidence that any handbill was distributed in violation of this section, shall be prima facie evidence that this section has been knowingly violated by the producer. (Ord. 15 §75, 1963; Ord. 1459 §1, 2000)

#### 9-31-020 Delivery of handbills or circulars.

(A) Each handbill, circular or other literature not exceeding twelve inches by eighteen inches shall be placed behind or under a screen or other door, or under a mat or in such a way that it will not blow about the yards and streets.

(B) Each handbill, circular or other literature in excess of twelve inches by eighteen inches must be folded, rolled, and placed behind or under a screen or other door, or under a mat, or in such a way that it will not blow about the yards and streets. (Ord. 15 §76, 1963; Ord. 1459 §2, 2000; Ord. 1473 §1, 2000)

## Chapter 9-32

### Loitering

#### 9-32-010 Loitering prohibited.

(A) *Loiter* means to be dilatory, to stand idly around, to linger, to lie or wander about, to remain, abide, or tarry in a public place.

(B) Acts prohibited.

(1) Loitering on school grounds. It is unlawful for any person, with the intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, to loiter in or about a school building or grounds or within 100 feet of school grounds, either on foot or in or on any vehicle, when persons under the age of eighteen are present in the building or on the grounds, not having any reason or relationship involving custody of or responsibility for a pupil, or any other specific, legitimate reason for being there, and having been asked to leave by a school administrator or by a representative thereof or by a peace officer.

(2) Loitering to warrant alarm.

a. It shall be unlawful for any person to loiter so as to warrant alarm for the safety of persons in the vicinity.

b. Unless flight by the person or other circumstances make it impracticable, prior to any arrest for an offense under this section, a peace officer shall afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence or if it appears at the time of the trial that the explanation given by the person was true and if believed by the officer at the time, would have sufficed to dispel any alarm.

(3) Loitering for gambling purposes prohibited. It is unlawful if a person loiters for the purpose of unlawful gambling with cards, dice, or other gambling paraphernalia.

(4) Loitering for redress of grievances permitted. Lawful acts in the course 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, shall not be held to be in violation of this chapter. (Ord. 292 §3(A), (B), (C), (D), 1977; Ord. 1161 §1, 1996; Ord. 1459 §3, 2000)

#### 9-32-050 Begging prohibited.

(A) It is unlawful for any person on the streets, sidewalks, or other places open to the public, whether publicly or privately owned, to aggressively coerce, threaten, relentlessly pursue, harass, or intimidate another person for the purpose of soliciting money or goods, whether by words, bodily gestures, signs, or other means.

(B) For the purposes of this section, a person "aggressively coerces, threatens, relentlessly pursues, harasses, or intimidates another person" when:

(1) The solicitor's conduct would cause a reasonable person in the position of the solicitee to fear for his or her safety;

(2) The solicitor intentionally blocks the path of the solicitee in such a manner as to block passage by another person or a vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact;

(3) The solicitor persists in following the solicitee closely, and continues to demand money or other thing of value after the solicitee has rejected the solicitation by words or conduct;

(4) Soliciting money from anyone who is waiting in line for tickets, for entry to a building, or for another purpose; or

(5) Approaching or following a person for solicitation as part of a group of two or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value.

(C) For the purposes of this section, the following facts, among others, are relevant in deciding whether a reasonable person would have cause to fear for his or her safety:

- (1) The solicitor's making physical contact with the solicitee;
- (2) The proximity of the solicitor to the solicitee;
- (3) The duration of the solicitation; or
- (4) The solicitor's making threatening gestures or other threatening conduct, including closely following the solicitee. (Ord. 292 §4, 1977; Ord. 1459 §5, 2000)

## **Chapter 9-34**

### **Disturbing the Peace**

#### **9-34-010 Disturbing religious worship prohibited.**

It is unlawful for any person to disquiet or disturb any congregation or assembly for religious worship by making a noise, or by rude or indecent behavior or profane discourse within their place of worship, or so near the same as to disturb the order or solemnity of the meeting. (Ord. 292 §12, 1977)

#### **9-34-020 Disturbing the peace prohibited.**

It is unlawful for any person to disturb or tend to disturb the peace of others by violent, tumultuous, offensive, or obstreperous conduct, by loud or unusual noises, or by unseemly, profane, obscene, or offensive language calculated to provoke a breach of the peace; or for any person to permit any such conduct in any house or upon any premises owned or possessed by him or her or under his or her management or control, when within his or her power to prevent, so that others in the vicinity are or may be disturbed thereby. (Ord. 292 §13, 1977)

#### **9-34-030 Entering premises for purposes of spying prohibited.**

It is unlawful for any person to enter upon any premises within the city to surreptitiously and clandestinely peek or look through any window, door, or other opening of any dwelling or other place of habitation located thereon; or for the purpose of looking at, observing, watching, or spying on any occupant of any such dwelling or other place of habitation; or for the purpose of disturbing, infringing upon, or violating the privacy of any such occupants; provided, however, that nothing contained herein shall apply to any police officer, peace officer, or fireman when in the performance of his or her official duty, or acting under color of his or her official authority. (Ord. 292 §14, 1977)

#### **9-34-040 Exemptions.**

This chapter shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or other lawful means of expressing public opinion not in contravention of other laws. (Ord. 292 §15, 1977)

#### **9-34-050 Failure to desist or disperse.**

It shall be unlawful for any person to intentionally, knowingly, or recklessly fail or refuse to obey an order which:

- (A) Is made by a peace officer while in the discharge or apparent discharge of his or her duties;
- (B) Directs that person or a group of which that person is a member to desist from conduct or disperse from an area; and
- (C) Is given at a time when that person individually or with others is participating in a course of conduct or is present in an area where such conduct or presence creates, maintains, or aggravates an immediate substantial danger of damage or injury to persons or property or substantially obstructs the performance of any governmental function. (Ord. 1459 §4, 2000)

## Chapter 9-36

### Noise

#### 9-36-010 Definitions.

In this chapter, unless the context otherwise requires, the following words and phrases have the meanings indicated:

(A) *Continuous noise* means a steady, fluctuating, or impulsive noise which exists, essentially without interruption, for a period of ten minutes or more.

(B) *dB(A)* is the standard notation for the sound pressure level as measured with a sound level meter using the A-weighting network.

(C) *Decibel* or *dB* means a unit for measuring the volume of a sound, equal to twenty times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).

(D) *Domestic power equipment* means any power equipment rated five horsepower or less used for home or building repair or grounds maintenance including, but not limited to, lawn mowers, garden tools, snowblowers, and chain saws.

(E) *Impulsive noise* means a noise of short duration usually less than one second, with an abrupt onset and rapid decay.

(F) *Muffler* means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

(G) *Periodic noise* means a noise recurring at fixed intervals for a period of ten minutes or more.

(H) *Public place* means any street, parking lot, city park, or sidewalk adjoining a city park; any private property open to or used by the general public for travel or parking; or any place used by persons other than the owner or owner's agent without a special permit.

(I) *Sound* means an oscillation in pressure, stress, particle displacement, and particle velocity which induce auditory sensation. (Ord. 862 §1, 1989)

#### 9-36-020 Noise prohibited.

It shall be unlawful for any person to make, or cause to be made, any continuous, impulsive, or periodic noise within the city which:

(A) Is of such unusual or exceptional character, intensity, or duration that it disturbs, injures, or endangers the comfort, repose, health, peace, or safety of any person or causes damage to any property; or

(B) Exceeds the levels shown on schedule 9-36A below:

(1) These levels are based on the district in which the sound is measured or perceived, regardless of the district in which the sound originates.

(2) Sound shall be measured at least twenty-five feet from the source.

(3) In any event, measurements may not be taken from property other than public places without permission of person in possession or control of such property.

(C) In an I-1, I PUD, or I-1 PUD zone district, is measured or perceived beyond the boundaries of the lot on which the sound originates.

(D) In an I-2, I-2 PUD, or GA zone district, is measured or perceived beyond the boundaries of the district.

#### SCHEDULE 9-36A

##### NOISE LIMITS

<u>District</u>	<u>Time Period</u>	<u>Maximum Permissible Levels</u>
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E-1, E-2, R-1, R-3, R-5, PUD, R-PUD	7 a.m. until 10 p.m. of the same day 10 p.m. until 7 a.m. of the following day	55dB(A) 40dB(A)
A-1, B-1, B-2, A PUD, B- PUD, B-1 PUD, B-2 PUD	7 a.m. until 10 p.m. of the same day 10 p.m. until 7 a.m. of the following day	65dB(A) 60dB(A)

(Ord. 862 §1, 1989)

**9-36-030 Exceptions.**

The maximum dB(A) specified in schedule 9-36A shall not apply to sound from:

- (A) Any bell or chime from any building clock, school, or church;
- (B) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm system used in case of fire, collision, civil defense, police activity, or other imminent danger; provided, however, that burglar alarms not terminating within twenty minutes after being activated shall not be excepted;
- (C) Aircraft which are operated in accordance with federal laws or regulations;
- (D) City-authorized or sponsored events including, but not limited to, parades and fireworks displays;
- (E) Any domestic power equipment operated upon any residential, commercial, industrial, or public premises between 7:00 a.m. and 10:00 p.m., provided that such equipment does not exceed eighty dB(A);
- (F) Any temporary construction, meaning minor remodeling and additions to existing homes, maintenance, or repair activities between 7:00 a.m. and 10:00 p.m., provided that the noise from such activities does not exceed eighty-eight dB(A);
- (G) Activities directly connected with the abatement of an emergency;
- (H) Golf course greens maintenance activities involving motorized machinery between the hours of 5:00 a.m. and 7:00 a.m., from May 1 through and including September 30, provided that noise from such motorized machinery does not exceed seventy-four dB(A); and
- (I) Residential construction, not including minor remodeling or additions to existing homes, within 500 feet of occupied residences, which shall be performed only from 7:00 a.m. until 7:00 p.m. Monday through Friday, and 9:00 a.m. to 6:00 p.m. Saturdays, Sundays, and holidays, unless otherwise provided in the city council resolution approving the project. (Ord. 862 §1, 1989; Ord. 1249 §1, 1997; Ord. 1794 §1, 2005)

**9-36-040 Trash compaction and collection.**

The operation of compactor trucks, and the loading and unloading of trash shall be subject to the maximum level of eighty-eight dB(A). No person shall engage in any trash, rubbish, or garbage collection activity within a residential district between the hours of 10:00 p.m. and 7:00 a.m. of the following day. (Ord. 862 §1, 1989)

**9-36-050 Exhaust; mufflers.**

No person shall discharge the exhaust of any steam engine, internal combustion engine, air compressor equipment, motor boat, motor vehicle, or other power device which is not equipped with a properly maintained exhaust system with a muffler or spark arrestor. It is unlawful for any person to operate a muffler or exhaust system using a cut-out, bypass, or other similar device. (Ord. 862 §1, 1989)

**9-36-060 Noisemaking to attract children prohibited; exception.**

The use of bells, whistles, sirens, music horns, or any other noisemaking devices for the purpose of attracting minors to any vehicle upon the streets, highways, rights-of-way, alleys, or other public ways of the city for the purpose of selling, distributing, or giving away any product whatsoever to such minors is declared to be a public nuisance and is unlawful, excepting such activities carried on as part of a city-authorized activity. (Ord. 862 §1, 1989)

**9-36-070 Use of sirens and red lights restricted.**

It is unlawful for any person to carry or use upon any vehicle other than police, fire department, or emergency vehicles, any gong, siren, whistle, or red light similar to that used on police, fire department, or emergency vehicles. (Ord. 862 §1, 1989)

## Chapter 9-38

### Riots

#### 9-38-010 Definitions.

For the purposes of this chapter, unless the context otherwise requires, the following words shall have the meanings ascribed to them in this section:

(A) *Destructive device* means any material, substance, or mechanism capable of being used, either by itself or in combination with any other substance, material, or mechanism, to cause sudden and violent injury, damage, destruction, or death.

(B) *Riot* means a public disturbance involving an assemblage of five or more persons which, by tumultuous and violent conduct, creates grave danger of damage or injury to property or persons, or substantially obstructs the performance of any governmental function. (Ord. 292 §6(D), 1977)

#### 9-38-020 Inciting riot prohibited.

It is unlawful for any person to incite a riot; provided, however, that this section shall not apply in the event of injury to a person or damage to property, as a result thereof. A person commits inciting a riot if he or she:

(A) Incites or urges a group of five or more persons to engage in a current or impending riot; or

(B) Gives commands, instructions, or signals to a group of five or more persons in furtherance of a riot. (Ord. 292 §6(A), 1977)

#### 9-38-030 Engaging in riot prohibited.

It is unlawful for any person to engage in a riot; provided, however, that this section shall not apply if the person employs a deadly weapon or destructive device in the course of rioting. (Ord. 292 §6(B), 1977)

#### 9-38-040 Disobeying public safety order prohibited.

It is unlawful for any person, during a riot or when one is impending, to intentionally disobey a reasonable public safety order to move, disperse, or refrain from specified activities in the immediate vicinity of the riot. A *public safety order* is an order designed to prevent or control disorder or promote the safety of persons or property issued by an authorized member of the police, fire, or military, or other forces concerned with the riot. No such order shall apply to a news reporter or other person

observing or recording the events on behalf of the public press or other news media, unless he or she is physically obstructing efforts by such forces to cope with the riot or impending riot. Inapplicability of the order is an affirmative defense. (Ord. 292 §6(C), 1977)

#### 9-38-050 Conviction of violations permitted for current riots only.

A person may be convicted of attempt, conspiracy, or solicitation to incite or engage in a riot only if he or she engages in the prohibited conduct with respect to a current or impending riot. (Ord. 292 §6(E), 1977)

## Chapter 9-40

### Obstructing Passage

#### 9-40-010 Obstruct defined.

*Obstruct* means to render impassable, or to render passage unreasonably inconvenient or hazardous. (Ord. 292 §7(B), 1977)

#### 9-40-020 Obstructing passage prohibited.

It is unlawful for any person, without legal privilege, to intentionally, knowingly, or recklessly:

(A) Obstruct a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway, or hallway within the city 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 or her acts alone, or from his or her acts and the acts of others; or

(B) Disobey a reasonable request or order to move, issued by a person he or she knows, or reasonably should know, 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 a dangerous proximity to a fire, riot, or other hazard. (Ord. 292 §7(A), 1977)

**9-40-030 Hindering transportation prohibited.**

It is unlawful for any person, intentionally and without lawful authority, to forcibly stop and hinder the operation of any vehicle used in providing transportation services of any kind to the public or to any person. (Ord. 292 §8, 1977)

**V. Offenses Against Property**

**Chapter 9-42**

**Shoplifting and Price Switching**

**9-42-010 Shoplifting under \$500.00 in value.**

It shall be unlawful to commit the crime of shoplifting. A person commits the crime of shoplifting when he or she knowingly takes possession of any unpurchased goods, wares, or merchandise of a value of less than \$500.00 owned or held by and offered or displayed for sale by any store or mercantile establishment, with the intention of converting such goods, wares, or merchandise to his or her own use, without paying the purchase price thereof. (Ord. 644 §1, 1985; Ord. 938 §1, 1992; Ord. 1504 §1, 2000)

**9-42-020 Concealment of goods.**

If any person willfully conceals unpurchased goods, wares, or merchandise of a value of less than \$500.00 owned or held by and offered or displayed for sale by any store or other mercantile establishment, such concealment constitutes prima facie evidence that the person intended to convert the same to his or her own use without paying the purchase price therefor within the meaning of section 9-42-010. (Ord. 644 §1, 1985; Ord. 938 §2, 1992; Ord. 1504 §2, 2000)

**9-42-030 Questioning of person suspected of shoplifting without liability.**

If any person is suspected of concealing upon his or her person or otherwise carrying away any unpurchased goods, wares, or merchandise held or owned by any store or mercantile establishment, the merchant, or any employee thereof or any police officer, acting in good faith and upon probable cause based upon reasonable grounds, may detain and question such person, in a reasonable manner, for the purpose of ascertaining whether the person has committed shoplifting. Such questioning of a person by a merchant, merchant's agent or employee, or police officer does not render the merchant, merchant's agent or employee, or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention. (Ord. 644 §1, 1985)

**9-42-040 Price switching.**

It is unlawful for any person to knowingly alter, remove, or switch the indicated price of any unpurchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment with the intent to deprive the owner, seller, or mercantile establishment of a portion of the indicated price of said goods, wares, or merchandise; provided, however, that this section shall only apply to goods, wares, or merchandise of a value of less than \$500.00. (Ord. 644 §1, 1985; Ord. 1504 §3, 2000)

## Chapter 9-43

### Fraud by Check

#### 9-43-010 Definitions.

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

(B) *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.

(C) *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.

(D) *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."

(E) *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.

(F) *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.

(G) *Negotiable order of withdrawal account* means an account in a bank, savings and loan association, or industrial bank, and *share draft account* means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, industrial bank, or the credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, although in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft. (Ord. 644 §2, 1985)

#### 9-43-020 Issue of check with intent to defraud.

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. This section shall only apply where the fraudulent check was for the sum of less than \$500.00. (Ord. 644 §2, 1985; Ord. 938 §3, 1992; Ord. 1504 §4, 2000)

#### 9-43-030 Complainant defined.

Any person having acquired rights with respect to a check which is not paid because the drawer has insufficient funds shall have standing to file a complaint under this section, whether or not he or she is the payee, holder, or bearer of the check. (Ord. 644 §2, 1985)

#### 9-43-040 Financial institutions not liable for information released to authorized persons.

A bank, a savings and loan association, an industrial bank, or a credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to a police officer, prosecuting attorney, or authorized investigator for a prosecuting attorney investigating or prosecuting a charge under this section. (Ord. 644 §2, 1985)

#### 9-43-050 Presumptive evidence defined.

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:

(A) He or she has no account upon which the check or order is drawn with the bank or other drawee at the time he or she issues the check or order; or

(B) He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty days after issue. (Ord. 644 §2, 1985)

## **Chapter 9-44**

### **Theft**

#### **9-44-010 Theft.**

(A) It shall be unlawful to commit theft. A person commits theft when he or she knowingly obtains or exercises control over anything of value of another without authorization, or by threat or deception, and:

(1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(2) Knowingly uses, conceals, or abandons the thing of value in such a manner as to deprive the other person permanently of its use or benefit;

(3) Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use and benefit; or

(4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person.

(B) This section shall only apply if the value of said thing of value is less than \$500.00. (Ord. 704 §1, 1986; Ord. 938 §4, 1992; Ord. 1504 §5, 2000)

#### **9-44-020 Theft of rental property.**

(A) It shall be unlawful to commit theft of rental property. A person commits theft of rental property if he or she:

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

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

(B) This section shall only apply if the value of said personal property is less than \$500.00. (Ord. 704 §1, 1986; Ord. 938 §5, 1992; Ord. 1504 §6, 2000)

## **Chapter 9-45**

### **False Pretenses**

#### **9-45-010 False pretenses prohibited.**

It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter any public place and call for refreshments or other articles and receive and refuse to pay for same, or depart without paying for or satisfying the person from whom he or she received the food, goods, wares, and merchandise; provided, however, that this section shall only apply if the value of said food, goods, wares, or merchandise is less than \$500.00. (Ord. 644 §4, 1985; Ord. 938 §5, 1992; Ord. 1504 §7, 2000)

## **Chapter 9-46**

### **Fraudulently Avoiding Payment of Admission Fees**

#### **9-46-010 Fraudulently avoiding payment of admission fees.**

It shall be unlawful for any person fraudulently or without lawful authorization to enter, without payment of the proper admission fee, any place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the admission of police officers or any public officials for the purpose of the performance of official duties to any place of public entertainment or amusement. (Ord. 644 §5, 1985)

## **Chapter 9-47**

### **Joyriding**

#### **9-47-010 Joyriding prohibited.**

Any person who drives or takes any motor vehicle without the consent of the owner or lawful possessor thereof, with the intent of temporarily depriving the owner or possessor of the use of the same, or temporarily making use thereof, commits joyriding, which is unlawful. (Ord. 644 §6, 1985)

#### **9-47-020 Exclusions.**

If the person who in the course of so driving or taking the motor vehicle does one or more of the following, joyriding has not occurred:

- (A) Retains possession or control of the motor vehicle for more than seventy-two hours;
- (B) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle;
- (C) Attempts to alter or remove or alters or removes the vehicle identification number;
- (D) Uses the motor vehicle in the commission of a crime other than a traffic offense; or
- (E) Causes \$500.00 or more property damage in the exercise of control of the motor vehicle. (Ord. 644 §6, 1985)

## **Chapter 9-48**

### **Littering**

#### **9-48-010 Throwing material on ground prohibited.**

It is unlawful for any person to throw any posters, dodgers, circulars, bills, letters, envelopes, samples, or devices upon any of the streets, alleys, parks, or public grounds of the city. (Ord. 15 §74, 1963)

#### **9-48-020 Truck loads blowing on street prohibited.**

No person shall drive or move any truck or other vehicle within the city unless such vehicle is constructed or loaded so as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or other public place. No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street or other public place, mud, dirt, sticky substance, litter, or foreign matter of any kind. (Ord. 15 §77, 1963)

## Chapter 9-49

### Unlawful Use or Destruction of Property of Another

#### 9-49-010 Unlawful use of property of another.

It shall be unlawful for any person intentionally to use or cause to be used, in any manner, the real or personal property of another, or in lawful possession of another for any purpose, including advertising, storage, grazing, or recreation, without the permission of the owner or person in possession thereof. (Ord. 644 §7, 1985)

#### 9-49-020 Unlawful destruction of property of another.

It is unlawful for any person to either maliciously, wantonly, intentionally, or through criminal negligence, injure, damage, or destroy the real or personal property of another or of the city; provided, however, that this section shall not apply to any person showing a legal right or authority to injure, damage, or destroy such property. It is further provided that this section shall not apply where the aggregate damage to such real or personal property is equal to \$500.00 or more or where the damage is effected by means of fire or explosives with the intent to defraud. (Ord. 644 §7, 1985; Ord. 938 §6, 1992; Ord. 1504 §8, 2000)

#### 9-49-030 Damaging ditches prohibited.

It is unlawful for any person to either willfully, maliciously, wantonly, or negligently fill up, obstruct or otherwise damage any ditch or ditches lawfully constructed in the city. (Ord. 644 §7, 1985)

#### 9-49-040 Damaging city property.

It is unlawful for any person to damage, move, remove, drill a hole in, dig, or injure in any manner whatsoever any grass, tree, shrub, plant, soil, rock, or other natural object, railing, bridge, culvert, sign, building, equipment, bolt, archeological, historic, or cultural object, or any other property whatsoever belonging to the city or under the possession and control of the city, unless done pursuant to the written consent of the city or by a contract with the city. (Ord. 1254 §1, 1997)

#### 9-49-050 Graffiti prohibited.

(A) It is unlawful for any person to knowingly deface or cause, aid in, abet, advise another, or permit the defacing of public or private property without the prior consent of the owner by painting, drawing, writing, marking, etching, carving, scratching or any other unauthorized marking by use of paint, spray paint, ink, knife or by any other method of defacement.

(B) Any person who defaces property shall be punishable in accordance with chapter 1-12, B.M.C. (Ord. 1276 §1, 1997)

## Chapter 9-50

### Unauthorized Connection or Tampering With Cable Television

#### 9-50-010 Unauthorized connection with cable television.

It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise in any other manner, with any part of the cable television system under any permit within this city for the purpose of enabling himself, herself or others to receive any television signal, radio signal, picture, program, or sound without payment to the operator of said system. (Ord. 644 §8, 1985)

#### 9-50-020 Unlawful tampering with cable television.

It is unlawful for any person, without consent of the owner, to willfully tamper with, remove, or injure any cables, wires, or equipment used for distribution of television signals, radio signals, pictures, programs, or sound. (Ord. 644 §8, 1985)

## Chapter 9-52

### Trespassing

#### **9-52-010 Unauthorized entry or presence on private or public property.**

(A) It shall be unlawful for a person to enter or remain in or upon private or public property without the expressed or implied consent of the owner, occupant, or person in charge thereof, or fail or refuse to leave the premises when requested to leave by the owner, occupant, or person having lawful control thereof.

(B) It shall be prima facie evidence that the owner, occupant, or person in charge of the property has not consented to entry upon or presence upon said property if the premises are enclosed in a manner designed to exclude intruders, or fenced, or posted with signs indicating that trespassing is not allowed.

(C) It shall be unlawful for any person to enter or remain upon any property to which limited access has been granted, unless for such purpose for which access is permitted by the owner, occupant, or person in charge of the property. Access may be limited for the purpose of trading at or visiting a place of business of the owner or occupant, access for the purpose of visiting a resident on the property, or access to certain hours of the day. Limited access may be designated by posting of signs or by oral or written notice.

(D) It shall be unlawful for a person to enter or remain upon any private property or any building or property of any commercial establishment after such person has been given notice, in writing, signed by the owner or other person with authority to control access, that such person is prohibited from returning to such property or commercial establishment. (Ord. 356 §1, 1979; Ord. 1459 §7, 2000)

#### **9-52-020 Public buildings; interference with authorized use prohibited.**

It is unlawful for any person to conduct himself or herself at or in any public building owned, operated, or controlled by the city, the state, or any of its political subdivisions, so as to willfully deny to any public official, public employee, or any invitee on such premises the lawful rights of such official, employee, or invitee to enter, use the facilities of or to leave any such public building. (Ord. 292 §10(A), 1977)

#### **9-52-030 Public building; interference with activities prohibited.**

It is unlawful for any person, at or in any public building, to willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, coercion, or intimidation, or by force and violence, or threat thereof. (Ord. 292 §10(B), 1977)

#### **9-52-040 Public building; refusal to leave prohibited.**

It is unlawful for any person to willfully refuse or fail to leave any public building upon being requested to do so by the chief administrative officer, designee, peace officer, or fireman charged with maintaining order in such public building, if such 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 such building. (Ord. 292 §10(C), 1977)

#### **9-52-050 Public buildings; disruption of meetings prohibited.**

(A) It is unlawful for any person, at any meeting or session conducted by any judicial, legislative, or administrative body or official at or in any public building, to willfully impede, disrupt, or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or by any act designated to intimidate, coerce, or hinder any member of such body or official engaged in the performance of duties of such meeting or session.

(B) It is unlawful for any person, by an act of intrusion into the chamber or other areas designated for the use of any executive body or official act, or in any public building, to willfully impede, disrupt, or hinder the normal proceedings of such body or official. (Ord. 292 §10(D, E), 1977)

#### **9-52-060 Trespass to vehicles.**

It shall be unlawful to, without legal privilege, enter a motor vehicle of another without expressed or implied consent of the owner, occupant, or person in charge thereof. (Ord. 1459 §8, 2000)

## Chapter 9-54

### Interference with Educational Institutions

#### **9-54-010 Interference with faculty, staff, and students prohibited generally.**

It is unlawful for any person, on or near the premises or facilities of any educational institution, to willfully deny to students, school officials, employees, and invitees:

- (A) Lawful freedom of movement on the premises;
- (B) Lawful use of the property or facilities of such institutions; or
- (C) The right of lawful ingress and egress to the institution's physical facilities. (Ord. 292 §9(A), 1977)

#### **9-54-020 Intimidation prohibited.**

It is unlawful for any person, on the premises of any educational institution or in any buildings or other facility used by any educational institution, to willfully impede the staff or faculty of such institution in the lawful performance of their duties, or willfully impede a student of such institution in the lawful pursuit of his or her educational activities, through the use of restraint, coercion, or intimidation, or when force and violence are present or threatened. (Ord. 292 §9(B), 1977)

#### **9-54-030 Refusal to leave prohibited when.**

It is unlawful for any person to willfully 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, his or her designees charged with maintaining order on the school premises and in its facilities, or a dean of such educational institution, 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. (Ord. 292 §9(C), 1977)

#### **9-54-040 Assembly for redress of grievances permitted.**

Nothing in this chapter shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, and any contractor or subcontractor, or any employee thereof. (Ord. 292 §9(D), 1977)

## VI. Consumer Protection

### Chapter 9-58

#### Peddlers and Solicitors

#### **9-58-010 Door-to-door solicitation; hours and days permitted.**

No door-to-door solicitation for the purpose of selling goods, wares, merchandise, or services, or anything of value for present or future delivery or performance, shall be permitted within the city before 9:00 a.m. or after 6:00 p.m.; provided, however, that there shall be no solicitation or door-to-door selling for the purpose of selling wares, goods, merchandise, or services, or anything of value for present or future delivery or performance, on Sundays and holidays. (Ord. 292 §11, 1977)

## VII. Offenses by or Against Minors

### Chapter 9-62

#### Curfew

##### **9-62-010 Purpose.**

It is the intent and purpose of this chapter to address the city's interest in protecting the welfare of its youth population, reducing juvenile crime and victimization, and promoting the safety and well-being of juveniles by protecting them from improper influences that prevail after the curfew hour. (Ord. 1064 §1, 1994)

##### **9-62-020 Definitions.**

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word *shall* is always mandatory, not merely directory.

(A) *Loitering or loiter* means remaining idle in essentially one location, to be dilatory, to tarry, to dawdle, to linger, and shall include but not be limited to standing around, wandering about, and hanging out, whether in or out of a vehicle.

(B) *Permit or allow* means to consent, to tolerate, to give permission, to authorize, or to give opportunity.

(C) *Public place* means any place to which the public or a substantial group of the public has access, and includes streets, highways, parks, playgrounds, vacant lots, parking lots, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, stores, shops, restaurants, taverns, and bowling alleys. (Ord. 1064 §1, 1994)

##### **9-62-030 Minors prohibited from loitering when; exceptions.**

It is unlawful for any child under the age of eighteen years to loiter upon any street, alley, or other public place subsequent to the hour of 10:30 p.m., or prior to the hour of 5:00 a.m.; provided that, on Friday and Saturday nights, the curfew hours for children who have reached age fifteen but are below age eighteen shall be extended to the hour of 1:00 a.m. with permission of parents. The provisions of this section shall not apply in the following instances:

(A) When a minor is accompanied by his or her parent, guardian, or other adult person who is twenty-one years of age or older and who has the permission of the parent or guardian to have the care and custody of the minor;

(B) When the minor is engaging in interstate travel;

(C) When the minor is returning directly home from a school activity, entertainment, recreational activity, or dance;

(D) When the minor is returning directly home from lawful employment that makes it necessary to be in the above-referenced places during the prescribed period of time;

(E) When the minor is attending or travelling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly, or free exercise of religion. (Ord. 1064 §1, 1964)

##### **9-62-040 Permitting minor to loiter when prohibited; exceptions.**

It is unlawful for any parent, guardian, or other person having care or custody of any child under the age of eighteen years to knowingly allow or permit any such child to violate section 9-62-030 of this chapter. *Knowingly* includes knowledge which a parent should be reasonably expected to have concerning the whereabouts of the minor in that adult's custody. It shall be no defense that the responsible adult was indifferent to the activities, conduct, or whereabouts of the minor. The provisions of this section do not apply if the responsible adult has made a missing person notification to the appropriate police department prior to the minor's violation of this chapter. (Ord. 1064 §1, 1994)

**9-62-050 Severability clause.**

Severability is intended throughout and within the provisions of this chapter. If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstance is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this chapter in any and all other respects shall not be affected thereby. (Ord. 1064 §1, 1994)

**Chapter 9-64**

**Minors and Alcohol**

**9-64-010 Selling alcohol to person under twenty-one years of age prohibited; sign required.**

(A) It is unlawful for any person to sell, serve, give away, dispose of, exchange, deliver, or permit the sale, serving, giving, or procuring of any alcoholic beverages to or for any person under the age of twenty-one years.

(B) It is the duty of any person who is the proprietor or keeper of a place of business which sells, serves, or disposes of any alcoholic beverages to post conspicuously in his or her or her place of business the following sign: "PERSONS UNDER THE AGE OF TWENTY-ONE YEARS NOT SERVED HERE." Failure to post such sign shall constitute an unlawful act.

(C) For the purpose of this chapter, alcoholic beverages include any one or more of the following:

- (1) Any fermented malt beverage, as defined in section 12-46-103(1.5), C.R.S.;
- (2) Any malt liquors, as defined in section 12-47-103(11), C.R.S.;
- (3) Any special malt liquors, as defined in section 12-47-103(25.5), C.R.S.;
- (4) Any spirituous liquors, as defined in section 12-47-103(26), C.R.S.;
- (5) Any vinous liquors, as defined in section 12-47-103(28), C.R.S. (Ord. 15 §19, 1963; Ord. 923 §1, 1992)

**9-64-020 Minors prohibited in taverns; exceptions.**

It shall be unlawful for any person who is the proprietor or keeper of a tavern to permit any minor under the age of twenty-one years to frequent or be in or about such place, unless accompanied by an adult, twenty-one years or older, or to permit any minor under the age of twenty-one years to drink any intoxicating liquors or beer or any other fermented malt beverage in or about the same, or to permit any alcohol beverage to be sold or dispensed by a person under eighteen years of age, or to permit any such person to participate in the sale or dispensing thereof. Notwithstanding any provision of this section to the contrary, no person under twenty-one years of age shall be employed to sell or dispense malt, vinous, or spirituous liquors unless he or she is supervised by another person who is on the premises and has attained twenty-one years of age. (Ord. 15 §20, 1963; Ord. 1545 §3, 2001)

**9-64-030 Sale of liquor near schools prohibited.**

It is unlawful to sell, offer, or expose for sale or gift, beer or any vinous, spirituous, or malt liquors within a distance of 500 feet from any private, public, or parochial school, said distance to be computed by direct measurement from the nearest property lines; provided, however, that this prohibition shall not affect the rights of any person now holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal, upon the expiration thereof, of any license in effect at this time authorizing such business within the restricted area hereby established. (Ord. 15 §23, 1963)

**9-64-040 Presentation of false credentials prohibited.**

It is unlawful for any person under twenty-one years of age to make false statements; or to furnish, present, or exhibit any fictitious or false statements; or to furnish, present, or exhibit any fictitious or false registration card, identification card, note, or other document for any unlawful purpose; or to furnish, present, or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift, or delivery of prohibited articles, including beer, liquor, wine, or fermented malt beverages (3.2 beer). (Ord. 15 §25, 1963)

**9-64-050 Use of alcoholic beverages prohibited.**

It shall be unlawful for any person under twenty-one years of age to possess, consume, or use alcoholic beverages. (Ord. 720 §1, 1987; Ord. 923 §2, 1992)

**9-64-060 Engaging another to procure unlawful articles prohibited.**

It is unlawful for any person under the age of twenty-one years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which the minor himself or herself is forbidden by law to purchase. (Ord. 15 §27, 1963)

**9-64-070 Making unlawful purchase for minor prohibited.**

It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one years of age any article which the person is forbidden by law to purchase. (Ord. 15 §28, 1963)

**Chapter 9-66**

**Wrongs Against Minors**

**9-66-010 Injuring or depriving children prohibited.**

It is unlawful for any person having the care, custody, control, confidence, or influence over any child to willfully cause or permit the life of such child to be endangered, or the health of such child to be injured, or the morals of such child to be impaired; or to willfully cause or permit such child to be placed in such a situation, business or occupation that its life, health, or morals shall be endangered; or to willfully abandon such child; or to torture, torment, cruelly punish, or willfully or negligently deprive such child of necessary food, clothing, or shelter, or in any other manner injure such child unnecessarily. (Ord. 15 §17, 1963)

**9-66-020 Hiring children under fourteen during school hours prohibited.**

It is unlawful for any person to take, receive, hire, or employ any child under the age of fourteen years to labor in any smelter, mill, mine, or factory, or in or about any business or employment whatever, within the city during the school hours of any school day. (Ord. 15 §18, 1963)

**VIII. Weapons**

**Chapter 9-72**

**Weapons**

**9-72-010 Definitions.**

In this chapter, unless the context otherwise requires, the following words and phrases have the meanings indicated.

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

(B) *Firearm* means any handgun, automatic, revolver, pistol, rifle, shotgun, or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges.

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

(D) *Gas or mechanically operated gun* means an air, gas, or spring operated gun or blow gun that discharges pellets, BB shots, arrows, or darts, including without limitation, BB guns, spring guns, and other similarly operated guns or weapons.

(E) *Gravity knife* means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of a centrifugal force, that when released is locked in place by means of a button, spring,

lever, or other device. This term includes knives three and one-half inches or less in length and hunting and fishing knives which are designed to open as described.

(F) *Illegal weapon* means a blackjack, gas gun, metallic knuckles, gravity knife, or switchblade knife.

(G) *Intoxicating liquor* means any fermented malt beverage, as defined in section 12-46-103(1.5), C.R.S.; any malt liquor, as defined in section 12-47-103(11), C.R.S.; any special malt liquors, as defined in section 12-47-103(25.5), C.R.S.; any spirituous liquors, as defined in section 12-47-103(26), C.R.S.; or any vinous liquors, as defined in section 12-47-103(28), C.R.S.

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

(I) *Nunchaku* means an instrument consisting of two sticks, clubs, bars, or rods to be used as handles, connected by a rope, cord, wire, or chain, which is in the design of a weapon used in connection with the practice of a system of self-defense.

(J) *Switchblade knife* means any knife, the blade of which opens automatically by hand pressure applied to a button, spring, or other device in its handle. This term includes knives three and one-half inches or less in length and hunting and fishing knives which open as describe.

(K) *Throwing star* means a disk having sharp radiating points or any disk-shaped bladed object which is hand-held and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense. (Ord. 729 §2, 1987)

#### **9-72-020 Possession and use of weapons.**

(A) It is unlawful for any person to possess an illegal weapon.

(B) Except in a person's dwelling, place of business, or on property under such person's ownership or control, it is unlawful for any person to possess the following:

- (1) A firearm or gas or mechanically operated gun;
- (2) A bow and arrow, crossbow, or slingshot;
- (3) A nunchaku or throwing star; or
- (4) A knife as defined in subsection 9-72-010(H).

(C) It is unlawful for any person to discharge or cause to be discharged any projectile from:

- (1) A firearm or gas or mechanically operated gun; or
- (2) A bow and arrow, crossbow, or slingshot.

(D) It is unlawful for any person to swing or throw a throwing star or nunchaku.

(E) Defenses.

(1) It is an affirmative defense to a violation of subsections (A) and (B) that the defendant was carrying the weapon pursuant to a concealed weapons permit valid under state statutes.

(2) It is an affirmative defense to a violation of subsection (B) that the weapon was unloaded (if capable of being loaded) and properly cased.

(3) It is an affirmative defense to a violation of paragraphs (B)(1) and (C)(1) that the defendant possessed or discharged the firearm in order to slaughter livestock if:

- a. Possession of the livestock was in compliance with the city's zoning ordinances, and
- b. The defendant had a legal right to slaughter the livestock.

(4) It is an affirmative defense to a violation of subsections (B) and (C) that the act occurred in a shooting gallery or at a shooting range, where such weapons may be discharged so as to not endanger persons or property and the projectile or projectiles from such weapons are prevented from traversing any grounds or space outside the limits of such gallery or range.

(5) It is an affirmative defense to a violation of subsection (C) that the act occurred in the shop of a federally licensed gunsmith, for the purpose of test-firing a weapon, provided that any projectile is contained within a device specifically designed for such test-firing.

(6) It is an affirmative defense to a violation of subsections (B) through (D) that:

a. The defendant was reasonably engaged in lawful use of force in defense of a person, premises, or property under state statutes;

b. The act was committed for the purpose of presenting a public demonstration or exhibition or to participate in an organized school or class.

(7) It is an affirmative defense to a violation of subsections (B) and (C) that the act occurred within a "hunting area" designated by the city manager, provided that the weapon in question was a shotgun, gas or mechanically operated (pellet) gun, bow and arrow, or slingshot. "Hunting areas" designated by the city manager shall meet the following criteria:

a. The area must not have been platted;

b. The area must be nonurbanized; and

c. The area must be of sufficient size and must be sufficiently isolated that any danger to the public is minimized. (Ord. 729, §2, 1987; Ord. 811 §1, 1989; Ord. 953 §1, 1993)

#### **9-72-030 Carrying concealed weapon.**

(A) It is unlawful for any person to have an illegal weapon concealed on or about his or her body.

(B) Except in his or her dwelling, place of business or on property under his or her ownership and control, it is unlawful for any person to have concealed on or about his or her body:

(1) A firearm or gas or mechanically operated gun;

(2) A knife;

(3) A bow and arrow, crossbow, or slingshot; or

(4) A nunchaku or throwing star.

(C) Defenses.

(1) It is an affirmative defense to a violation of subsections (A) and (B) that the defendant was carrying the weapon pursuant to a concealed weapons permit valid under state statutes.

(2) It is an affirmative defense to a violation of subparagraph (B)(2) that the defendant was charged with carrying a knife that was a properly cased hunting or fishing knife carried by the defendant for sports use. (Ord. 729 §2, 1987)

#### **9-72-040 Aiming or flourishing weapon.**

(A) *Prohibited.* It is unlawful for any person to knowingly aim at another person or to display or flourish the following in a manner intended to alarm or frighten another person:

(1) A loaded or unloaded firearm or gas or mechanically operated gun;

(2) A knife;

(3) A bow and arrow, crossbow, or slingshot;

(4) A nunchaku or throwing star; or

(5) Any other weapon, device, instrument, material, or substance which in the manner it is used or intended to be used is capable of producing death or serious bodily injury.

(B) *Defenses.* It is an affirmative defense to a violation of subsection (A) that defendant was reasonably engaged in lawful use of force in defense of a person, premises, or property under state statutes. (Ord. 729 §2, 1987)

**9-72-050 Possession of weapon while intoxicated.**

It is unlawful for any person to possess any weapon regulated by this chapter while such person is under the influence of intoxicating liquor or of a controlled substance, as defined in section 12-22-303(7), C.R.S. (Ord. 729 §2, 1987)

**9-72-060 Furnishing weapon to intoxicated persons or minors.**

It is unlawful for any person to sell, loan, or furnish any illegal weapon, firearm, gas or mechanically operated gun, knife, nunchaku, throwing star, bow and arrow, crossbow, or slingshot to any person who is under the influence of intoxicating liquor, or any controlled substance, as defined in section 12-22-303(7), C.R.S., or to any person in a condition of agitation and excitability, or to any person under the age of ten years, or to any person over the age of ten years and under the age of eighteen who is not related by blood, marriage, or adoption. (Ord. 729 §2, 1987)

**9-72-070 Setting spring gun.**

It is unlawful for any person to set a loaded gun, trap, or device designed to cause an explosion upon being tripped or approached and leave it unattended. (Ord. 729 §2, 1987)

**9-72-080 Dangerous missiles; stones.**

(A) *Prohibited.* It is unlawful for any person to willfully, maliciously, or recklessly throw, shoot, or project any stone, arrow, pellet, dart, ball bearing, or other dangerous missile at or against a person, animal, building, structure, personal property or fixture, or vehicle.

(B) *Defense.* It is an affirmative defense to a violation of subsection (A) that the defendant was reasonably engaged in lawful use of force in defense of a person, premises, or property under state statutes. (Ord. 729 §2, 1987)

**9-72-090 Seizure of weapons.**

Any police officer who has probable cause to believe that a violation of this chapter has occurred may, in addition to taking into any other action, seize the weapons or items used in said violation. Any weapon or items so seized shall be secured by the police officer and stored by the custodian of property in accordance with sections 8-24-010 and 8-24-020, B.M.C. (Ord. 729 §2, 1987)

**9-72-100 Forfeiture and disposition of weapons.**

Every person convicted of any violation of any provision of this code, or of another ordinance or state statute involving a weapon shall forfeit the weapon involved. After such a conviction, the police chief shall destroy or dispose of the weapon as the police chief deems appropriate. (Ord. 729 §2, 1987; Ord. 953 §2, 1993)

**9-72-110 Exemptions from chapter.**

Nothing in this chapter shall be construed to forbid a peace officer, Level I, Level Ia, or Level II, as defined in section 18-1-901(3)(1)(I), 3(1)(II), or 3(1)(III), C.R.S., from possessing, displaying, concealing, or discharging such weapons as are necessary in the authorized and proper performance of their official duties. (Ord. 729 §2, 1987)

**9-72-120 Possession of a loaded firearm in a motor vehicle.**

It is unlawful for any person, except a person authorized by law, to possess or have under such person's control any loaded firearm in or on any motor vehicle. For the purposes of this section, a firearm shall be considered loaded if there are any bullets or cartridges in the cylinder, chamber, or magazine when the magazine is contained within the firearm. It is an affirmative defense to a violation of this section that the person charged possessed the loaded firearm for the protection of the defendant's or another's person or property while traveling. (Ord. 953 §3, 1993)

**9-72-130 Armed business or industrial guards; authorization required.**

(A) No business or industrial guard shall carry, use, or exhibit any firearm which has not first been registered with the police department, and permission therefor issued by the chief of police. The authority to carry firearms is extended only while the business or industrial guard is performing the required duties of his or her employment as a guard and while en route to or from his or her place of employment as a business or industrial guard. The permission authorized by this section does not authorize the carrying of a concealed weapon.

(B) Before authorization to carry a firearm is granted, the chief of police shall require the applicant to demonstrate the need for such authorization and proficiency in the use, maintenance, and care of the firearm in such manner as the chief of police shall determine.

(C) All business or industrial guards who are authorized to carry a firearm shall submit the make, model, caliber, type of weapon, and serial number of the weapon carried to the chief of police.

(D) *Business or industrial guard* means an individual who is employed for the purpose of watching, guarding, or otherwise providing protection to persons or property of others, or to preserve the peace on the property of others, but shall not include any individual so employed by any common carrier engaged in interstate commerce, maintenance men and installers, janitors, repairmen, or persons engaged in similar occupations. (Ord. 1470 §3, 2000)

#### **9-72-140 Prohibiting the open carrying of firearms.**

The open carrying of firearms, as *firearm* is defined in subsection 9-72-010(B), B.M.C., is hereby prohibited in any city-owned building, facility, park, open land, or open space where signs are placed at the public entrances to any city-owned building, facility, park, open land, or open space informing persons that the open carrying of firearms is prohibited. (Ord. 1736 §1, 2003)

### **Chapter 9-76**

#### **Fireworks**

##### **9-76-010 Definitions.**

As used in this chapter, unless the context clearly indicates otherwise, the following words and phrases shall be as defined in this section:

(A) *City clerk* means the city clerk of the city, or the clerk's authorized representative.

(B) *City manager* means the city manager of the city, or the manager's authorized representative.

(C) *Fire chief* means the chief of the West Adams County Fire Protection District, or his or her authorized representatives, or the head of the fire department otherwise having jurisdiction within the city, or his or her authorized representatives.

(D) *Fire department* means the West Adams County Fire Protection District, or the fire department otherwise having jurisdiction within the city.

(E) *Fireworks* means any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, Roman candles, dayglo bombs, and torches, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

(F) *Fireworks* does not include:

(1) Toy caps which do not contain more than twenty-five hundredths of a grain of explosive compound per cap;

(2) Sparklers, trick matches, cigarette loads, trick noisemakers, toy smoke devices, and novelty auto alarms;

(3) Highway flares, railway fuses, ship distress signals, smoke candles, and other emergency signal devices.

(G) *Manufacture* includes any wholesaler and any person who manufactures, makes, constructs, or produces any fireworks article or device.

(H) *Police chief* means the chief of the city police department, or his or her authorized representative.

(I) *Police department* means the police department of the city.

(J) *Retailer* includes any person who sells, delivers, consigns, or furnishes fireworks to another person, not for resale.

(K) *Wholesaler* includes any person who sells, delivers, consigns, gives, or in any way furnishes fireworks to a retailer for resale. (Ord. 297 §3, 1977; Ord. 559 §2, 1984)

**9-76-020 Sale and use prohibited.**

(A) Except as specifically provided in this chapter, it is unlawful for any person to offer for sale, expose for sale or sell any fireworks, sparklers, fountains, or cones; or to have fireworks, sparklers, fountains, or cones in his or her possession with the intent to offer said items for sale.

(B) Except as specifically provided in this chapter, it is unlawful for any person to use or explode any fireworks. (Ord. 719 §1, 1987)

**9-76-030 Public display; permit required; city council authority.**

The city council may grant permits, within the corporate boundaries of the city, for supervised public displays of fireworks conducted by departments of the city, fair associations, or other organizations and groups, subject to the rules and regulations set forth in this chapter. Every display shall be handled by competent operators, and shall be of such character and so located, discharged, and fired as not to be hazardous to property or endanger any person. (Ord. 297 §5, 1977)

**9-76-040 Permit; application; contents.**

Any person desiring to conduct a supervised public display of fireworks shall submit to the city clerk a written application for a permit to conduct such fireworks display. The application shall be submitted to the city clerk not less than thirty days in advance of the date of the fireworks display, and shall be accompanied by a nonrefundable application fee of \$50.00. The application shall contain the following information:

(A) The name and address of the person or organization sponsoring the display, together with the names and addresses of the persons who will actually be in charge of the display;

(B) The date and time of day at which the display is to be held;

(C) The address and description of the exact location planned for the display;

(D) A diagram of the grounds on which the display is to be held, showing the point at which the fireworks are to be discharged; the location of buildings and highways within the vicinity, and the location of all nearby trees, telephone and utility lines, or any other overhead obstructions;

(E) The names and addresses of the competent fireworks operators who are to supervise the discharge of the fireworks, and written evidence regarding their competency as fireworks operators. At least two competent fireworks operators are to be provided;

(F) The type and class of fireworks to be discharged, and the number of set pieces, shells (specifying single or multiple break), and other items including experimental or model rockets or missiles;

(G) The manner and place of storage of such fireworks prior to and during the display;

(H) Proof that satisfactory compensation insurance is carried by the applicant for all of the applicant's employees who will be working at the display; and

(I) Proof that the applicant has public liability insurance with the limits and coverage as set forth in section 9-76-100, protecting the city, the fire district, applicant, manufacturer, wholesaler, seller, supplier, property owner, and operators of the display from any liability or claims of damages arising out of or as a result of or related to the fireworks display. (Ord. 297 §6, 1977)

**9-76-050 Permit; application; review procedure.**

(A) Upon receipt of an application for a fireworks display permit, the city clerk shall submit copies thereof to the police chief and to the fire chief.

(B) The police chief and the fire chief shall cause an investigation to be made of the location proposed for the fireworks display, for the purpose of determining if the fireworks display will be of such character or so located as to be hazardous to property or dangerous to any person.

(C) Upon completing their investigations provided for in subsection (B) of this section, the police chief and the fire chief shall submit to the city manager their written reports, setting forth the results of their investigations and setting forth their recommendations for the granting or denial of the permit, together with their recommendations with respect to the prescribing of reasonable conditions for the display, taking into account locations, parking of vehicles, controlling spectators, storage, and firing of fireworks, and precautions in general against danger to life and property from fire, explosion, and panic.

(D) Before any permit is granted by the city council, the location and handling of the fireworks display shall first have been approved, after the investigations provided for in subsections (B) and (C) of this section, by the police chief and by the fire chief.

(E) No permit shall be granted by the city council unless the operators of the fireworks display have been first approved by the police chief and by the fire chief.

(F) No permit shall be granted where discharge, faulty firing, or fallout from any fireworks or other objects would endanger persons, buildings, structures, woods and trees, brush, parks, or similar areas or facilities.

(G) If, after and based upon the investigations and review criteria provided for in subsections (B) through (F) of this section, the police chief's or fire chief's report finds and concludes that the permit application be denied, then no such permit shall be granted. The city manager shall advise the applicant in writing that such application has been denied, and shall provide the applicant with a written summary of the reasons for such denial.

(H) If, after and based upon the investigations and review criteria provided for in subsections (B) through (F) of this section, the permit application receives the approval of the police chief and of the fire chief, then the city manager shall submit copies of the police chief's and fire chief's reports and recommendations to the city council.

(I) The city council will review the permit application for compliance with the provisions of this chapter and will review the reports and recommendations of the police chief and the fire chief. After completing its review, the city council will either grant the permit, grant the permit with conditions, deny the permit, or refer the permit application back to the applicant, the police chief and the fire chief for further information and review. Any applicant for a fireworks display permit whose permit application has received the approval of the police chief and of the fire chief shall be afforded an opportunity to make a presentation to the city council regarding the permit application at the council meeting at which such permit application is scheduled to be considered by the city council. (Ord. 297 §7, 1977)

**9-76-060 Permit; issuance.**

If the city council grants or grants with conditions a display permit, the city manager shall provide the applicant a written public fireworks display permit. The permit shall have included thereon such conditions of approval as may have been established by the city council, and such conditions shall be an integral part of the permit. (Ord. 297 §8, 1977)

**9-76-070 Permit; transferability.**

No public fireworks display permit shall be transferable or assignable. (Ord. 297 §9, 1977)

**9-76-080 Experienced operators required; powers and duties.**

No public fireworks display permit shall be granted unless at least two experienced fireworks operators are provided. Such operators shall be those individuals named in the permit applications and shall:

(A) Be responsible for and have charge of the fireworks display with respect to preparation for the transporting, unloading, and storing of all fireworks to be used at the display;

(B) Be responsible for setting all fireworks, including, without limitation, mortars, finale batteries (hedgehogs), and rocket launchers, at locations designated by the fire chief;

(C) Be responsible for the loading and firing of all fireworks used at the display, and take into account wind direction and velocity predicted for the firing time in setting the firing angles. Shells, rockets, missiles, and related types of fireworks shall not be permitted to cross or burst above areas occupied by persons;

(D) Be responsible for the safe disposal of all unfired or defective fireworks; and

(E) Be responsible for acts of all persons employed by the applicant, whether remunerated or not, in connection with the fireworks display. Such operators shall have authority to dismiss or discharge any employee or

person at any time during the operation of the display who, through smoking, carelessness, negligence, or any other act, endangers the safety of any person or any property. (Ord. 297 §10, 1977)

**9-76-090 Permit; suspension and revocation.**

The police chief, the fire chief, or other authorized peace officer may suspend any public fireworks display permit issued pursuant to this chapter whenever the fireworks display is in violation of any of the provisions of this chapter. In the event such violations are not corrected by the permittee, the police chief, the fire chief, or other authorized peace officers are authorized to revoke the public fireworks display permit. It is unlawful for any person to conduct a public fireworks display while any suspension or revocation is in effect. (Ord. 297 §15, 1977)

**9-76-100 Liability insurance required; amounts designated.**

Each applicant for a fireworks display permit shall have a policy of public liability insurance coverage with coverage of at least \$100,000.00/300,000.00 and a policy of property damage insurance in the amount of at least \$50,000.00, all protecting from liability the applicant, the manufacturer, the supplier, the seller, the buyer, the property owner, the user, the fire district, and the city. Prior to the issuance of a fireworks display permit, the applicant shall file a copy of the public liability insurance policy with the city clerk, who shall forward same to the city attorney for his or her review. If the city attorney determines that the liability insurance policy is not satisfactory or does not comply with the requirements of this section, then the display permit to which the insurance policy is applicable shall not be issued. (Ord. 297 §11, 1977)

**9-76-110 Bond; required; amount.**

Prior to and as a condition to the issuance of a public fireworks display permit, and in addition to the public liability insurance required by section 9-76-100, the applicant for a permit shall file with the city clerk, with good and sufficient justification of sureties, a bond in the sum of \$5,000.00 conditioned for the payment of all damages which may be caused either to persons or property by reason of the licensed fireworks display and arising from any act of the permittee, his or her agents, employees, or subcontractors, as well as conditioned on a thorough cleaning of the display area, except that the city shall not be required to file such a bond for city fireworks displays. The city clerk shall forward the bond to the city attorney for his or her review. If the city attorney determines that the bond is not satisfactory or does not comply with the requirements of this section, then the display permit to which the bond is applicable shall not be issued. (Ord. 297 §12, 1977)

**9-76-120 Requirements for conduct of public displays.**

Every public fireworks display shall be conducted at such times, at such places, and pursuant to the conditions which may have been established by the city council. No public display of fireworks shall be conducted by any person without a public fireworks display permit granted and issued pursuant to this chapter. (Ord. 297 §13, 1977)

**9-76-130 Spectators; restraint required.**

Spectators at public displays of fireworks shall be restrained behind lines or barriers, as designated by the police chief or fire chief. Only authorized persons and those in actual charge of the display shall be allowed inside these lines or barriers during the unloading, preparation, or firing of fireworks. (Ord. 297 §14, 1977)

**9-76-200 Violation; seizure; enforcement authority.**

The police chief or the fire chief, or any authorized agent or officer of the city, is authorized to and shall seize, take, and remove, at the expense of the owner or possessor, all stocks of fireworks, sparklers, fountains, or cones offered or exposed for sale, stored, held, or used in violation of this chapter. (Ord. 719 §3, 1987)

**9-76-210 Applicability and interpretation.**

This chapter shall not be construed to prohibit:

(A) Any person from using or exploding fireworks in accordance with the provisions of any public display permit issued by the city council pursuant to the provisions of this chapter, or as a part of a supervised public display of any county or district fair organization under the laws of the State of Colorado;

(B) Any person from offering for sale, exposing for sale, selling, having in his or her possession with intent to offer for sale or sell, or using or firing toy pistols, toy guns, or other devices in which caps manufactured in accordance with this chapter are used;

(C) Any person from offering for sale, exposing for sale, selling, or having in his or her possession with intent to offer for sale or sell, blank cartridges for a show or theater, or for a signal or ceremonial purposes in organized athletics or sports;

(D) Any resident manufacturer from manufacturing and selling, or any resident wholesaler, dealer, or jobber from selling at wholesale, such fireworks as are not prohibited under this chapter, provided that the proper licenses therefor have been issued by the Secretary of State pursuant to the provisions of section 12-28-106, C.R.S.;

(E) Any resident manufacturer from selling any kind of fireworks, provided that the same are to be shipped directly out of the state in accordance with regulations of the United States Interstate Commerce Commission covering the transportation of explosives and other dangerous articles by motor, rail, and water, and provided that such manufacturing activities have been licensed by the Secretary of State pursuant to the provisions of section 12-28-106, C.R.S.;

(F) The use of fireworks by railroads for signal purposes or illumination;

(G) The use of blank cartridges for a show or theater, signal, or ceremonial purposes in athletics or sports, provided that the manner of use and use of such cartridges has been previously approved by the police department and the use of such cartridges is conducted in accordance with any conditions therefor as may be established by the police department;

(H) The importation, purchase, sale, or possession of fireworks which are used or to be used solely to prevent damage to crops by animals or birds, provided that the manner of use and the use of such fireworks has been previously approved by both the police chief and the fire chief, and provided that the use of such fireworks is conducted strictly in accordance with any conditions therefor which may be established by the police chief or by the fire chief; or

(I) Any person from manufacturing, selling, using, or possessing educational rockets and toy propellant-device-type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines, or model cartridges containing less than two ounces of propellant when such engine or model cartridge is designed to be ignited by electrical means. (Ord. 297 §23, 1977)

## **IX. Open Containers**

### **Chapter 9-80**

#### **Open Container of Alcoholic Beverages**

##### **9-80-010 Definitions.**

As used in this chapter, the following words and phrases shall have the following meanings:

(A) *Alcoholic beverages* means any fermented malt beverage, beer as defined in section 5-32-030, B.M.C., or any malt, vinous, or spirituous liquors as defined by section 5-28-030, B.M.C.

(B) *Container* means any enclosing structure or vessel including but not limited to a decanter, flask, bottle, jar, thermos bottle, cup, can, or jug.

(C) *Open container* means any container that is open and would allow consumption by virtue of the seal being broken or any covering device utilized by the manufacturer as an original sealing device of the container being removed.

(D) *Public place* means any street, parking lot, city park, or sidewalk adjoining a city park; any private property open to or used by the general public for travel or parking; or any place used by persons other than the owner or owner's agent without a special permit.

(E) *Seal* means the regular and original seal applied by the United States Government over the cap of all beer, malt, vinous, or spirituous liquors.

(F) *Vehicle* means any vehicle as defined in the Model Traffic Code as adopted by section 10-04-050, B.M.C. (Ord. 357 §1, 1979; Ord. 1013 §1, 1993)

**9-80-020 Violations.**

(A) It shall be unlawful for any person to drink, possess, or have under his or her control any alcoholic beverage in an open container or in a container, the seal of which is broken, in any of the above designated public places within the city, or in any vehicle hereon, with the exception contained in subsection (C).

(B) It shall be unlawful for any person, while operating a vehicle in any public place within the city, to drink, possess, have under his or her control, or allow any alcoholic beverage within the vehicle, in an open container or in a container the seal of which is broken, with the exception contained in subsection (C).

(C) Nothing in this section shall prohibit drinking or having open containers of alcoholic beverages:

(1) By owners or agents of owners of private property on said property.

(2) Pursuant to a permit issued by the department of parks and recreation pursuant to alcoholic beverage permit procedures promulgated by the city manager and approved by the city council.

(3) In other public places pursuant to a permit issued by the city manager or his or her designee pursuant to alcoholic beverage permit procedures promulgated by the city manager and approved by the city council. (Ord. 357 §1, 1979)

**9-80-030 Standards for issuance of permit to consume alcoholic beverages in public areas.**

(A) These standards have been promulgated by the city manager and approved by city council and are to be used by the city manager or department of parks and recreation in determining whether or not a permit shall be issued pursuant to section 9-80-020, B.M.C.

(B) A permit shall be issued only to:

(1) An individual; or

(2) An officer or agent authorized to apply for such a permit on behalf of a legal entity organized under or recognized by the laws of the State of Colorado.

(C) The person applying for such permit for himself or herself or on behalf of such entity must be at least twenty-one years of age.

(D) A permit may be issued for social, fraternal, patriotic, political, athletic, religious, or charitable events.

(E) Denial of permit.

(1) Issuance of such permit may be denied upon the grounds that such issuance would be detrimental to the public safety, health, morals, order, or welfare by reason of the nature of the event, the likelihood, in the reasonable judgment of the officer of the city responsible for review and issuance of the permit, that the event would create a public nuisance or result in the consumption of alcoholic beverages by minors, its location within the community, or the failure of the applicant or permit holder in a past event, for which a permit was required, to conduct such event in compliance with applicable laws and regulations.

(2) Issuance of such permit may be denied if another event has previously been scheduled for that location on the same day for which the permit is sought or if issuance of the permit would unreasonably interfere with normal activities and customary and general use and enjoyment of the location.

(3) Preference shall be given to residents of the City of Broomfield and to commercial and industrial enterprises located within the corporate limits of the City of Broomfield for use of public areas under the control of the city.

(F) Permit fees are:

(1) Block parties and similar events: no charge.

(2) Use of public areas not owned or controlled by the City of Broomfield: no charge.

(3) Use of parks or public areas owned or controlled by the City of Broomfield:

a. No charge for groups under twenty-five persons;

b. The sum of \$15.00 for groups between twenty-five and fifty persons;

c. The sum of \$25.00 for groups between fifty and one hundred persons; and

d. The sum of \$50.00 for groups of over one hundred persons.

(G) The city manager or director of parks and recreation may require any applicant to post a performance bond or letter of credit acceptable to the city attorney to assure compliance with the ordinance. Any costs to the city of cleaning or policing may be withheld from the performance bond.

(H) Each permit shall be issued for a specific location and is not valid for any other location.

(I) Permits shall be valid for one day only.

(J) Permits are valid for the individual or entity to which issued and shall not be transferred.

(K) No permit may allow the consumption of alcoholic beverages before 10:00 a.m. nor after 11:00 p.m.

(L) No issuance of a permit shall have the effect of requiring the city manager or the director of parks and recreation to issue such a permit upon any subsequent application.

(M) Sandwiches or other food snacks shall be available at the location at some time during the consumption of alcoholic beverages.

(N) There shall be no consumption of alcoholic beverages within 500 feet of any school or school yard during school hours, and where the permit is for use in a park, within fifty feet of any public street.

(O) Application for the permit shall be made to the city manager or his or her designee for the use of streets and to the director of parks and recreation for the use of parks.

(P) Application for the permit shall be made not less than ten days prior to the date of the event.

(Q) Applications shall be made and permits granted on forms provided by the city.

(R) Both the applicant and the permit holder shall be personally responsible for any cleaning, trash disposal, or repairs necessary as a result of the event for which the permit is granted.

(S) The permit must be in the possession of the permit holder or applicant at and during the event, and must be produced upon request of a peace officer.

(T) All ordinances, rules, and regulations of the city remain in full force and effect. (Ord. 361 §1, 1979)

## **X. Penalty**

### **Chapter 9-84**

#### **Penalty**

##### **9-84-010 Penalty for violation.**

Whenever in any section of this title, or any section of a rule or regulation promulgated under this title the doing of any act is required, prohibited, or declared to be unlawful, and no definite fine or penalty is provided for a violation thereof, any person who is convicted of a violation of any such section shall, for each offense, be punished as provided in chapter 1-12, B.M.C. (Ord. 15 §100, 1963)