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Chapter 9.04

Offenses Against Public Peace

Article I. Protection of Peace and Safety

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Article I. Protection of Peace and Safety

9.04.010 Purpose.

The Town Council has determined that this article is necessary to preserve the safety, health and general welfare of the Town of Castle Rock and the citizens thereof. (Ord. 5.17 §10, 1968)

9.04.020 Reserved.

9.04.030 Unlawful assembly.

It shall be unlawful for any multiple number of persons to assemble within the Town for the purpose of threatening, coercing or intimidating any person, individual or public officer by other than

peaceable means. Nothing contained in this Section shall prohibit peaceable assembly, picketing or advertising of a cause. (Ord. 5.17 §2, 1968)

9.04.040 Blocking streets and sidewalks.

It shall be unlawful for any person or group of persons to block a public street or in any way restrict foot or vehicular traffic on public streets or sidewalks or to trample upon or injure or usurp the rights or property of other persons. (Ord. 5.17 §3, 1968)

9.04.050 Trespass on private property.

It shall be unlawful for any person to trespass upon private property. (Ord. 5.17 §4, 1968)

9.04.060 Trespass on business property.

It shall be unlawful for any person to trespass upon business property within the Town, which business property is generally open to the public, after the proprietor, manager, owner or other person having a managerial right has requested said offending person to leave the premises or has otherwise withdrawn the privilege of said offending person to remain upon the premises. (Ord. 5.17 §5, 1968)

9.04.070 Unlawful to disobey official.

It shall be unlawful to disobey the order of any policeman, fireman, councilman or the Mayor or any other public official who is then engaged in quelling any riot, insurrection or disturbance of the public peace. (Ord. 5.17 §6, 1968)

9.04.080 Enforcement authority.

The Mayor, any councilman, the Police Chief or any policeman of the Town shall be empowered and shall have the right to call upon the sheriff of Douglas County or any of his or her deputies for the enforcement or assistance in the enforcement of this article or any other ordinance of the Town designed for the preservation of the public peace. When called into the service of the Town by the Mayor, any councilman, the Police Chief or any police officer of the Town, the sheriff of Douglas County or any of his or her deputies shall have the status of a town marshal or town policeman in addition to the status of sheriff of Douglas County. (Ord. 5.17 §7, 1968)

9.04.090 Contract with County for jailing of prisoners.

It shall be lawful for the Mayor or any police officer to contract with the sheriff of Douglas County for the jailing and safekeeping of prisoners of the Town. (Ord. 5.17 §9, 1968)

Article II. Misdemeanors Designated

9.04.100 Assault.

It is unlawful for any person or persons to knowingly or recklessly strike, fight or cause bodily injury to another person, or with criminal negligence to strike, fight or cause bodily injury to another person. (Ord. 88-18 §1(part), 1988)

9.04.110 Disorderly conduct.

It is unlawful for any person or persons to willfully commit disorderly conduct. A person commits disorderly conduct by:

- A. Making, causing or permitting to be made or caused unreasonably loud or offensive noises;
- B. In any manner, encouraging or permitting, by verbal or physical action, another person to engage in a fight or physical combat or by engaging in a fight or physical combat;
- C. Unless done with a deadly weapon, knowingly placing or attempting to place another person in fear of imminent serious bodily injury by any threat or physical action; or
- D. Abusing or threatening a person in a public place in an obviously offensive manner. (Ord. 88-18 §1(part), 1988)

9.04.115 Urination and defecation in public.

It is unlawful for any person to urinate or defecate within public view, whether in or on public or private property, except in a room or area designated and equipped for such purposes. (Ord. 96-03 §1, 1996)

9.04.120 Harassment.

It is unlawful for any person to commit harassment. A person commits harassment if, with intent to harass, annoy or alarm another person he or she:

- A. Follows a person in or about a public place;
- B. 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;
- C. Repeatedly insults, taunts or challenges another in a manner likely to provoke a violent or disorderly response;

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. (Ord. 2007-37 §1, 2007; Ord. 2007-14 §1, 2007; Ord. 2004-05 §2, 2004; Ord. 88-18 §1(part), 1988)

9.04.125 Resisting arrest.

A. A person commits resisting arrest if he or she knowingly prevents or attempts to prevent a police officer, acting under color of his or her official authority, from effecting an arrest of the actor or another by:

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

2. Using any other means which creates a substantial risk of causing bodily injury to the police officer or another.

B. It is no defense to a prosecution under this Section that the police officer was attempting to make an arrest which in fact was unlawful, if he or she was acting under color of his or her official authority, and in attempting to make the arrest he or she was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts "under color of his or her official authority" when, in the regular course of assigned duties or special duties, he or she is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her.

C. The term *police officer* as used in this Section means a police officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such police officer to the person whose arrest is attempted. (Ord. 96-04 §1(part), 1996)

9.04.130 Obstructing the duties of public officials.

A. Obstructing. It is unlawful for any person or persons to obstruct any police officer, any member of the Police Department, any person duly empowered with police authority, or any personnel of the fire district while in the discharge or apparent discharge of his or her duty. *Obstruct* means any act or conduct which opposes, obstructs, prevents or attempts to prevent, interferes with, hinders or impedes the actions of another.

B. False Information. It is unlawful for any person or persons to furnish or otherwise provide false information to or file a false report with a police officer, a member of the Police Department or personnel of the fire district while said police officer, member of the Police Department or fire district personnel is acting in the discharge or apparent discharge of his or her official duties. (Ord. 88-18 §1(part), 1988)

9.04.135 Interference with police dogs.

It is unlawful for any person to willfully, maliciously or wantonly torture, torment, beat, kick, strike, mutilate, injure, disable or kill any dog used by the Police Department of the Town in the performance of the functions or duties of such Department or to interfere with or meddle with any such dog while being used by the Department or any officer or member thereof in the performance of any of the duties or functions of the Department or of such officer or member. (Ord. 96-04 §1(part), 1996)

9.04.140 Impeding police or firemen at scene of disaster.

A. Driving or Parking. It is unlawful for any person to drive a vehicle to or close by, or to park a vehicle at or within one hundred (100) yards of the scene of a fire, explosion, traffic accident, flood or other disaster in such manner as to obstruct or impede the arrival or departure of any fire truck, ambulance or any other emergency vehicle, or in such manner as to obstruct or impede any

policeman, fireman, emergency personnel or military personnel in the performance of their duties in coping with such disaster.

B. Loitering. No person shall loiter or congregate in the vicinity of any fire, explosion, traffic accident, flood or other disaster in such a way as to impede or obstruct the arrival or departure of any fire truck, ambulance or any other emergency vehicle or in such a manner as to obstruct or impede any policeman, fireman, emergency personnel or military personnel in the performance of their duties in coping with such disaster. The Chief of Police or his or her designee is authorized to take all steps necessary to carry out the terms of these provisions. (Ord. 88-18 §1(part), 1988)

9.04.150 Obstructing public ways, property.

A. Obstructing Traffic. It is unlawful for any person to obstruct in any manner any sidewalk, public highway, street or alley in the Town, or to place in any doorway or driveway or on any sidewalk, public highway, street or alley in the Town any item or article which may cause or tend to cause the obstruction thereof or any part thereof.

B. Interfering with the Use of Streets or Sidewalks. It is unlawful for any person or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the Town shall obstruct, interfere with or prevent the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other person on that public highway, street, alley or sidewalk, or to fail or refuse to move on, disperse or cease such obstruction or interference immediately on being so ordered by any police officer of the Town or other authorized peace officer. (Ord. 88-18 §1(part), 1988)

9.04.160 Discharging weapons.

A. It is unlawful for any person, except law enforcement officers in the performance of their duties, to fire or discharge within the Town, without reasonable cause therefor, a revolver, pistol or other firearm of any description, shotgun or rifle which may be used for the explosion of cartridges, or any air gun, gas-operated gun or spring gun, or any instrument, toy or weapon commonly known as a "peashooter," "slingshot" or "beany," or any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth in this Chapter or by any other name.

B. Exceptions. The Town Council may license or permit certain persons from time to time to discharge firearms or other ballistic devices for ceremonial or demonstration purposes. This Section shall not prohibit the discharge of weapons with an approved target or shooting range or gallery, provided that applicable zoning and other restrictions are met. (Ord. 88-18 §1(part), 1988)

9.04.165 Open carry of firearms.

It is unlawful for any person, except law enforcement officers in the performance of their duties, to openly carry a firearm in any Town-owned or -operated building, or on any Town-owned or -operated park, recreation area or property upon which the Town Manager has directed to be posted a notification that the carrying of firearms is prohibited. (Ord. 2003-41 §1, 2003)

9.04.170 Forfeiture of deadly weapons.

Every person convicted of a violation of this Chapter may, in addition to other penalties provided by this Code, be required to forfeit to the Town such dangerous or deadly weapons so concealed or displayed. (Ord. 88-18 §1(part), 1988)

9.04.180 General theft.

A. A person commits general 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 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 or 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. If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft.

C. If any person conceals upon his or her person or otherwise carries away any unpurchased goods, wares or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any peace officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of theft. Such questioning of a person by a merchant, merchant's employee or peace or police officer does not render the merchant, merchant's employee or peace or police officer civilly liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention.

D. This Section shall not apply when the aggregate value of the item(s) taken in any one (1) criminal episode is valued at one thousand dollars (\$1,000.00) or more, nor where the item taken is a motor vehicle, trade secret or credit device. (Ord. 2008-09 §1, 2008; Ord. 99-06 §1, 1999; Ord. 96-06 §1(part), 1996; Ord. 91-19 §1(part), 1991)

9.04.190 Theft by check.

A. It is unlawful for any person to issue, pass or negotiate a check as payment of any goods, services or other thing of value, or in exchange for cash when that person knew that, at the time of the issuance of the check, insufficient funds existed in the account being drawn upon to cover this and all other checks outstanding at the time of issuance.

B. It is unlawful for any person to issue or pass a check as payment for goods, service or other thing of value, or in exchange for cash when that person, having been notified in writing, either by the drawee upon which the check was drawn, the person or firm to which the check was originally issued or the Police Department, on behalf of the person or firm to which the check was originally issued, that the check has been twice refused for insufficiency of funds, and fails to make good the check within ten (10) days of that notification. Said notification shall be sent to the address listed in subparagraph 2 below by the way of the U.S. Postal Service, certified mail, return receipt requested. Said return receipt, or the letter, envelope or return receipt marked "unclaimed" shall be conclusive proof of compliance with the notice requirements of this Section. It shall constitute a prima facie violation of this subsection that the person or firm to which the check was originally issued:

1. Obtained at least two (2) forms of nonphotographic identification or one (1) form of identification bearing a photograph from the drawer, at the time of acceptance of the check;
2. Obtained an address of drawer of the check, at the time of acceptance of the check;
3. Presented the check to the drawee for acceptance or refusal for the first time within thirty (30) days of the date of issuance of the check; and
4. Eleven (11) days following the date of delivery, or attempted delivery, of said letter of notification, the drawer has failed to respond and make payment in full for the amount owed on the check and all reason charges incurred as a result of the return of the check.

C. It is unlawful for any person to stop payment or cause payment to be stopped on any check issued or passed as payment for any goods, service or other thing of value, or in exchange for cash, when that person does so with the intent to defraud.

D. It is unlawful for any person to open a checking account, negotiable order of withdrawal account or share account using false identification or an assumed name, for the purpose of and with the intent of committing theft by check.

E. Nothing in this Section shall apply where the value of the check is one thousand dollars (\$1,000.00) or greater, or where the offender is under accusation or formal criminal filing involving the issuance of two (2) or more checks within any sixty-day period in the State with an aggregate value of one thousand dollars (\$1,000.00) or more, nor shall this Section apply where the offender has been previously convicted under this Section or under any existing or former statute of the State involving the issuance of bad checks or theft or fraud by check.

F. A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to any police authority or officer of the court of this municipality, the release of which is for the purpose of investigating or prosecuting a violation of this Section.

G. In imposing a penalty for violation of this Section, the Municipal Court is specifically authorized and empowered to require restitution in full to the person or entity to whom any such check described herein was issued as a portion of, and/or in addition to, any other penalty deemed appropriate by the court. (Ord. 2008-09 §2, 2008; Ord. 99-06 §2, 1999; Ord. 96-06 §1(part), 1996; Ord. 91-19 §1(part), 1991)

9.04.200 Theft of rental property.

It is unlawful for any person knowingly to obtain or exercise control over the personal property of another, which is available only for hire, by means of threat or deception, or knowing that such use is without consent of the person providing the personal property or having 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 representatives or to the person from whom he or she received it within seventy-two (72) hours after the time at which he or she agreed to return it. This Section shall not apply where the aggregate value of the items taken in any one (1) criminal episode is valued at one thousand dollars (\$1,000.00) or more. (Ord. 2008-09 §3, 2008; Ord. 99-06 §3, 1999; Ord. 96-06 §1(part), 1996; Ord. 91-19 §2(part), 1991)

9.04.210 Price switching.

It is unlawful for any person willfully to 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; provided, however, that this Section shall not apply to goods, wares or merchandise of value of one thousand dollars (\$1,000.00) or more. (Ord. 2008-09 §4, 2008; Ord. 99-06 §4, 1999; Ord. 96-06 §1(part), 1996; Ord. 91-19 §2(part), 1991)

9.04.220 Theft by receiving.

It shall be unlawful for any person knowingly to receive, retain or loan any money by pawn or pledge on, or dispose of anything having a value of less than one thousand dollars (\$1,000.00), belonging to another, knowing or believing that said thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value. (Ord. 2008-09 §5, 2008; Ord. 99-06 §5, 1999; Ord. 96-06 §1(part), 1996; Ord. 91-19 §2(part), 1991)

9.04.222 Possession of marijuana.

A. For the purpose of this Section, the terms *marijuana* or *cannabis* shall include 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 its resins, but shall not include fiber produced from its 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 *cannabis* in this Section.

B. It is unlawful for any person to possess not more than one (1) ounce of marijuana. For the purposes of this Section, open and public display, consumption or use of not more than one (1) ounce of marijuana shall be deemed possession thereof. Transferring or dispensing not more than one (1) ounce of marijuana from one (1) person to another for no consideration shall be deemed possession and not dispensing or sale thereof. (Ord. 96-02 §1(part), 1996)

9.04.224 Possession of drug paraphernalia.

A. For the purpose of this Section, *drug paraphernalia* means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing,

preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling or otherwise introducing a controlled substance into the human body in violation of Section 9.04.222 or the laws of the State. *Drug paraphernalia* includes, but is not limited to:

1. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
2. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as: pipes, tubes bowls, bongs, miniature cocaine spoons, cocaine vials and objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
3. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
4. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances; and
5. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

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

1. Statements by an owner or by anyone in control of the object concerning its use;
2. The existence of any residue of marijuana on the object;
3. The existence and scope of legal uses for the object in the community; and
4. Expert testimony concerning its use.

C. It is unlawful for any person to possess drug paraphernalia if such person knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of Section 9.04.222 or the laws of the State. (Ord. 96-02 §1(part), 1996)

9.04.226 Use of recreation vehicles.

A. Definitions.

Authorized use means a use upon any land within the Town which has been authorized and approved in accordance with this Code.

Motorized recreation vehicle means a vehicle manufactured primarily for sport and recreation, utilizing two (2), three (3), four (4) or more wheels or tracks such as a motorbike, motorcycle, all-terrain vehicle, four-wheel drive sport truck or snowmobile. Many such vehicles are not licensed for use on public streets and highways and are generally used by their owners for recreation purposes only. *Motorized recreation vehicle* shall not include Town-operated emergency vehicles.

B. Unlawful use.

1. It shall be unlawful for any person to drive, ride upon or engage in the recreational use of any motorized recreation vehicle within the Town upon any private lands, other than his or her own, unless the use thereon has been specifically authorized by the Town, or unless written permission has been secured from the owner of the land allowing such use and such written permission is in the possession of the person so using the land. For the purposes of this Section, the maintenance, repair, transportation and other uses of such motorized recreation vehicles for purposes other than recreational use within the municipal limits of the Town shall not be unauthorized.

2. The use of any motorized recreation vehicle upon any public lands shall be limited to authorized travel upon the streets and roads of the Town only, and further conditioned upon such vehicle being properly licensed for such use. (Ord. 98-32 §2, 1998)

9.04.300 Violation of protective orders.

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

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

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

Protective order means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening or touching any person or from entering, remaining on the premises or from coming within a specified distance of a protected person or premises, that is issued by the Municipal Court, as part of the proceedings concerning a criminal municipal violation. For purposes of this Section only, "protective order" includes any order that amends, modifies, supplements or supersedes the initial protective order.

B. A person commits the crime of violation of a restraining order if such person contacts, harasses, injures, intimidates, molests, threatens or touches any protected person, enters or remains on the premises or comes within a specified distance of a protected person or premises and such conduct is prohibited by a protective order, after such person has been personally served with any such order or otherwise has acquired from the Municipal Court actual knowledge of the contents of such order.

C. Nothing in this Section shall be construed to alter or diminish the inherent authority of the Municipal Court to enforce its orders through civil or criminal contempt proceedings. (Ord. 2006-35 §1, 2006)

Chapter 9.08

Offenses Against Property

9.08.010 Damaging public or private property

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- 9.08.030 Civil liability**
- 9.08.040 Parental control**

9.08.010 Damaging public or private property.

Any person who damages, mars, destroys, paints, smears or defaces public or private property or who participates with others in marring, damaging, destroying, painting, smearing or defacing of public or private property within the Town without express permission of the owner or governing body having charge of the property may, upon conviction, be punished as provided in the general penalty of this Code. (Ord. 5.15 §1, 1967)

9.08.020 Suspension of fine.

No fine levied under this Chapter shall be suspended or revoked, except upon the condition that the public or private property damaged shall be restored to its original condition, or substantially restored to its original condition by the person or persons who shall be so convicted. (Ord. 5.15 §2, 1967)

9.08.030 Civil liability.

Nothing contained in this Chapter shall be deemed to affect the right of owners of property to recover damages to property in a civil suit. (Ord. 5.15 §3, 1967)

9.08.040 Parental control.

Any parent or parents who shall suffer or permit his, her or their child to commit any act prohibited in Section 9.08.010 shall, upon conviction, be guilty of a misdemeanor and shall be subject to punishment as provided in the general penalty of this Code. (Ord. 5.15 §4, 1967)

Chapter 9.10

Complicity, Attempt and Accessory Offenses

- 9.10.010 Complicity**
- 9.10.020 Attempted violations**
- 9.10.030 Conspiracy**
- 9.10.040 Accessory to ordinance violation**

9.10.010 Complicity.

A person is legally accountable and may be charged as principal for the behavior of another constituting a violation of this Code if, with the intent to promote or facilitate the commission of the violation, he or she aids, abets or advises the other person in planning or committing the violation. (Ord. 96-05 §1(part), 1996)

9.10.020 Attempted violations.

A. A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of a violation of this Code, he or she engages in conduct constituting a substantial step toward the commission of the violation. A *substantial step* is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the violation. Factual or legal impossibility of committing the violation is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

B. A person who engages in conduct intending to aid another to commit a violation commits criminal attempt if the conduct would establish his or her complicity under Section 9.10.010 of this Code were the violation committed by the other person, even if the other is not guilty of committing or attempting the violation.

C. It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission under circumstances manifesting the complete and voluntary renunciation of his or her criminal intent.

D. Attempted violation under this Section is a lesser included violation of every violation of the provisions of this Title. (Ord. 96-05 §1(part), 1996)

9.10.030 Conspiracy.

A. A person commits conspiracy to commit a violation of this Code if, with the intent to promote or facilitate its commission, he or she agrees with another person or persons that they, or one (1) or more of them, will engage in conduct which constitutes a violation of this Code or an attempt to commit a violation of this Code, or he or she agrees to aid the other person or persons in the planning or commission of a violation of this Code or of an attempt to commit such violation of this Code.

B. No person may be convicted of conspiracy to commit a violation of this Code, unless an overt act in pursuance of that conspiracy is proved to have been done by him or her or by a person with whom he or she conspired. (Ord. 96-05 §1(part), 1996)

9.10.040 Accessory to ordinance violation.

It shall be unlawful for any person to be an accessory to an ordinance violation. A person is an accessory to an ordinance violation if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of an ordinance violation, that person renders assistance to such other person. For the purpose of this Section, *render assistance* means to:

A. Harbor or conceal such person;

B. Warn such other person of impending discovery or apprehension, except that this does not apply to a warning given in an effort to bring such other person into compliance with the law;

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

D. By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such other person; or

E. Conceal, destroy or alter, or assist in concealing, destroying or altering, any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such other person. (Ord. 96-05 §1(part), 1996)

Chapter 9.12

Possession and Consumption of Alcoholic Beverages

9.12.010 Definitions

9.12.020 Prohibited possession or consumption of alcoholic beverages in any public place or park

9.12.030 Illegal possession or consumption of ethyl alcohol by underage persons

9.12.031 Illegal sale or giving of alcohol to underage persons

9.12.040 Enforcement

9.12.060 General provisions

9.12.010 Definitions.

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

Alcoholic beverage means any intoxicating liquor, be it vinous, spirituous or malt liquor.

Container means any decanter, flask, bottle, jar, can, paper cup, thermos bottle or jug.

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

Ethyl alcohol means any substance which is or contains ethyl alcohol.

Possession of ethyl alcohol means that a person has or holds any amount of ethyl alcohol anywhere on his or her person, or that a person owns or has custody of ethyl alcohol, or has ethyl alcohol within his or her immediate presence and control.

Private property means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation and which is not open to the public, and privately owned real property which is not open to the public. *Private property* shall not include:

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

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

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

Public place means, without limitation, any street, alley, sidewalk, public building, public parking area, playgrounds, parks, ball fields or any other property owned by the State, County or any other subdivision thereof, including the Town. For the purposes of this Chapter, it shall be illegal to do any of the acts enumerated in Section 9.12.020 while in the confines of any vehicle, whether private or public, while the vehicle is upon any public place enumerated in this Subsection.

Seal means the regular and original seal applied by order of the United States government over the cap of each and every container of alcoholic beverage or any other state or governmental seal applied to any container of alcoholic beverage sold for consumption.

Underage person means any person who is under twenty-one (21) years of age. (Ord. 96-01 §1(part), 1996)

9.12.020 Prohibited possession or consumption of alcoholic beverages in any public place or park.

A. It shall be unlawful for any person under twenty-one (21) years of age to have in his or her possession ethyl alcohol in any store, in any public place or area open to the public, including alleys, highways, roads, streets and ways, or upon property owned by either the State or the Town, or inside vehicles while upon alleys, highways, roads, streets and ways.

B. It shall be unlawful for any person to consume or have in his or her possession any open container of an alcoholic beverage in any public place, or area open to the public, except on any premises licensed to sell such liquor by the drink or consumption thereon during such hours as the sale of such liquor is permitted.

C. In addition to the foregoing, it shall be unlawful for any person who is a spectator or participant at any scheduled athletic event in any park or recreation area within the Town, or any area designated or used for park or recreational purposes, to have in his or her possession any open container of ethyl alcohol. An athletic event shall be deemed to have been scheduled if either the time and location has been established by the Town Department of Parks, Recreation and Open Space, or a park or recreation area has been reserved by a private organization for an athletic event, provided, however, that athletic events at Town-owned golf courses shall not be deemed athletic events.

D. The terms of Subsections B and C above shall not apply where a special event permit has been granted pursuant to state law or by special permit granted by the Director of Parks and Recreation or his or her designee upon application no less than five (5) days prior to the date of the event. The permit shall designate the specific time and place of the exempted event, the purpose of the event, the anticipated number of persons attending and the name of the person responsible for compliance with the terms of the permit. Nothing in this Section shall be construed as a waiver of the enforcement of any other ordinance of the Town or state statute.

E. It shall be unlawful for any person under twenty-one (21) years of age to obtain or attempt to obtain any ethyl alcohol by misrepresentation of age or by any other method in any place where ethyl alcohol is sold.

F. It is unlawful for the parent, guardian or other adult person having the duty to care and custody of a person under the age of eighteen (18) years to knowingly allow or permit such juvenile to violate Subsections A or E of this Section. (Ord. 2007-52 §1, 2007; Ord. 96-01 §1(part), 1996)

9.12.030 Illegal possession or consumption of ethyl alcohol by underage persons.

A. Any person under twenty-one (21) years of age who possesses or consumes ethyl alcohol on private property anywhere within Town boundaries commits illegal possession or consumption of ethyl alcohol by an underage person.

B. It shall be an affirmative defense to the offense described in Subsection A of this Section that the ethyl alcohol was possessed or consumed by a person under twenty-one (21) years of age under the following circumstances:

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

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

3. The possession or consumption of ethyl alcohol took place for religious purposes protected by the First Amendment to the United States Constitution.

C. Prima facie evidence of violation of Subsection A of this Section shall consist of:

1. Evidence that the defendant was under the age of twenty-one (21) years and possessed or consumed ethyl alcohol on private property in the Town; or

2. Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment while present anywhere in the Town. (Ord. 96-01 §1(part), 1996)

9.12.031 Illegal sale or giving of alcohol to underage persons.

A. It shall be unlawful for any person to sell, give or provide ethyl alcohol to any person under the age of twenty-one (21) years.

B. It shall be an affirmative defense to giving or providing ethyl alcohol as described in Subsection A above if the ethyl alcohol was given or provided to a person under twenty-one (21) years of age:

1. While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property; and
2. The ethyl alcohol was given or provided by the parent or legal guardian, or with the consent of the parent or legal guardian who was present. (Ord. 98-13 §1, 1998)

9.12.040 Enforcement.

A. It shall be the duty of the officers of the Police Department of the Town, or any other law enforcement officer so authorized, to enforce this Chapter within the corporate limits of the Town including, but not limited to, all public places, including the county fairgrounds and county courthouse property. The enforcement shall be by the issuance of a summons and complaint for appearance in the Municipal Court of the Town to any person found violating this Chapter.

B. No law enforcement officer shall enter upon any private property to investigate any violation of this Section without probable cause. (Ord. 96-01 §1(part), 1996)

9.12.060 General provisions.

A. During any trial for a violation of Section 9.12.020, 9.12.030 or 9.12.031, any bottle, can or any other container with labeling, indicating the contents of such bottle, can or container, shall be admissible into evidence and the information contained on any label on such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A jury or judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as containing, but not limited to, "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "bourbon," "rum," "scotch," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of ethyl alcohol.

B. Prohibited possession or consumption of ethyl alcohol by any underage person, as defined in Section 9.12.010G, under Section 9.12.020, 9.12.030 or 9.12.031 is a strict liability offense.

C. Immediately upon a plea of guilty or no contest (except when such plea is entered in conjunction with a deferred judgment), or a verdict of guilt by the court or jury, to a violation of Section 9.12.020A or 9.12.020E of this Code, in addition to any other penalty, the court may require the offender to immediately surrender that person's driver's, minor driver's or provisional driver's license to the court. The court shall forward to the Colorado Department of Revenue a notice of conviction, together with the offender's license, not later than ten (10) days after the conviction becomes final or the license is surrendered, whichever is later.

D. The court may, in its discretion and as a part of the sentence to be imposed, require a person convicted of violating any portion of this Section to complete court approved public service in an amount and of a nature to be established by the court.

E. It is unlawful for any person to fail to surrender that person's license to the court within five (5) days of a plea of guilty, no contest or a verdict of guilty to a violation of Section 9.12.020A or 9.12.020F of this Code. (Ord. 98-13 §§2, 3, 1998; Ord. 96-01 §1(part), 1996)

Chapter 9.16

Noise Control

- 9.16.010 Legislative intent**
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9.16.010 Legislative intent.

The Town Council finds:

A. Excessive sound and vibration are a serious hazard to the public health and welfare, safety and the quality of life;

B. A substantial body of science and technology exists by which excessive sound and vibration may be substantially abated;

C. The people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, welfare or safety or degrade the quality of life; and

D. It is the policy of the Town to prevent excessive sound and vibration which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life. (Ord. 90-19 §1(part), 1990)

9.16.020 Definitions.

As used in this Chapter:

A. Commercial area means:

1. An area where offices, clinics and facilities needed to serve them are located;

2. An area with local shopping and service establishments located within walking distance of the residents served;
3. A tourist-oriented area where hotels, motels and gasoline stations are located;
4. A large integrated regional shopping center;
5. A business strip along a main street containing offices, retail businesses and commercial enterprises;
6. A central business district;
7. A commercially dominated area with multiple unit dwellings; or
8. Any property zoned commercial.

B. *Construction* means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

C. *Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

D. *Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

E. *Emergency work* means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

F. *Noise control office* or NCO means the code enforcement officer or a police officer or any other person with enforcement authority under this Chapter.

G. *Gross vehicle weight rating (GVWR)* means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

H. *Industrial* means an area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activities, but shall not include agricultural operations.

I. *Industrial, light* means:

1. An area containing clean and quiet research laboratories;
2. An area containing light industrial activities which are clean and quiet;
3. An area containing warehousing; or

4. An area in which other activities are conducted where the general environment is free from concentrated industrial activity.

J. *Motor vehicle* means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, but not including motorcycles.

K. *Motorcycle* means an unenclosed motor vehicle having a saddle for the use of the operator and two (2), three (3) or four (4) wheels in contact with the ground including, but not limited to, motor scooters and minibikes.

L. *Muffler or sound dissipative device* means a device for abating the sound of escaping gases of the internal combustion engine.

M. *Noise* means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological effect on humans.

N. *Noise disturbance* means any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property. Any noise level measuring in excess of fifty (50) decibels at or immediately adjacent to the property boundary upon which the noise originates, is a noise disturbance, unless a greater noise level, as measured decibally, is allowed under Chapters 17.52 and 17.56 of this Code.

O. *Person* means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

P. *Power model vehicle* means any self-propelled airborne, water borne, or land borne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

Q. *Public right-of-way* means any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

R. *Public space* means any real property or structures thereon which are owned or controlled by a governmental entity.

S. *Real property boundary* means an imaginary line along the ground surface and its vertical extension which separates the real property owned by one (1) person from that owned by another person, but not including intra-building real property divisions.

T. *Residential* means an area of single- or multi-family dwellings where businesses may or may not be conducted in such dwellings. The zone includes areas where multiple unit dwellings, high-rise apartment districts and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. *Residential zone* includes educational facilities, hospitals, nursing homes and similar institutions.

U. *Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

V. *Vibration* means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

W. *Weekday* means any day Monday through Friday which is not a legal holiday. (Ord. 90-19 §1(part), 1990)

9.16.030 Prohibited acts.

A. Noise disturbances prohibited. No person shall make, continue or cause to made or continued, any noise disturbance, including, but not limited to, the specific noise disturbances prohibited in Subsection B of this Section. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this Section.

B. Specific prohibitions. The following acts, and the causing thereof, are prohibited.

1. Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:

a. In such a manner as to be audible at one hundred (100) feet from such device or plainly audible through the walls common to two (2) parties within a building except for activities open to the public and for which a permit has been issued by the appropriate authority;

b. In such a manner as to be audible at fifty (50) feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space;

c. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;

d. Notwithstanding any other provisions of this Chapter, it is permissible for any senior high school or junior high school band to perform or practice prior to the hour of 7:00 a.m.

2. Loudspeakers/public address systems.

a. Using or operating for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary;

b. Using or operating for any commercial purpose any loudspeaker, public address system, or similar device such that the sound therefrom creates a noise disturbance across a residential real property boundary.

3. Street sales. Offering for sale or selling anything by shouting or outcry within any residential area of the Town.

4. Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across residential real property boundary.

5. Construction. Operating or permitting the operation of any tools or equipment in connection with construction, drilling or demolition work between the hours of 7:00 p.m. and 7:00 a.m. the following day on weekdays and between the hours of 6:00 p.m. and 8:00 a.m. on weekends or holidays such that the sound therefrom creates a noise disturbance across a residential real property boundary, except for delivery and pickup of construction equipment, emergency work, work exempted pursuant to Section 9.16.050 below or by variance issued pursuant to Subsection 9.16.070.E. Holidays are defined as those observed by the State.

6. Vehicle or motorboat repairs and testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary.

7. Powered model vehicles. Operating or permitting the operation of a powered model vehicle so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 10:00 p.m. and 7:00 a.m. the following day.

8. Emergency signaling devices.

a. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, except for emergency purposes or for testing, subject to the following limitations.

i. Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 7:00 a.m. or later than 10:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds;

ii. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than one (1) in each calendar month. Such testing shall not occur before 7:00 a.m. or after 10:00 p.m. The time limit specified in Subparagraph B(8)(i) shall not apply to such complete system testing.

b. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically or manually terminated within fifteen (15) minutes of activation.

9. Internal combustion equipment. No person shall operate, or permit to be operated, any internal combustion equipment including but not limited to lawnmowers, weed trimmers, chain saws, compressors or pumps driven by internal combustion engines between the hours of 10:00

p.m. and 7:00 a.m. the following day in any residential area. This provision shall not apply to motor vehicles or motorcycles.

10. Live bands and music. No person shall play, practice or perform, or permit to be played, practiced or performed, any live music audible at a residential real property boundary, between the hours of 12:00 a.m. and 7:00 a.m.

11. Fireworks. During Stage 2 Fire Restrictions, except for professional commercial fireworks displays, no person shall use permissible fireworks as defined in Subsection 8.24.010.C above. For any period thereafter, with no fire restrictions declared, no person shall use permissible fireworks except on the 4th of July between the hours of 8:00 a.m. and 10:00 p.m. (Ord. 2006-32 §2, 2006; Ord. 2006-29 §1, 2006; Ord. 2003-32 §1, 2003; Ord. 2002-28 §2, 2002; Ord. 2001-08 §1, 2001; Ord. 98-20 §3, 1998; Ord. 90-19 §1(part), 1990)

9.16.040 Motor vehicle sound pressure levels.

A. Adequate mufflers of sound dissipative devices.

1. No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device meeting manufacturer's specifications, in good working order and in constant operation.

2. No person shall modify, remove or render inoperative, or cause to be modified, removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

B. Motor vehicle horns and signaling devices. The following acts and the causing thereof are declared prohibited:

1. The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as provided in the Vehicle Code;

2. The sounding of any horn or other auditory signaling device other than the horn or auditory signaling device with which the motor vehicle was originally equipped;

3. The provisions of this Chapter shall not apply to the sounding of horns in the customary practice of celebrating weddings or in celebrating the victory of a county/town sports event, such as a football game, so long as such sounding of horns is within two (2) hours of the completion of any such event.

C. Refuse collection vehicles. No person shall:

1. Operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse, between the hours of 10:00 p.m. and 7:00 a.m. the following day in a residential area; or

2. Collect refuse with a refuse collection vehicle between the hours of 10:00 p.m. and 7:00 a.m. the following day within five hundred (500) feet of a residential area.

D. Standing motor vehicle. No person shall operate the engine of, or permit the operation of the engine of, any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within one hundred (100) feet of a residential area between the hours of 10:00 p.m. and 7:00 a.m. the following day. This prohibition shall not apply to emergency vehicles operated within the Town or the Douglas County fire protection district. (Ord. 90-19 §1(part), 1990)

9.16.050 Exemptions.

Noise caused in the performance of emergency work for the immediate safety, health or welfare of the community, or to restore property to a safe condition following a public calamity, or noise caused by the operation of snow plowing equipment or drilling wells shall not be subject to the provisions of this Chapter. Any person drilling wells shall advise property owners adjacent to where drilling will occur at least twenty-four (24) hours in advance of drilling and shall use noise abatement measures as practical. Nothing in this Section shall be construed to permit law enforcement, ambulance, fire or other emergency personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary. (Ord. 2001-08 §2, 2001; Ord. 90-19 §1(part), 1990)

9.16.060 Penalties.

Whenever under any section, subsection or paragraph of this Chapter any act or omission is prohibited or declared to be unlawful, any person convicted of a violation of any such section, subsection or paragraph shall be punished by a fine not to exceed nine hundred and fifty dollars (\$950.00), by imprisonment for a period not to exceed one hundred eighty (180) days, or by both such fine and imprisonment. (Ord. 90-19 §1(part), 1990)

9.16.070 Defenses.

It is a specific defense to a charge of violating this Chapter that:

A. The sound was made by an authorized emergency vehicle when responding to an emergency call or acting in time of emergency;

B. The sound was made within the terms of a parade, fireworks display or temporary street closure permit issued by the Town;

C. The sound was made by the sounding of the horn of any vehicle as a danger warning signal or by the sounding of any warning device as required by law;

D. The sound was made on property belonging to or leased or managed by a federal, state, county or special district governmental body other than the Town and was made by an activity of the governmental body or by others pursuant to a contract, lease or permit granted by such governmental body; or

E. The sound was made within the terms and conditions of a sound level variance granted by the Town Council of adjustment. A variance shall be granted after application is made if the Town Council finds that compliance will cause any undue hardship and further finds that:

1. Additional time is necessary for the applicant to alter or modify the activity or operation to comply with this Section; or

2. The activity, operation or sound device will be of temporary duration, and even with the application of the best available control technology cannot be done in a manner that would comply with this Section.

In either case, the Town Council must also find that no reasonable alternative is available to the applicant. If the Town Council grants a variance, it shall prescribe such reasonable conditions or requirements as are necessary to minimize adverse effects upon the community or the surrounding neighborhood, including, but not limited to, the effective dates, time(s) of day, location, sound pressure level or equipment limitation.

F. The sound was made within the terms and conditions of a permit issued pursuant to Section 9.16.020. (Ord. 90-19 §1(part), 1990)

9.16.080 Abatement orders.

In lieu of issuing a notice of violation, the NCO or other official responsible for enforcement of any provisions of this Chapter may issue an order requiring abatement of any source of sound alleged to be in violation of this Chapter within a reasonable time period. (Ord. 90-19 §1(part), 1990)

9.16.090 Superseded by more stringent provisions.

All other provisions of this Code shall supersede this Chapter to the extent that such other provisions are more stringent. (Ord. 90-19 §1(part), 1990)

9.16.100 Other remedies.

No provision of this Chapter shall be construed to impair any common law or statutory cause of action, or legal or equitable remedy therefrom, of any person for injury or damage arising from any violation of this Chapter or from other law or to abate a noise nuisance under the laws of the State. (Ord. 90-19 §1(part), 1990)

9.16.110 Special event permits.

A. Applications for a special event permit for relief from the provisions of this Chapter may be made to the Town Manager or his or her authorized representatives for noise which, if prohibited, would cause undue hardship to the person or party responsible for the noise.

B. In granting relief, consideration shall be made of the nature of the event, and economic feasibility of bringing the noise into conformance with the Chapter.

C. Any special event permit granted hereunder may establish, without limitation, the effective dates, times of day, location or limitations relating to the particular circumstances giving rise to the permit. (Ord. 90-19 §1(part), 1990)

Chapter 9.20

Curfew for Minors

9.20.010 Curfew

9.20.020 Knowingly allowing or permitting violation of curfew

9.20.030 Penalty for violations

9.20.010 Curfew.

A. It shall be unlawful for any person under the age of eighteen (18) to loiter on or about any street, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground or yard, whether public or private, without the consent or permission of the owner or occupant thereof, during the hours between 11:00 p.m. Sunday through Thursday and 5:00 a.m. the following day, during the hours between midnight on Friday and Saturday and 5:00 a.m. the following day, according to the applicable time standard then in effect for the Town, unless accompanied by a parent or guardian over the age of twenty-one (21) years. No person shall be charged with a violation of this Section or arrested therefor, if such person was:

1. Not loitering.
2. In a parked, standing or moving motor vehicle while accompanied by a parent, guardian or other adult person over the age of twenty-one (21) years.
3. In a motor vehicle in interstate travel.
4. Engaged in any employment, school, religious or athletic activity or going to or returning from any such activity, or going to or from any other activities of any kind which are supervised or directed by a parent or adult person over the age of twenty-one (21) years.
5. Exercising rights protected by the First Amendment to the United States Constitution such as the free exercise of religion, freedom of speech or the right of assembly.
6. Married or an emancipated minor.

B. The term *loitering* or *loiter* as used herein shall mean remaining idle in essentially one (1) location, to be dilatory, to tarry or to dawdle, and shall include but not be limited to standing around, hanging out, sitting, kneeling, sauntering or prowling in a public or private place without the consent or permission of the owner or occupant thereof. The term shall also include such activity by the driver or a passenger of a motor vehicle which is parked, standing or being driven upon any public street, alley or parking lot. (Ord. 2008-08 §1, 2008; Ord. 93-26 §1, 1993)

9.20.020 Knowingly allowing or permitting violation of curfew.

A. It shall be unlawful for any parent, guardian or other person having legal custody of any minor who has not reached his or her eighteenth birthday to knowingly allow or permit any such minor to engage in any of the conduct proscribed by Section 9.20.010 of this Chapter.

B. The term *knowingly* as used herein includes knowledge which a parent, guardian or other person having legal custody of a person who has not reached his or her eighteenth birthday should be reasonably expected to have concerning the whereabouts of said minor. (Ord. 2008-08 §1, 2008; Ord. 93-26 §1, 1993)

9.20.030 Penalty for violations.

Any person who violates any provision of this Chapter, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00) for each separate violation. (Ord. 93-26 §1, 1993)

Chapter 9.22

Distribution of Cigarettes and Tobacco Products to Minors

9.22.010 Definitions

9.22.020 Prohibition

9.22.030 Penalty

9.22.010 Definitions.

Tobacco products means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clipping, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking. (Ord. 99-07 §1(part), 1999)

9.22.020 Prohibition.

A. It is unlawful for any person eighteen (18) years of age or older to furnish to any person who is under eighteen (18) years of age by gift, sale or other means any cigarettes or tobacco products.

B. It is unlawful for any person under the age of eighteen (18) years of age to consume, possess or to purchase or attempt to purchase, either directly or through an intermediary, or in any other manner obtain any cigarette or tobacco product. (Ord. 99-07 §1(part), 1999)

9.22.030 Penalty.

Any person who is convicted of, or pleads guilty or no contest to, a violation of this Chapter shall be punished by a fine of not more than three hundred dollars (\$300.00) per violation or count. (Ord. 99-07 §1(part), 1999)

Chapter 9.30

Prohibited Residency of Sexually Violent Predators

9.30.010 Findings and intent

9.30.020 Definitions

9.30.030 Prohibitions

9.30.040 Exceptions

9.30.050 Measurement

9.30.060 Violation; penalty

9.30.010 Findings and intent.

A. Sexually violent predators, as defined in Section 18-3-414.5, C.R.S., present an extreme threat to the public safety and have a high rate for the repeat commission of sex offenses, making the risk of sex offender victimization to society extremely high.

B. Removing sexually violent predators from regular proximity to places where children are located and limiting the frequency of contact between such offenders and children is likely to reduce the risk of an offense.

C. This Chapter is intended to serve the Town's compelling interest to promote, protect and improve the public health, safety and welfare by creating areas, around locations where children regularly congregate in concentrated numbers, where sexual predators are prohibited from establishing temporary or permanent residences. (Ord. 2011-02 §1, 2011)

9.30.020 Definitions.

A. *Permanent residence* means a place where a person abides, lodges or resides for fourteen (14) or more consecutive days.

B. *Sexually violent predator* means a sex offender as defined in Section 18-3-414.5, C.R.S.

C. *Temporary residence* means a place where a person abides, lodges or resides for a period of fourteen (14) days or more in the aggregate during any calendar year and which is not the person's permanent residence, or a place where a person routinely abides, lodges or resides for a period of five (5) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

D. *Walk-to-school route* means a route officially designated by the Town for use by children walking to or from a public or private school, and shown on maps maintained by the Town's Public Works Department and available for public inspection. (Ord. 2011-02 §1, 2011)

9.30.030 Prohibitions.

It is unlawful for any person who is required to register under the Colorado Sex Offender Registration Act, Section 16-22-101, et seq., C.R.S., as amended, and who has been adjudicated as a sexually violent predator to establish a permanent residence or temporary residence within one thousand (1,000) feet of any Town-recognized park, playground, public or private school, ball field,

licensed day care center, library, recreation center, public swimming pool or at properties adjacent to any designated public or private school bus stop, walk-to-school route or public recreation trail. (Ord. 2011-02 §1, 2011)

9.30.040 Exceptions.

A person is not guilty of a violation of this Chapter if:

A. The person established the permanent or temporary residence prior to the effective date of this Chapter. Provided, however, that this exception shall not apply if the individual committed the offense for which registration under the Colorado Sex Offender Registration Act is required after the effective date of this Chapter.

B. The person is under the age of eighteen (18) and resides with his or her parents, step-parents or guardians.

C. The person is placed in the residence pursuant to a State of Colorado foster care program.

D. The Town-recognized park, playground, public or private school, ball field, licensed day care center, library, recreation center, public swimming pool, or properties located adjacent to any designated public or private bus stop, walk-to-school route or public recreational trail was opened after the person established the permanent or temporary residence, and is not replacing a Town-recognized park, playground, public or private school, ball field, licensed day care center, library, recreation center, public swimming pool or properties located adjacent to any designated public or private bus stop, walk-to-school route, or public recreational trail at the same location. (Ord. 2011-02 §1, 2011)

9.30.050 Measurement.

For the purpose of determining the minimum distance separation required herein, the measurement shall be made by following a straight line from the outer property line of the property on which the Town-recognized park, playground, public or private school, ball field, licensed day care center, library, recreation center, public swimming pool or properties located adjacent to any designated public or private bus stop, walk-to-school route or public recreation trail is located to the nearest point of the permanent or temporary residence structure. (Ord. 2011-02 §1, 2011)

9.30.060 Violation; penalty.

Any person who violates any of the provisions of this Chapter shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment for each separate violation. (Ord. 2011-02 §1, 2011)