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## I. General Provisions

### Chapter 9.02

#### Definitions

##### Sections:

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- 9.02.260 Unlawful act

##### **9.02.010 Generally.**

As used in this title, the words and phrases set forth in this chapter shall have the following meanings. (Ord. 522 §2, 1974)

##### **9.02.020 Actor.**

*Actor* means defendant, perpetrator or alleged perpetrator of an offense. (Ord. 522 §2(1), 1979)

##### **9.02.030 Animal control warden.**

*Animal control warden* means a person employed by the department of public safety to enforce all ordinances and state statutes and federal laws pertaining to animals. The animal control warden is

empowered to serve summonses and complaints to persons in violation or suspected to be in violation of one (1) or more of the various laws pertaining to animals. Those ordinances provided for the safety of police officers and the accomplishment of their duties shall likewise apply to the animal control warden. (Ord. 522 §2(2), 1979)

**9.02.040 Bail bond.**

*Bail bond* means security posted to insure the defendant's appearance in court on the date and time specified on the summons and complaint or arrest warrant issued to the defendant. (Ord. 522 §2(3), 1979)

**9.02.050 Chief of police.**

*Chief of police* means director of public safety for the city. (Ord. 522 §2(4), 1979)

**9.02.060 Defendant.**

*Defendant* means actor or person charged with a violation of an ordinance of the city. (Ord. 522 §2(5), 1979)

**9.02.070 Department of public safety.**

*Department of public safety* means the city law enforcement department empowered to enforce the ordinances of the city, the state statutes and federal laws. (Ord. 522 §2(6), 1979)

**9.02.080 Fighting.**

*Fighting* means an act of physical violence upon another, including but not limited to striking another with feet, fists, hands, legs or object. (Ord. 522 §2(7), 1979)

**9.02.090 Gender.**

The male gender includes the female. (Ord. 522 §2(8), 1979)

**9.02.100 Identification.**

*Identification* means a form of identification that bears the name, date of birth, physical description, address and photograph of the person in possession. Lack of a photograph shall not constitute a violation. (Ord. 522 §2(9), 1979)

**9.02.110 Intentionally.**

*Intentionally* means the actor's conscious objective to cause a specific violation of an ordinance of the city. (Ord. 522 §2(10), 1979)

**9.02.120 Interfere.**

*Interfere* means any physical or verbal act of an actor to prohibit or attempt to prohibit an official from discharging his or her duties safely, properly and expeditiously. (Ord. 522 §2(11)(part), 1979)

**9.02.130 Knowingly.**

*Knowingly* means the actor's awareness that his or her conduct is of such nature, or that such circumstances exist, that the results of his or her actions or omission of his or her actions will produce the result of a violation of an ordinance of the city. (Ord. 522 §2(12), 1979)

**9.02.140 Law enforcement officer.**

*Law enforcement officer* means a law enforcement officer as defined by state statutes or any federal law enforcement officer. (Ord. 522 §2(13), 1979)

**9.02.150 Offense.**

*Offense* means a violation or apparent violation of an ordinance of the city. (Ord. 522 §2(14), 1979)

**9.02.160 Official.**

*Official* includes but is not limited to police officer, director of public safety, director of public works, animal control warden, city clerk, assistant city clerk, mayor or council persons. (Ord. 522 §2(11) (part), 1979)

**9.02.170 Omission of an act.**

*Omission of an act* means failure to perform an act required by an ordinance of the city. (Ord. 522 §2(15), 1979)

**9.02.180 Peace officer.**

*Peace officer* means a law enforcement officer as defined by state statutes. (Ord. 522 §2(16), 1979)

**9.02.190 Personal recognizance.**

*Personal recognizance* means a person's written promise to appear in court on a date and time specified on a summons and complaint issued to him or her. (Ord. 522 §2(17), 1979)

**9.02.200 Police department.**

*Police department* means department of public safety. (Ord. 522 §2(18), 1979)

**9.02.210 Police officer.**

*Police officer* means a law enforcement officer of the department of public safety, including a commissioned reserve police officer as determined and authorized by the director of public safety. (Ord. 522 §2(19), 1979)

**9.02.220 Promise to appear.**

*Promise to appear* means a defendant's written signature on a summons and complaint promising to appear in court on the date and time specified on the summons and complaint issued to the defendant. (Ord. 522 §2(20), 1979)

**9.02.230 Public place.**

*Public place* means any place, premises, building or roadway that is open to the public generally, including business establishments or premises during regular business hours, and governmental premises, school premises and religious premises. (Ord. 522 §2(21), 1979)

**9.02.240 Recklessly.**

*Recklessly* means the actor is aware of or should reasonably be aware that his or her conduct constitutes a violation of an ordinance of the city, or his or her unlawful act or his or her omission of an act is negligent, or he or she consciously disregards a substantial and unjustifiable risk that will result in a violation of an ordinance of the city. (Ord. 522 §2(22), 1979)

**9.02.250 Resisting.**

*Resisting* means any physical act of an actor to prohibit or attempt to prohibit a police officer from taking him or her into custody or arresting the actor. Physical acts include but are not limited to flight, assault, fighting, hiding and threatening the police officer with assault, death, injury or reprisal against the officer or his or her family if the police officer completes the arrest. (Ord. 522 §2(23), 1979)

**9.02.260 Unlawful act.**

*Unlawful act* means committing an act prohibited by an ordinance of the city. (Ord. 522 §2(24), 1979)

**Chapter 9.04**

**Enforcement and Penalties**

Sections:

- 9.04.010 Penalties; classification
- 9.04.020 Principal offender designated
- 9.04.060 Statute of limitation
- 9.04.090 Juveniles
- 9.04.100 Juvenile court procedures

9.04.110 Violation of promise to appear

**9.04.010 Penalties; classification.**

A. Table of Classification

Classification	Fine		Jail Sentence (days)	
	Minimum	Maximum	Minimum	Maximum
A	\$75	\$1,000	15	180
B	35	250	10	60
C	25	200	5	40
D	15	150	1	10

B. For unclassified ordinances, the penalty is that as is specified by the ordinance, except as provided in section 9.04.090.

C. The second violation of the same ordinance and section shall subject the violator to double the minimum fine and no part thereof shall be suspended.

D. The third and subsequent violation of the same ordinance and section shall subject the violator to triple the minimum fine and no part thereof shall be suspended. (Ord. 965 §1, 2007; Ord. 706 §3, 1988; Ord. 522 §1(1), 1979)

**9.04.020 Principal offender designated.**

A. Any person who intentionally, knowingly or recklessly uses an agent to perpetrate or attempt to perpetrate an offense shall be subject to being charged, tried and convicted as the principal offender.

B. For purposes of this section, an *agent* may be another person or animal who acted at the command, order, force, threat, intimidation or agreement with the actor using the agent. (Ord. 522 §1(9), 1979)

**9.04.060 Statute of limitation.**

Prosecution for a violation of a city ordinance shall be barred after one (1) year from the date of commission of the offense. (Ord. 522 §1(6), 1979)

**9.04.090 Juveniles.**

A. Any ordinance of the city may be enforced upon a juvenile, and the juvenile may be issued a summons and complaint to appear in municipal court to answer the complaint.

B. A jail sentence shall not be imposed upon a juvenile convicted of a violation of an ordinance except for traffic offenses.

C. For purposes of enforcement, a juvenile is a person who is at least ten (10) years of age but less than eighteen (18) years of age.

D. An offense committed by a person who at the time of the commission of the offense was a juvenile shall thereafter be treated as a juvenile for prosecution purposes.

E. Release of the name or other identification of the juvenile to the public or news media is prohibited, and the penalty for doing so is a Class D offense, except that a judge of the municipal court may do so when petitioned by a victim seeking to recover damages as a result of the conduct of the juvenile. (Ord. 693 §4, 1987; Ord. 522 §1(2), 1979)

#### **9.04.100 Juvenile court procedures.**

A. The court proceedings against a juvenile shall not be open to the public or news media, except traffic offenses.

B. Persons permitted to be present during a juvenile court procedure are:

1. Court personnel;
2. Law enforcement officers;
3. Relatives of the juvenile;
4. Any person authorized by the juvenile;
5. Witnesses for the juvenile;
6. Witnesses against the juvenile;
7. Jury; and
8. Prosecution and defense attorneys.

C. Any person who remains in court who is not authorized pursuant to this chapter shall be subject to contempt of court. (Ord. 522 §1(10), 1979)

#### **9.04.110 Violation of promise to appear.**

A. It is unlawful for any person to fail or refuse to appear in municipal court after affixing his or her signature to a summons and complaint as his or her personal recognizance and promise to appear on the date and time specified.

B. A defendant shall not be allowed to sign a summons and complaint as a personal recognizance as a promise to appear if this section is violated.

C. Violation of this section is the same as the original charge, or if more than one (1) original charge, the highest class of offense. (Ord. 522 §40, 1979)

## Chapter 9.06

### General Restrictions

#### Sections:

- 9.06.010 Accessory
- 9.06.020 Conspiracy
- 9.06.030 Criminal attempt
- 9.06.040 Permitting unlawful acts

#### **9.06.010 Accessory.**

A. It is unlawful for any person to be an accessory to an offense defined by city ordinances.

B. A person is an accessory if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for a violation of this title, he or she renders assistance to such person.

C. *Render assistance* means to:

1. Harbor or conceal the other;
2. Warn such person of impending discovery or apprehension, except that this does not apply to a warning given in an effort to bring such person into compliance with the law;
3. Provide such person with money, transportation, weapon, disguise or other things to be used in avoiding discovery or apprehension; or
4. Conceal, destroy or alter any physical evidence.

D. Violation of this section is a Class B offense. (Ord. 522 §20, 1979)

#### **9.06.020 Conspiracy.**

A. It is unlawful for any person to conspire with another to commit a violation of the ordinances of the city.

B. A person conspires to commit a violation of the ordinances of the city 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 such a violation or an attempt to commit such a violation, or he or she agrees to aid such other person or persons in the planning or commission of such a violation or of an attempt to commit such a violation.

C. No person may be convicted of conspiracy, unless an overt act in pursuance of such conspiracy is proved to have been done by him or her or by a person with whom he or she conspired.

D. If a person knows that one with whom he or she conspires to commit a violation has conspired with another person or persons to commit the same violation, he is guilty of conspiring to commit such violation with such person or persons, whether or not he or she knows their identity.

E. If a person conspires to commit a number of violations, he or she is guilty of only one conspiracy so long as such multiple violations are part of a single criminal episode.

F. It shall be an affirmative defense that the actor was a police officer, acting within legal boundaries, for the purpose of detecting criminal activity or obtaining evidence, or to make an apprehension.

G. Violation of this section is the same class as the intended offense. (Ord. 522 §21, 1979)

#### **9.06.030 Criminal attempt.**

A. It is unlawful to commit a criminal attempt as set out in this section:

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

2. 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 where the violation committed by the other person, even if the other is not guilty of committing or attempting the violation. For purposes of this section, *complicity* means that a person legally is accountable as principal for the behavior of another constituting a violation if, with the intent to promote or facilitate the commission of the violation, he or she aids, abets or advises such other person in planning or committing the violation.

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

B. It is an affirmative defense that the actor was a police officer, acting within legal boundaries for the purpose of detecting criminal activity, to obtain evidence, or to make apprehension, except that the police officer shall not participate in the actual commission of the offense but may participate short of completion.

C. Violation of this section is the same class of the intended offense. (Ord. 522 §22, 1979)

#### **9.06.040 Permitting unlawful acts.**

A. It is unlawful for any person, natural or corporate, to permit any of the illegal acts defined in Sections 9.30.020, 9.34.010, 9.34.020 and 9.34.030 in any premises or on any property under his or her control or management when it is within his or her power to prevent such acts.

B. Permitting unlawful acts is a Class B offense. (Ord. 522 §7, 1979)

## **II. Offenses by or Against Public Officers and Government**

### **Chapter 9.10**

#### **Offenses Against Public Officers**

Sections:

- 9.10.010 Failure to desist or disperse
- 9.10.020 Resisting or assaulting an officer
- 9.10.030 Aid and assistance to police officers
- 9.10.040 Interference; assisting or rescuing person in custody
- 9.10.050 Escape from custody

#### **9.10.010 Failure to desist or disperse.**

A. It is unlawful for any person intentionally, knowingly or recklessly to refuse or fail to obey an order which:

1. Is made by a police officer or firefighter while in the discharge or apparent discharge of his or her duties;
2. Directs that person or others in the immediate vicinity to desist or disperse; and
3. That person, individually or with others, is participating in a course of conduct which creates an immediate, substantial danger of damage or injury to property or persons, or substantially obstructs the performance of any governmental function.

B. Failure to desist or disperse is a Class B offense. (Ord. 522 §9, 1979)

#### **9.10.020 Resisting or assaulting an officer.**

A. It is unlawful for any person to resist any peace officer, any member of the police department or any reserve police officer while engaged in the discharge or apparent discharge of his or her duty.

B. It is unlawful for any person to assault in any manner any police officer, any other member of the department of public safety or any reserve police officer while engaged in the discharge or apparent discharge of his or her duty. For purposes of this section, an *assault* is an unlawful attempt coupled with a present ability to commit a bodily injury of the person of another.

C. Violation of this section is a Class A offense. (Ord. 522 §16, 1979)

**9.10.030 Aid and assistance to police officers.**

A. It is unlawful for any person, eighteen (18) years of age or older, when called upon by any police officer or a reserve police officer, to unreasonably refuse or fail to promptly aid and assist any peace officer or reserve police officer while engaged in the discharge or apparent discharge of his or her duties.

B. Violation of this section is a Class B offense. (Ord. 522 §18, 1979)

**9.10.040 Interference; assisting or rescuing person in custody.**

A. It is unlawful for any person to interfere with or hinder any police officer, any other member of the department of public safety or any reserve police officer while engaged in the discharge or apparent discharge of his or her duty.

B. It is unlawful for any person to offer or endeavor to assist any person in the custody of a police officer, any other member of the department of public safety or a reserve police officer to escape or to attempt to escape from such custody. For purposes of this section, *custody* means any restraint, physical or implied, placed upon a person by a police officer or reserve police officer while engaged in the discharge or apparent discharge of his or her duty.

C. It is unlawful for any person to rescue or to attempt to rescue any person from the custody of a police officer, any other member of the department of public safety, or a reserve police officer.

D. In a prosecution under Section 9.10.030 and this section, it is not a defense 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, 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.

E. *Law enforcement officer*, as used in this section, means a police officer or reserve police officer in uniform, or if out of uniform, one who properly has identified himself or herself to the person whose arrest is attempted. When reasonable, under the circumstances, the police officer or reserve police officer shall attempt to apprise any third person of his or her identity.

F. Violation of this section is a Class A offense. (Ord. 522 §17, 1979)

**9.10.050 Escape from custody.**

A. It is unlawful for any person to escape from custody of a police officer.

B. *Custody*, for the purposes of this section, means any physical or implied restraint placed upon the actor by a police officer.

C. Escape is a Class A offense. (Ord. 522 §33, 1979)

## Chapter 9.12

### Impersonating Officers

#### Sections:

- 9.12.010 Wearing uniform, apparel or insignia
- 9.12.020 Imitating uniform, apparel or insignia
- 9.12.030 False exercise of authority
- 9.12.040 Misrepresentation of department of public safety
- 9.12.050 Violation; classification

#### **9.12.010 Wearing uniform, apparel or insignia.**

It is unlawful for any person other than an official police officer or reserve 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 officer, with intent to impersonate a police officer. (Ord. 522 §19(1), 1979)

#### **9.12.020 Imitating uniform, apparel or insignia.**

It is unlawful for any person to counterfeit, imitate or colorably imitate, or cause to be counterfeited, imitated or colorably imitated, the uniform, apparel or insignia of officers used by the department of public safety. (Ord. 522 §19(2), 1979)

#### **9.12.030 False exercise of authority.**

It is unlawful for any person without due authority to exercise or attempt to exercise the authority of any police officer, public official, deputy or clerk in any city department, or any other law enforcement officer for any purpose, or for any person to falsely assume, pretend to be or hold himself or herself out to be such officer for any purpose. (Ord. 522 §1(3), 1979)

#### **9.12.040 Misrepresentation of department of public safety.**

It is unlawful for any person who is not a member of the department of public safety to represent himself or herself to be a member of the department of public safety, or use the name of department of public safety in any manner in which to influence another to perform any act or to omit any required act. (Ord. 522 §19(4), 1979)

#### **9.12.050 Violation; classification.**

Violation of this chapter is a Class A offense. (Ord. 522 §19(5), 1979)

## Chapter 9.14

### False Information

#### Sections:

- 9.14.010 Information to public officials
- 9.14.020 Information for aid or rescue efforts
- 9.14.030 Violation; classification

#### **9.14.010 Information to public officials.**

It is unlawful for any person intentionally, knowingly or recklessly to give false or misleading information, which he or she knows or should reasonably know to be false, to any police officer, firefighter or other employee of the city who is acting in his official capacity and within the scope of his or her employment. (Ord. 522 §23(1), 1979)

#### **9.14.020 Information for aid or rescue efforts.**

It is unlawful for any person intentionally, recklessly or knowingly to make, turn in or give a false alarm or false information concerning fire, the need for police or ambulance, or of injury or disaster which causes aid or other rescue efforts to be needlessly launched. (Ord. 522 §23(2), 1979)

#### **9.14.030 Violation; classification.**

Violation of this chapter is a Class B offense. (Ord. 522 §23(3), 1979)

## Chapter 9.16

### Identification

#### Sections:

- 9.16.010 Definitions
- 9.16.020 Required
- 9.16.030 Authority of officer
- 9.16.040 Violation; classification

#### **9.16.010 Definitions.**

A. For purposes of this chapter, *identification required* means:

1. True name;
2. True date of birth, address and telephone number, physical description and driver's license if operating a motor vehicle.

B. For purposes of this chapter, *offense* means a violation of the city ordinances, or of the state statutes. (Ord. 522 §41(4), 1979)

**9.16.020 Required.**

It is unlawful for any person to refuse to properly identify himself or herself when requested by a police officer. (Ord. 522 §41(1), 1979)

**9.16.030 Authority of officer.**

The police officer requesting must have reasonable grounds to believe that the actor is about to commit an offense, was committing an offense or had committed an offense as a requirement to charge a person under this chapter. (Ord. 522 §41(2), 1979)

**9.16.040 Violation; classification.**

Violation of this chapter is a Class D offense. (Ord. 522 §41(5), 1979)

## **Chapter 9.18**

### **Interference and Disruption of City Function**

Sections:

- 9.18.010 Interference with official function
- 9.18.020 Entering or remaining on restricted city premises
- 9.18.030 Order to refrain from entering or removal from city premises
- 9.18.040 Interference with communication system
- 9.18.050 Access to official records
- 9.18.060 Related procedures and policies
- 9.18.070 Violation; classification

**9.18.010 Interference with official function.**

It is unlawful for any person to intentionally, knowingly or recklessly interfere, disrupt, hinder or impede the operation of an official function of the city, or any department or official thereof. (Ord. 522 §42(1), 1979)

**9.18.020 Entering or remaining on restricted city premises.**

It is unlawful for any person to enter or remain in or on premises of the city which have been posted "EMPLOYEES ONLY," "NO ADMITTANCE" or similar notices, without invitation or permission of an authorized employee of the city. (Ord. 522 §42(2), 1979)

**9.18.030 Order to refrain from entering or removal from city premises.**

It is unlawful for any person to remain in or on any premises of the city or re-enter any premises of the city when the person was ordered to remove himself or herself from the premises or to refrain from entering the premises by an employee of the city. For purposes of this section, the employee on duty or a supervisor shall be considered to have the authority to issue an order for any person to remove himself or herself from the premises or to refrain from entering the premises. (Ord. 522 §42(3), 1979)

**9.18.040 Interference with communication system.**

It is unlawful for any person to interfere with, disrupt, impede or hinder the operation of the communications system of the city or the department of public safety, or any employee operating the same. (Ord. 522 §42(4), 1979)

**9.18.050 Access to official records.**

A. It is unlawful for any person, not an employee of the department of public safety or other official of the city having authority to act, to pursue, review, copy, search through files or otherwise obtain information from the records of the department of public safety or other city department without first receiving permission from an authorized employee of the city.

B. Employees shall comply with any and all laws relating to records. For purposes of this chapter, *records* mean any written, typed, taped, photostated, photographed or microfilmed document or recording. (Ord. 522 §42(5), 1979)

**9.18.060 Related procedures and policies.**

Operating procedures and policies adopted and enacted by the various department heads of the city shall be deemed lawful and are applicable to this chapter. (Ord. 522 §42(6), 1979)

**9.18.070 Violation; classification.**

Violation of this chapter is a Class A offense. (Ord. 522 §42(5), 1979)

**III. Offenses Against the Person**

**Chapter 9.22**

**Miscellaneous Regulations**

Sections:

- 9.22.010 Harassment
- 9.22.020 Assault

**9.22.010 Harassment.**

A. A person commits harassment if he or she intentionally, knowingly or recklessly:

1. Follows any person in a menacing manner in a public place;
2. In a public place, repeatedly threatens, insults or taunts any person in a situation where such threats, insults or taunts are likely to provoke or incite an immediate fight, riot or other breach of the peace;
3. In a public place, repeatedly subjects any person to unwanted physical contact, such as striking, shoving, kicking, grabbing or fondling; or
4. Disturbs the peace, quiet or right of privacy of any person by making telephone calls which are obscene, or by making telephone calls which threaten bodily harm or property damage or by causing the telephone to ring repeatedly at inconvenient hours.

B. As used in this section, *obscene* means language which the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex; or contains patently offensive descriptions of ultimate sex acts, normal or perverted, including sexual intercourse, sodomy and sexual bestiality; or contains patently offensive descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, or covered male genitals in a discernible turgid state; and taken as whole, the language lacks serious literary, artistic, political or scientific value.

C. Harassment is a Class B offense. (Ord. 702 §3(part), 1988)

**9.22.020 Assault.**

A. A person commits assault if he or she knowingly or recklessly causes bodily injury to another person or if he or she unlawfully attempts and has the present ability to cause bodily injury to another person.

B. Assault is a Class A offense. (Ord. 702 §3(part), 1988)

**Chapter 9.24**

**Obstruction of Visibility of Motor Vehicle Operator**

Sections:

- 9.24.010 Obstruction of traffic control device
- 9.24.020 Obstructing visibility
- 9.24.030 Notice; removal by owner
- 9.24.040 Notice; noncompliance; removal by city
- 9.24.050 Violation; classification

**9.24.010 Obstruction of traffic control device.**

It is unlawful for any person, firm or corporation to intentionally, knowingly or recklessly obstruct or otherwise interfere with the visibility of a traffic control device by the operator of a motor vehicle, and such obstruction or interference creates a safety hazard for the operator. Traffic control devices shall be visible for a distance of two hundred (200) feet or more. (Ord. 522 §29(1), 1979)

**9.24.020 Obstructing visibility.**

It is unlawful for any person, firm or corporation to intentionally, knowingly or recklessly obstruct the visibility of an operator of a motor vehicle when entering or crossing any public roadway. The operator of a motor vehicle shall be entitled to a minimum of one hundred (100) feet of unobstructed vision to the opposite direction in which the traffic flows. Vision must be available to the driver from the position of the driver in the motor vehicle when the frontmost portion of the motor vehicle is even with the curblines at which the vehicle is stopped, when attempting to enter or cross a public roadway. *Curblines* means that portion of the roadway which is used as a curb or is the outer limits of the right-of-way nearest the driver. (Ord. 522 §29(2), 1979)

**9.24.030 Notice; removal by owner.**

Upon notice from any police officer, the owner of the property on which the obstruction or interference is situated, shall remove the obstruction within the forty-eight (48) hours proceeding the notice. (Ord. 522 §29(3), 1979)

**9.24.040 Notice; noncompliance; removal by city.**

Failure to remove the obstruction or interference within the time limit shall subject the owner of the property to all costs of removal by the city. (Ord. 522 §29(4), 1979)

**9.24.050 Violation; classification.**

A. Failure to remove the obstruction or interference shall constitute a violation of this section and shall subject the property owner, or the property lessee, to a Class C offense; and each day in violation, after the issuance of notice and expiration of time limit to remove the obstruction or interference, shall constitute a separate violation.

B. Violation of this chapter is a Class C offense. (Ord. 522 §29(5, 6), 1979)

**IV. Offenses Against Public Decency**

**Chapter 9.28**

**Prostitution and Indecent Exposure**

Sections:

- 9.28.010 Prostitution
- 9.28.020 Indecent exposure

**9.28.010 Prostitution.**

A. It is unlawful for any person to perform, offer to perform or agree to perform any act of sexual intercourse or any act of deviate sexual intercourse with any person not his or her spouse in exchange for money or other thing of value.

B. It is unlawful for any person to solicit another for the purpose of prostitution except for a bona fide police officer to engage another person in conversation, who is suspected or known to be a prostitute, for evidentiary purposes.

C. It is unlawful for any person to arrange, offer or solicit the service of a prostitute to another.

D. It is unlawful for any person to knowingly maintain any premises for purposes of prostitution or allow prostitution in any place under his or her control.

E. It is unlawful for any person to induce, solicit or entice any person to practice prostitution.

F. It is unlawful for any person to patronize a prostitute by engaging in an act of sexual intercourse or deviate sexual intercourse with a prostitute, or entering or remaining in a place of prostitution with intent to engage in an act of sexual intercourse or deviate sexual intercourse.

G. For purposes of this section, *sexual intercourse* means an act between male and female involving the male and female genitals by penetration of the penis into the vagina; *deviate sexual intercourse* includes an act between male and female, male and male, or female and female, involving cunnilingus, fellatio, anal penetration by object, penis, finger or tongue, or vaginal penetration by object or finger.

H. It is unlawful for any person to procure for any act defined and prohibited in this section.

I. A violation of this section is a Class A offense. (Ord. 522 §24, 1979)

**9.28.020 Indecent exposure.**

A. It is unlawful for any person to expose or display his or her genitals, breasts or buttocks to any person intentionally, knowingly or recklessly in public view to arouse, excite, alarm or offend the other person.

B. It is unlawful for any person to engage in an act of sexual intercourse or deviate sexual intercourse, as defined by Section 9.28.010G, in public view or where the act may be reasonably expected to be viewed by the public.

C. It is unlawful for any person to urinate or defecate within view of the public or where the act may be reasonably expected to be viewed by the public.

D. It is unlawful for any person to engage in an act of fondling or caressing the genitals, breasts or buttocks of another or of the actor in public view or where the act may reasonably be expected to be viewed by the public, and any person viewing is offended, alarmed or aroused by such act.

E. It is unlawful for any person to touch another's genitals, breasts or buttocks and the other person is offended, alarmed or aroused.

F. Violation of this section is a Class B offense. (Ord. 522 §25, 1979)

### **Chapter 9.30**

#### **Alcohol and Drugs**

Sections:

- 9.30.010 Possession of open container of alcoholic beverage
- 9.30.020 Definitions
- 9.30.030 Possession of marijuana; less than one ounce
- 9.30.040 Possession of drug paraphernalia used to administer any prohibited drug
- 9.30.045 Sale of ephedrine products
- 9.30.050 Drug offender public service and rehabilitation program

#### **9.30.010 Possession of open container of alcoholic beverage.**

A. It is unlawful for any person to have in his or her possession or under his or her control an open container of beer, wine, spirituous liquor, 3.2 beer or any alcoholic beverage in a public place except as permitted by the Colorado Liquor Code or by permit from the state of Colorado or the city council.

B. *Open* means:

1. When the sealing device placed on the container by the manufacturer or an inspecting agency is broken;
2. When the capping device, placed on the container to prevent spillage or to allow ready access to the contents, is removed or otherwise disturbed so as to allow spillage or extraction of the contents;
3. When the container is so disturbed or altered so as to render the contents accessible for spillage or extraction; or
4. When the container is designed to be open.

C. *Public place* includes a motor vehicle or other mode of transportation, when the vehicle is upon a public road or other public place or premises.

D. Open container is a Class D offense. (Ord. 522 §27, 1979)

#### **9.30.020 Definitions.**

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

A. *Convicted* and *conviction* means a plea of guilty, or a verdict of guilty by a judge or jury, and includes a plea of no contest accepted by the court.

B. *Deliver* or *delivery* means to transfer or attempt to transfer a substance, actually or constructively, from one (1) person to another, whether or not there is an agency relationship.

C. *Distribute* means to deliver other than by administering or dispensing a controlled substance, with or without remuneration.

D. *Distributor* means a person who distributes.

E. *Drug offender* means any person convicted of any offense under this Section 9.30.020 through Section 9.30.050.

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

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

2. Scales and balances used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

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 marijuana;

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

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

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

a. Water pipes;

- b. Carburetion tubes and devices;
- c. Smoking and carburetion masks;
- d. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- e. Chamber pipes;
- f. Carburetor pipes;
- g. Electric pipes;
- h. Air-driven pipes;
- i. Chillums;
- j. Bongs; or
- k. Ice pipes or chillers.

G. *Marijuana* means all parts of the plant *Cannabis sativa L.*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as *marijuana* in this subsection G. *Marijuana* does not include marijuana concentrate as defined in subsection H of this section.

H. *Marijuana concentrate* means hashish, tetrahydrocannabinol, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinol.

I. *Person* means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government or governmental subdivision or agency, or any other legal or commercial entity.

J. *Tetrahydrocannabinol* means synthetic equivalents of the substances contained in the plant, or in the resinous extractions of, cannabis, sp., or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity.

K. *Useful public service* means any work which is beneficial to the public and which involves a minimum of direct supervision or other public cost. *Useful public service* does not include any work which would endanger the health or safety of a drug offender. (Ord. 852 §2, 1997)

**9.30.030 Possession of marijuana; less than one ounce.**

A. Any person who possesses, consumes or uses not more than one (1) ounce of marijuana or marijuana concentrate shall be deemed to possess, and commits a class A offense. If convicted, such

person shall be punished by a minimum sentence of not less than seventy-five dollars (\$75.00) and/or fifteen (15) days in jail, but not to exceed three hundred dollars (\$300.00) and/or ninety (90) days in jail, plus any court costs incurred by the city.

1. Any person involved in a second or subsequent violation under paragraph A of subsection 9.30.030 shall be subject to double the minimum fine for a Class A offense, and no part thereof shall be suspended.

2. Any person involved in a third or subsequent violation under paragraph A of subsection 9.30.030 shall be subject to triple the minimum fine for a Class A offense, and no part thereof shall be suspended.

B. Any person who openly and publicly displays, consumes or uses not more than one (1) ounce of marijuana or marijuana concentrate commits a Class A offense. If convicted, such person shall be punished by a minimum sentence of not less than seventy-five dollars (\$75.00) and/or fifteen (15) days in jail, but not to exceed three hundred dollars (\$300.00) and/or ninety (90) days in jail, plus any court costs incurred by the city.

1. Any person involved in a second or subsequent violation under paragraph B of subsection 9.30.030 shall be subject to double the minimum fine for a Class A offense, and no part thereof shall be suspended.

2. Any person involved in a third or subsequent violation under paragraph B of subsection 9.30.030 shall be subject to triple the minimum fine for a Class A offense, and no part thereof shall be suspended.

C. 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 punishable as a Class A offense as provided for in paragraphs A and B of Section 9.30.030.

D. It is an affirmative defense that the possessor of marijuana was a law enforcement officer possessing the marijuana for evidentiary purposes, analysis purposes or custodial purposes in an authorized place of storage. (Ord. 852 §2, 1997; Ord. 522 §37, 1979)

#### **9.30.040 Possession of drug paraphernalia used to administer any prohibited drug.**

A. 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 this chapter.

B. Any person who commits possession of drug paraphernalia commits a Class A offense and, if convicted, shall be punished by a minimum sentence of not less than seventy-five dollars (\$75.00) and/or fifteen (15) days in jail, but not to exceed three hundred dollars (\$300.00) and/or ninety (90) days in jail, plus any court costs incurred by the city.

C. It shall be prima facie evidence that the paraphernalia was designed or intended to be used to administer a drug, as prohibited by this code, if the paraphernalia contains any residue of the drug.

D. It shall be an affirmative defense that the actor was a law enforcement officer possessing the paraphernalia for evidentiary purposes or analysis purposes or that the paraphernalia was being maintained for custodial purposes in an authorized place of storage.

E. It shall be an affirmative defense that the paraphernalia was being used and is designed to be used to administer a drug that was prescribed by a physician, and the actor was using the paraphernalia to administer a drug as prescribed by a physician. (Ord. 852 §2, 1997; Ord. 522 §37, 1979)

**9.30.045 Sale of ephedrine products.**

Any commercial establishment within the city limits that has for sale any item in the form of a table, capsule, gel cap or caplet containing the ingredient "pseudoephedrine" or "ephedrine" either as its sole active ingredient or in combination with a maximum of one (1) additional ingredient shall maintain all such products behind a counter in a locked cabinet or other secure location that is logistically practical for the store employees to access. (Ord. 946 §1, 2005)

**9.30.050 Drug offender public service and rehabilitation program.**

A. Upon conviction, each Class A drug offender shall be sentenced by the court to pay for and complete, at a minimum, sixteen (16) hours of useful public service for each Class A offense. Such public service shall be in addition to and not in lieu of any other sentence received by the drug offender. The court shall not suspend any portion of the minimum number of useful public service hours ordered.

B. Upon conviction, each Class A drug offender shall be assessed a surcharge of one hundred dollars (\$100.00) to be paid to the court.

C. The clerk of the court shall disburse the surcharge required by subsection B to the police department to provide its officers with the education, training and equipping necessary for drug enforcement.

D. The court may not waive any portion of the surcharge required by this section unless the court first finds that the drug offender is financially unable to pay any portion of said surcharge.

1. The finding required by subsection D shall only be made after a hearing at which the drug offender shall have the burden of presenting clear and convincing evidence that he or she is financially unable to pay any portion of the surcharge.

2. The court shall waive only that portion of the surcharge which the court has found the drug offender is financially unable to pay. (Ord. 852 §2, 1997)

## V. Offenses Against Public Peace

### Chapter 9.34

#### Miscellaneous Regulations

##### Sections:

- 9.34.010 Breach of peace
- 9.34.020 Fighting
- 9.34.040 Throwing stones or missiles
- 9.34.050 Use of sound-amplifying equipment

##### **9.34.010 Breach of peace.**

A. It is unlawful for any person, natural or corporate, to disturb or disrupt the peace, quiet or tranquility of another by loud or unusual noises which serve no legitimate purpose, and/or which are made during a time of day or night, or in or about a place that would disturb the peace or tranquility of another.

B. Breach of peace is a Class C offense. (Ord. 522 §6, 1979)

##### **9.34.020 Fighting.**

A. It is unlawful for any person to intentionally, knowingly or recklessly fight with another.

B. It shall be an affirmative defense that the actor was acting in self defense and was not the instigator of the fight and did not assume or launch an offensive against the other person.

C. It shall be an affirmative defense that the person fighting was a law enforcement officer engaged in the discharge of his or her duties.

D. Fighting is a Class C offense. (Ord. 522 §4, 1979)

##### **9.34.040 Throwing stones or missiles.**

A. It is unlawful for any person to throw, cast, project or hurl any stone or other missile by any means at or upon any vehicle, building, tree or other public or private property, or upon or at any person in any public way or place.

B. Unlawfully throwing stones or missiles is a Class C offense. (Ord. 522 §14, 1979)

##### **9.34.050 Use of sound-amplifying equipment.**

A. A person commits a violation of this section if he or she uses or operates sound-amplifying equipment:

1. Out-of-doors, except between 9:00 a.m. and 10:00 p.m.;

2. Indoors, but for projection of the sound so as to reach persons out-of-doors, except between 9:00 a.m. and 10:00 p.m.;

3. At a sound level higher than necessary to accomplish the purpose for which the permit from the city clerk was granted; or

4. Within five hundred (500) feet of any place where the city council or any legally constituted court is in session.

B. It shall be an affirmative defense that the defendant had been granted a permit from the city clerk, and that the use and operation of the sound-amplifying equipment were consistent with the use authorized by the permit.

C. *Sound-amplifying equipment*, as used in this section, means any machine or device for the amplification of the human voice, music or any other sound, and shall not be construed as including such equipment when used in a normal and reasonable manner in or about a residence, business establishment or standard automobile when used and intended to be heard only by the occupants thereof, or as including warning devices on authorized emergency vehicles or horns or warning devices or other warning devices on other vehicles used only for traffic safety purposes.

D. Violation of this section is a Class C offense. (Ord. 522 §38, 1979)

## **Chapter 9.36**

### **Assemblies**

Sections:

9.36.010 Disturbing lawful assemblies or activities

9.36.020 Unlawful assembly

#### **9.36.010 Disturbing lawful assemblies or activities.**

A. It is unlawful for any person by his or her conduct in, on or near the premises, property or facilities of the city or any public place, institution, office or buildings, or any school, congregation or assembly meeting for religious worship or any other lawful meeting or assembly, to intentionally, knowingly or recklessly:

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

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

3. Substantially disrupt, obstruct or interfere with any lawful meeting, procession or gathering in or on such premises by intentional physical action, verbal utterance or any other means;

4. To deny any public servant, official, employee, invitee, or students;

a. Lawful freedom of movement on the premises,

b. Lawful use of the property, premises or facilities, or

c. The right of lawful ingress and egress to such property;

5. Impede any public servant, official, employee, invitee or student in the lawful performance of his or her duties or activities through the use of restraint, coercion or intimidation or when force and violence are present or threatened; or

6. Refuse or fail to leave such premises, property or facilities or the immediate vicinity thereof, upon being reasonably requested to do so by a peace officer, chief administrative officer or his or her designee, dean of an educational institution or other individual or public servant with authority to control the use of the premises if such person is committing, threatens to commit or incites others to commit any act which would obstruct, disrupt, restrict or impede the lawful missions, processes, procedures or functions in or on such premises, property or facilities.

B. Nothing in this section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances.

C. For the purpose of this section, *obstruct* means to render impassable or to render passage unreasonably inconvenient or hazardous.

D. Disturbing lawful assemblies or activities is a Class A offense. (Ord. 522 §10, 1979)

#### **9.36.020 Unlawful assembly.**

A. It is unlawful for three (3) or more persons to assemble together with intent to commit any unlawful act, or being assembled, mutually agree to do an unlawful act, or by agreement or knowingly or recklessly engage in conduct that reasonably and substantially creates alarm, terror or disruption to another.

B. Unlawful assembly is a Class B offense. (Ord. 522 §28, 1979)

### **Chapter 9.40**

#### **Fireworks and Explosives**

Sections:

9.40.010 Fireworks

9.40.020 Incendiary or explosive devices

#### **9.40.010 Fireworks.**

A. It is unlawful for any person to possess, sell, offer for sale, expose for sale, explode or otherwise use any fireworks prohibited by this section.

B. *Fireworks* mean any article, device or substance prepared for the primary purpose of producing a visual or auditory reaction by combustion, explosion, deflagration or detonation, including but not limited to toy cannons, toy canes, blank cartridges, the type of balloon which requires fire underneath to propel same, firecrackers, torpedoes, skyrockets, pop-bottle rockets, Roman candles, dayglo bombs and torches, or other fireworks of like construction and any fireworks containing any explosive substance. Model rockets which comply with the requirements of the U.S. Consumer Product Safety Commission shall not be considered *fireworks*.

C. It shall be unlawful for any person under the age of sixteen (16) who is not supervised by an adult to use, explode or detonate a model rocket. It shall be unlawful for any person to launch a model rocket within one hundred (100) yards of any residential building.

D. It shall be an affirmative defense to a violation of this section that the person had a valid written permit, issued by the mayor and fire chief, to celebrate a community or charitable event by presenting a display of fireworks. (Ord. 785 §4, 1991; Ord. 608 §1, 1982)

#### **9.40.020 Incendiary or explosive devices.**

A. It is unlawful for any person to throw, place or cause to be placed any incendiary or explosive device or smoke device for the purpose of causing injury or inconvenience to any person or damage to property.

B. It is unlawful for any person to prepare or to assist in the preparation of an incendiary or an explosive device, to possess, handle, store, transport or sell any such device, knowing the same is to be thrown, placed or caused to be placed for the purpose of causing injury or inconvenience to any person or damage to property.

C. *Incendiary or explosive device* includes, but not by way of limitation, any device consisting in whole or in part of flammable material or other material having the capability of exploding, igniting, burning or smoking.

D. Except as otherwise permitted by law, it is unlawful for any person to possess on his or her person, in any motor vehicle or in any structure, an incendiary or an explosive device as defined in this section.

E. It shall be an affirmative defense that the actor was a law enforcement officer engaged in the lawful execution of his duties.

F. Violation of this section is a Class A offense. (Ord. 522 §13, 1979)

## Chapter 9.42

### Noise

#### Sections:

- 9.42.010 Definitions
- 9.42.020 Unlawful noise generally
- 9.42.030 Unlawful noise; sound level
- 9.42.040 Unlawful noise; special cases
- 9.42.050 Amplified sound
- 9.42.060 Permits for using sound-amplifying equipment
- 9.42.070 Exemptions
- 9.42.080 Violation; classification

#### **9.42.010 Definitions.**

A. The following definitions shall apply in the interpretation and enforcement of this chapter, except as otherwise provided:

1. *"A" weighted sound pressure level* means the sound level as measured with the sound level meter using the "A" weighting network. The standard unit notation is dB(A).

2. *Commercial purpose* means and includes the use, operation or maintenance of any sound-amplifying equipment for the purpose of advertising any business, any goods or any services, or for the purpose of attracting the attention of the public to, advertising for or soliciting the patronage of customers to or for any performance, show, entertainment, exhibition or event, or for the purpose of demonstrating such sound equipment.

3. *Commercial district* means the following:

- a. An area where offices, clinics and the facilities needed to serve them are located;
- b. An area with local shopping and service establishments;
- c. A tourist area where hotels, motels and gasoline stations are located; and
- d. A business strip along a main street containing offices, retail businesses and commercial enterprises;
- e. Other commercial enterprises and activities which do not involve the manufacturing, processing or fabrication of any commodity. Commercial district includes but is not limited to any parcel of land zoned as C-1.

4. *Construction activities* means any and all activities incidental to the erection, demolition, assembling, altering and installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

5. *Device* means any mechanism which is intended to produce or which actually produces sound when operated or handled.

6. *Dynamic braking device* means a device used primarily on trucks for the conversion of the motor from an internal combustion engine to an air compressor for the purpose of braking.

7. *Emergency work* is work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger or potential danger.

8. *Industrial district* means an area in which enterprises and activities which involve the manufacturing, processing or fabricating of any commodity are located. *Industrial district* includes but is not limited to any parcel of land zoned as D-1 light industrial district or D-2 heavy industrial district.

9. *Motor vehicle* means any vehicle such as but not limited to a passenger vehicle, truck, trailer or semi-trailer propelled or drawn by mechanical power, and includes motorcycles, snowmobiles, minibikes, go-carts and any other vehicle which is self-propelled.

10. *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.

11. *Noncommercial purpose* means the use, operation or maintenance of any sound-amplifying equipment for other than a commercial purpose. *Noncommercial purpose* means and includes but is not limited to philanthropic, political, patriotic and charitable purposes.

12. *Plainly audible* means that the information content of sound is unambiguously transferred to the auditor, such as but not limited to understanding of spoken speech, comprehension of raised or normal voices, or comprehension of musical rhythms.

13. *Residential district* means an area where single-family or multiple-family dwellings, high-rise apartments and high-density residential districts are located. *Residential district* also includes but is not limited to hospitals, nursing homes, homes for the aged, schools, courthouses and similar institutional facilities. *Residential district* also includes but is not limited to land zoned as R-1 single-family residential district, R-2 two-family residential district, R-3 multi-family residential district and T-1 trailer home district under Title 17.

14. *Sound-amplifying equipment* means any machine or device for the amplification of a human voice, music or any other sound, or which the human voice, music or any other sound is amplified.

15. *Sound level meter* means an instrument or apparatus including a microphone, an amplifier, an output meter and weighting networks for the measurement of sound pressure. The output meter reads sound levels when properly calibrated and the total instrument is of type 2 or better, as specified in the American National Standards Institute Publication S1.4-1971, or successor publications.

B. All technical terminology used in this chapter, unless the context otherwise requires, shall be defined in accordance with American National Standards Institute (ANSI) publication S1.1-1960, revised 1971, or successor publications of ANSI or its successor bodies. (Ord. 583 §1, 1981; Ord. 522 §39(8), 1979)

**9.42.020 Unlawful noise generally.**

The making or creating of any excessive or unusually loud noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city is declared to be unlawful, except when made under and in compliance with a permit issued pursuant to Section 9.42.060. Noise which is measured as provided in Section 9.42.030 and which exceeds the sound levels set forth in Section 9.42.030, and noises which are described in Section 9.42.060, are presumptively unlawful. (Ord. 583 §2, 1981; Ord. 522 §39(1), 1979)

**9.42.030 Unlawful noise; sound level.**

A. It is unlawful for any person, natural or corporate, to exceed or cause to exceed the maximum permissible sound level at the property line of any stationary source of sound which shall be as provided in this section. This includes but is not limited to sound from such activities as production, processing, cleaning, servicing, testing, operating or repair of either vehicles, materials, goods, products or devices. Sound pressure levels in excess of those established in Table 1 for the use districts and time periods herewith listed shall be considered as being in the industrial district, within the meaning of this chapter.

B. Stationary or moving rail vehicles shall comply with the provisions of this chapter except as provided for in the United States Noise Control Act of 1972 (Public Law 92-574). When a noise source can be identified and its noise measured in more than one (1) use district, the sound pressure level limits of the most restrictive use district shall apply at that district boundary. For the purpose of this chapter, all properly designated quiet zones shall have the maximum permissible steady sound level limits as set forth for residential use districts.

TABLE 1

<u>Use District</u>	<u>Sound Level Limit dB(A)</u>	
	<u>Day</u>	<u>Night</u>
	<u>7 a.m.--7 p.m.</u>	<u>7 p.m.--7 a.m.</u>
Residential	55	50
Commercial	60	55
Industrial	80	75

C. The maximum permissible sound level by a motor vehicle moving in a public right-of-way shall be as provided in this section. This provision includes all motor vehicles, whether publicly or privately owned. Sound levels in excess of those established in Table 2 shall constitute prima facie evidence that such sound is unlawful. The standard measurement height shall be five (5) feet (1.5 meters) and the measurement distance shall be twenty-five (25) feet (7.5 meters) This distance shall be measured from the center of the monitored traffic lane to the microphone. The maximum

permissible sound levels for vehicles licensed for and operating in interstate commerce shall be those established pursuant to the United States Noise Control Act of 1972 (Public Law 92-574).

**Table 2**

<i>Vehicle Class</i>	<i>Maximum Permissible Sound Level Limit (dBA)</i>	
	<i>Day @ 25 feet</i>	<i>Night @ 50 feet</i>
Any vehicle greater than 10,000 lbs., manufacturer's gross weight		88
Any vehicle less than 10,000 lbs., manufacturer's gross weight	80	

(Ord. 583 §3, 1981; Ord. 522 §39(2), 1979)

**9.42.040 Unlawful noise; special cases.**

A. The following noises shall be unlawful:

1. The sounding of any horn or audible signaling device on any truck, automobile, motorcycle or other vehicle on any street or public place of the city except as a danger warning signal as provided in Chapter 10.04;

2. The creation of, by means of a horn or audible signaling device, a sound level in excess of ninety (90) dB(A) at fifty (50) feet (15 meters) from the front of the vehicle, regardless of the need for a danger warning;

3. The sounding of a horn or audible signaling device for any unnecessary and unreasonable period of time;

4. Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television set, phonograph or other machine or device for the production or reproduction of sound in such manner as to be plainly audible through party walls within a building or plainly audible at fifty (50) feet from such device when operated within a vehicle parked on a right-of-way;

5. Operating any motor vehicle that is equipped with an engine compression brake device engaged which is not equipped with a muffler, except for the aversion of imminent danger;

6. The operating, using or permitting to be operated or used any refuse compacting vehicle which creates a sound level in excess of eighty (80) dB(A), at twenty-five (25) feet (7.5 meters) directly to the rear of the vehicle;

7. Operating or permitting the operation of any motor of a motor vehicle in excess of ten thousand (10,000) pounds, manufacturer's gross vehicle weight, or any attached auxiliary equipment, for a consecutive period longer than ten (10) minutes while such vehicle is standing on

a public right-of-way in a residential district, or is on private property in a residential district and is not within a completely enclosed structure; and

8. Operates a vehicle, on public or private property, and the vehicle exceeds the sound levels established in Table 1, in Section 9.42.030.

B. A person commits a violation of this chapter if he or she uses or operates sound-amplifying equipment:

1. Out-of-doors, except between 7:00 a.m. and 10:00 p.m.;
2. Indoors, but for projection of the sound so as to reach person out-of-doors, except between 7:00 a.m. and 10:00 p.m.;
3. At a sound level higher than necessary to accomplish the purposes for which a permit from the city clerk was granted; or
4. Within five hundred (500) feet of any place where a public council, board or court is in session.

C. It shall be an affirmative defense to subsection B of this section that the defendant has been granted a permit from the city clerk, and that the use and operation of the sound-amplifying equipment has been consistent with the use authorized by the permit. *Sound-amplifying equipment*, as used in this section, means any machine or device for the amplification of the human voice, music or any other sound, but shall not be construed as including such equipment when used in a normal and reasonable manner in or about a residence, business establishment or vehicle if the equipment is designed and intended to be heard only by the occupants thereof. (Ord. 1008 §1, 2010; Ord. 583 §4, 1981; Ord. 522 §39(3), 1979)

#### **9.42.050 Amplified sound.**

A. It is unlawful for any person to install, use or operate a loudspeaker or sound-amplifying equipment in a fixed or movable position, or attached to or mounted upon any motor vehicle within a residential district, for the purpose of giving instructions, directions, talks, addresses or lectures, or for transmitting music or sound to any persons or assemblages of persons; provided, however, that a permit as described in Section 9.42.060 may be applied for, for activities such as but not limited to concerts, speeches or lectures held in public parks of the city.

B. It is unlawful for any person to install, use or operate a loudspeaker or sound-amplifying equipment in a fixed or movable position, or attached to or mounted upon any motor vehicle within a commercial or industrial district for the purpose of giving instructions, directions, talks, addresses or lectures, or for transmitting music or sound to any persons or assemblages of persons without first obtaining a permit pursuant to Section 9.42.060. (Ord. 583 §5, 1981; Ord. 522 §39(4), 1979)

#### **9.42.060 Permits for using sound-amplifying equipment.**

A. An application for a permit shall be directed to the city clerk, and shall provide the following information:

1. The name, address and telephone number of both the owner and user of the sound-amplifying equipment;
2. The license number of a vehicle which is to be used;
3. The general description of the sound-amplifying equipment which is to be used;
4. Whether the sound-amplifying equipment will be used for commercial or noncommercial purposes; and
5. The dates and times upon which, and the streets over which the equipment is proposed to be operated.

B. A permit shall be issued, unless the city clerk finds that the conditions of motor vehicle movement or pedestrian movement are such that the use of the equipment would constitute an unreasonable interference with traffic safety, or that the applicant for the permit cannot or will not comply with the provisions of the subsection C of this section.

C. The commercial and noncommercial use of sound-amplifying equipment shall be subject to the following regulations:

1. The sound-amplifying equipment shall be operated only between the hours of 7:00 a.m. and 10:00 p.m. of each day, except they may be operated on Friday or Saturday between the hours of 7:00 a.m. and midnight. The operation of sound-amplifying equipment for commercial purposes on Sundays and federally recognized legal holidays shall be permitted only between the hours of 10:00 a.m. and 4:00 p.m. There shall be an exception to the permitted hours for holidays to exclude Memorial Day, the 4<sup>th</sup> of July and Labor Day, when the permitted hours shall be between 10:00 a.m. and midnight. The city may also grant a permit for activities the day before such holidays up to midnight.
2. The maximum sound emanating from the sound-amplifying equipment shall not exceed the sound levels established in Section 9.42.050 as measured twenty-five (25) feet from the noise source.
3. The hours of operation and use of the Moffat County Fairgrounds shall be scheduled and controlled by Moffat County, and neither the county nor such users shall be required to obtain a permit from the city. However, no sound-amplifying equipment shall be operated by any users beyond midnight. (Ord. 911 §1, 2002; Ord. 583 §6, 1981; Ord. 522 §39(5), 1979)

#### **9.42.070 Exemptions.**

Nothing in this chapter shall be construed to apply to or restrict any activity conducted by any person for the safety or protection of life or property in an emergency situation, nor shall the provisions of this chapter apply to:

A. Authorized emergency vehicles, as defined in Section 20-25.2 (b) of the Craig Model Traffic Code as adopted by reference in Chapter 10.04 of this code, when such emergency vehicles are

responding to, but not upon returning from, an emergency call, unless the return is of an emergency nature;

B. Any bell or chimes from any church, clock or school;

C. The public address system, amplified police radio system, any apparatus used by police, fire or other emergency radio system, or any apparatus used by police, fire or other emergency agency when used in a bona fide emergency or other authorized situations;

D. Any city or county street maintenance vehicle or equipment operating a back-up alarm during the normal course of duties. (Ord. 911 §2, 2002; Ord. 583 §7, 1981; Ord. 522 §39(6), 1979)

**9.42.080 Violation; classification.**

Violation of this chapter is a Class C offense. (Ord. 522 §39(9), 1979)

**VI. Offenses Against Property**

**Chapter 9.46**

**Miscellaneous Regulations**

Sections:

- 9.46.010 Possession of burglar tools
- 9.46.020 Damage to property
- 9.46.030 Littering

**9.46.010 Possession of burglar tools.**

A. It is unlawful for any person to possess any nippers known as burglars' nippers, any pick lock, skeleton key, key to be used with bit or bits, jimmy or any other burglars' instruments, tools or implements of whatever kind or description, which are adapted, designed or commonly used for committing or facilitating the commission of a burglary or auto theft; and such person intends to use the thing possessed, or knows that some person intends to use the thing possessed in the commission of an offense, or is in possession under circumstances which the reasonable and prudent man, or law enforcement officer, would believe the possessor possessed the tools to commit burglary or auto theft.

B. A violation of this section is a Class B offense. (Ord. 522 §15, 1979)

**9.46.020 Damage to property.**

A. It is unlawful for any person to intentionally, knowingly or recklessly damage the property of another or property owned by a governmental entity.

B. If deferred prosecution is granted, a condition shall be that the actor pay for all damages, created by the actor, to the owner of the property.

C. Damage to property is a Class B offense. (Ord. 522 §31, 1979)

**9.46.030 Littering.**

A. It is unlawful for any person to litter the property of another or any public property or street.

B. For purposes of this section, *litter* means any rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind and description, and carcasses of dead animals.

C. Littering is a Class C offense. (Ord. 522 §30, 1979)

**Chapter 9.48**

**Trespass**

Sections:

9.48.010 Generally

**9.48.010 Generally.**

A. It is unlawful for any person to enter in or remain upon the property of another without permission to do so from the property owner, manager or other person in control of the property.

B. A place of business, open to the public and during business hours, is an implied consent of the owner, manager or a person in charge or control thereof, for any person to enter in or remain upon for the length of time required to consummate a transaction pertaining to the business. A business owner or manager has the right to refuse service to any person for any lawful reason, as defined in subsection C below. A place of business, while open to the public, is private property and no patron or guest upon that property has rights except as authorized by the owner, manager or person in charge or control of such property.

C. A person who has been informed by the owner, manager or a person in charge or control thereof that he or she has been or is being ejected and banned for a lawful reason shall not have the implied right of entry in or remaining on the property until the owner or manager cancels the ban against the person. A written trespass notice served upon the excluded person shall be prima facie evidence that such person has been ejected or banned by the owner, manager or person in charge thereof. A *lawful reason* shall be for any reason as determined by the owner, manager or person in charge thereof, of the property, but shall not be valid if the reason constitutes unlawful discrimination pursuant to federal or state law.

D. It is unlawful for any person to use the property of another as a shortcut to circumvent a traffic control device, and the owner or manager of the property need not be the complainant but it is a violation if committed in the presence of a police officer.

E. It is unlawful for any person to knowingly, recklessly or intentionally interfere with the normal operation of a business.

F. Violation of this section is a Class B offense. (Ord. 894 §1, 2000; Ord. 522 §26, 1979)

## **Chapter 9.50**

### **Shoplifting**

Sections:

9.50.010 Value less than two hundred dollars

#### **9.50.010 Value less than two hundred dollars.**

A. It is unlawful for any person to shoplift any goods offered for sale from any shop, store, business or any premises that displays merchandise for sale.

B. For purposes of this section, *shoplift* means:

1. Departs or attempts to depart the shop, store, business or other premises with any article offered for sale without rendering payment by cash, check, credit card or other acceptable means for the article;

2. Conceals on or about his or her person any article offered for sale in a shop, store, business or other premises, whether on or off the premises. The concealment shall constitute prima facie evidence that the person intended to commit shoplift;

3. Alters or exchanges pricing labels on any article offered for sale in the shop, store, business or other premises; or

4. Departs or attempts to depart without tendering payment or refuses to tender payment by cash, check, credit card or other acceptable means of payment for food or beverage ordered from a food or beverage serving establishment and a significant portion of the food or beverage is consumed or taken from the premises, or fuel to operate a motor vehicle.

C. It shall not be an affirmative defense that the actor attempted or offered to tender payment for the food, beverage or fuel by a means in which the establishment is not capable of accepting, and the establishment had a written notice posted in a conspicuous place warning customers that certain forms of payment are not acceptable.

D. Acceptance of a check (bank draft) is at the discretion of the establishment, but nonacceptance of checks shall be posted pursuant to subsection C, to give warning and notice to a customer or potential customer that checks are not accepted.

E. The value of any goods, food, beverage or fuel shall be based on the retail cost to a consumer as priced on a label, menu or other visible means of announcing the price.

F. Shoplifting of goods, food, beverage or fuel of twenty-five dollars (\$25.00) or less is a Class D offense.

G. Shoplifting of goods, food, beverage or fuel of less than fifty dollars (\$50.00) but more than twenty-five dollars (\$25.00) is a Class C offense.

H. Shoplifting of goods, food, beverage or fuel of less than one hundred dollars (\$100.00) but more than fifty dollars (\$50.00) is a Class B offense.

I. Shoplifting of goods, food, beverage or fuel of less than two hundred dollars (\$200.00) but more than one hundred dollars (\$100.00) is a Class A offense. (Ord. 522 §34, 1979)

## Chapter 9.52

### Fraud By Check

Sections:

- 9.52.010 Definitions
- 9.52.020 Fraud by check
- 9.52.030 Standing to file complaint
- 9.52.040 Violation; Penalty
- 9.52.050 Restitution
- 9.52.060 Release of information

#### 9.52.010 Definitions.

A. *Check* means a written, unconditional order to pay a sum certain in money, drawn on a bank, payable on demand and signed by the drawer. *Check*, for the purposes of this chapter only, 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 is his or hers or that of a person authorized to draw the check on his or her account.

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

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 or industrial bank or the credit union, as the case may be, may require the depositor to give notice on an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft. (Ord. 789 §4, 1992)

#### **9.52.020 Fraud by check.**

A. 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.

B. This chapter does not relieve the prosecution from the necessity of establishing the required culpable mental state; however, for purposes of this chapter, the issuer's knowledge of insufficient funds is presumed, except in the case of a postdated check or order, if:

1. 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
2. He or she has insufficient funds upon deposit with the bank or other drawee to pay the check or order on presentation within thirty (30) days after issue. (Ord. 789 §4, 1992)

#### **9.52.030 Standing to file complaint.**

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 chapter, whether he or she is the payee, holder or bearer of the check. (Ord. 789 §4, 1992)

#### **9.52.040 Violation; penalty.**

Fraud by check is a misdemeanor and a class D offense if the check is fifty dollars (\$50.00) or less, a class C offense if the check is between fifty dollars (\$50.00) and one hundred dollars (\$100.00), a class B offense if the check is between one hundred dollars (\$100.00) and two hundred dollars (\$200.00) and a class A offense if the check is between two hundred dollars (\$200.00) and three hundred dollars (\$300.00). (Ord. 789 §4, 1992)

#### **9.52.050 Restitution.**

Upon conviction of a violation of this chapter, the court may order a jail sentence, a fine, restitution on all checks issued by the defendant which remain unpaid, and other terms and conditions appropriate for treatment or rehabilitation of the defendant. (Ord. 789 §4, 1992)

**9.52.060 Release of information.**

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, a city attorney or authorized investigator for a city attorney investigating or prosecuting a charge under this chapter. (Ord. 789 §4, 1992)

**VII. Consumer Protection**

**Chapter 9.54**

**(Reserved)**

**VIII. Offenses By or Against Minors**

**Chapter 9.60**

**Loitering and Curfew**

Section:

- 9.60.010 Loitering of minors prohibited; curfew
- 9.60.020 Responsibility
- 9.60.030 Loitering on public school property
- 9.60.040 Violation; penalty

**9.60.010 Loitering of minors prohibited; curfew.**

A. It is unlawful for any person under the age of fourteen (14) years, who is not accompanied by a parent or guardian, to loiter, linger, wander or play on the public streets, highways, alleys, roads or other public grounds, public places and public buildings, vacant lots or other unsupervised places within the city between the hours of 10:00 p.m. and dawn.

B. It is unlawful for any person between the ages of fourteen (14) and eighteen (18) years, who is not accompanied by a parent or guardian, to loiter, linger, wander or play on the public streets, highways, alleys, roads or other public grounds, public places and public buildings, vacant lots or other unsupervised places within the city between the hours of 12:00 midnight and dawn on Friday and Saturday nights and between the hours of 10:00 p.m. and dawn on any other day of the week.

C. No person driving or walking directly home after a school function or other public function shall be deemed to be loitering or lingering within the meaning of this section.

D. For the purposes of this section, school identification cards containing a photograph and birthdate shall be accepted as proof of age. The burden of proving age shall fall on the juvenile. (Ord. 770 §3, 1990; Ord. 744 §3, 1989; Ord. 555 §1, 1980; Ord. 443 §1, 1976; Ord. 346 §1, 1965)

**9.60.020 Responsibility.**

It is unlawful for any parent, guardian or other person having the legal care and custody of any person under the age of eighteen (18) years to allow or permit any such minor to violate the provisions of Sections 9.60.010 and 9.60.030. (Ord. 346 §2, 1965)

**9.60.030 Loitering on public school property.**

It is unlawful for any person, while school is in session, to knowingly:

A. Loiter, walk, drive or play on public school property if such activity disrupts or prevents the orderly conduct of classes or other school activity; or

B. With intent to assault any student, to persuade, induce or entice any student to leave the school grounds or to enter into a motor vehicle. (Ord. 705 §3, 1988; Ord. 346 §3, 1965)

**9.60.040 Violation; penalty.**

Any person convicted of violating any of the provisions of this chapter shall, upon conviction, be fined in a sum not exceeding three hundred dollars (\$300.00), or imprisoned for a period not exceeding ninety (90) days, or by both such fine and imprisonment. (Ord. 346 §4, 1965)

**Chapter 9.62**

**Sale or Dispensing Liquor**

Sections:

9.62.010 Unlawful acts

9.62.020 Knowingly providing private property to underage persons possessing or consuming alcoholic beverages is unlawful

**9.62.010 Unlawful acts.**

A. It is unlawful for any person to sell or dispense alcohol to any minor.

B. It is unlawful for any person to purchase alcohol for a minor.

C. It is unlawful for any person under the age of twenty-one (21) years to possess or consume any alcoholic beverage.

D. For purposes of this chapter, a *minor* is a person under the age of twenty-one (21) years of age.

E. *Alcohol* includes beer, 3.2 beer, wine and other alcoholic compounds.

F. Notwithstanding the increase in the legal drinking age to twenty-one (21) years of age as contained in subsections C and C of this section, any person who is eighteen (18) years or older on July 29, 1987, may continue to purchase, possess and consume any fermented malt beverage without violating the provisions of this section. It is likewise lawful for any person to sell, serve, give away or permit the sale, serving, giving away or procuring of any fermented malt beverage to or for any person eighteen (18) years of age or older on July 29, 1987.

G. Nothing herein shall be construed as amending or repealing, nor is it intended to amend or repeal, any of the provisions of Chapter 9.30 of the Craig Municipal Code.

H. Violation of this chapter is a Class A offense. (Ord. 714 §3, 1988; Ord. 643 §1, 1984; Ord. 522 §36, 1979)

**9.62.020 Knowingly providing private property to underage persons possessing or consuming alcoholic beverages is unlawful.**

A. Definitions.

1. *Alcoholic beverage* shall have the same meaning as "alcohol beverage" per Section 12-47-103(2), C.R.S.

2. *Person* is any individual, partnership, co-partnership, corporation or any association of one (1) or more individuals. A person does not include any city, county or state agency.

3. *Private property* means any privately owned real property that is not open to the public.

4. *Trespass* means the entry onto the private property of another without permission from the owner, occupant or other person legally, or otherwise, entitled to possession of the private property.

B. Miscellaneous. All words herein in the singular number shall extend to and include the plural number. All words used herein in the plural number shall extend to and include the singular number. All words used in any gender, male, female or neuter, shall extend to and include all genders as may be applicable in any particular context.

C. Prohibition. No person who owns, rents, leases or controls private property shall knowingly allow an underage person to possess or consume any alcoholic beverage anywhere on the private property under his or her control. The terms "rent" and "lease" as used in this Section apply to persons entitled to occupy or possess the private property per the rental/lease agreement and do not apply to management companies or other agents managing rental properties.

D. Trespass. The provisions of this section shall not apply to the possession or consumption of alcoholic beverages by an underage person or persons trespassing on the private property. A person or persons shall not be considered trespassers if they are in the company of any person who is an owner, occupant or other person legally or otherwise entitled to be present on the private property.

E. Separate violations for each incident. Each incident in violation of this section shall constitute a separate offense.

F. Enforcement authority. All city of Craig police officers are authorized to administer and enforce the provisions of this section.

G. Penalties for violation.

1. Any person who is eighteen (18) years of age or older who is found guilty or pleads guilty or no contest in the municipal court to violating this section, (the "offender") shall be punished by a fine of not less than five hundred dollars (\$500.00) for the first offense, not less than seven hundred fifty dollars (\$750.00) for the second offense and not less than nine hundred ninety-nine dollars (\$999.00) for the third offense. Additionally, the offender shall be required to perform not less than twenty-four (24) hours of community service, an alcohol education program paid for by the offender and, in the discretion of the municipal court judge, the offender may be sentenced to a term in the Moffat County jail per the terms of this code. No portion of the fines shall be deferred, and all required community service must be completed during hours when the offender is not employed and/or attending school.

2. Any person under eighteen (18) years of age who violates the provisions of this section shall be subjected to penalties prescribed by the municipal court judge, as contained herein, except that the municipal court judge shall not impose any sentence of incarceration for the violation of this section by a person who was under the age of eighteen (18) years at the time of the violation.

H. Exception – parental supervision. This section shall not apply to conduct involving the use or possession of alcoholic beverages by an underage person authorized by section 18-13-122(3)(a) and (7), C.R.S.

I. Exception – persons seeking medical assistance. A person who violates the provisions of this section shall be immune from criminal prosecution hereunder if he or she establishes the following:

1. The person called or participated with others in calling 911 and reported that an underage person was in need of medical assistance due to alcohol consumption;

2. The person who called 911 and, if applicable, other persons acting in concert with the person who called 911, provided each of their names to the 911 operator; and

3. The person remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene. (Ord. 994 §1, 2009)

## **Chapter 9.63**

### **Public Use or Possession of Tobacco Products Involving Minors**

Sections:

9.63.010 Definitions

9.63.020 Limitations on right of police to search vehicles

9.63.030 Unlawful acts

9.63.040 Sentencing guidelines

**9.63.010 Definitions.**

The following definitions shall apply to this chapter:

1. *Minor* means a person or persons who have not yet had their eighteenth (18th) birthday.
2. *Possess* means to visibly have on the person or in the knowing control of the person.
3. *Public place*, for the purpose of this section, shall include the following places:
  - a. Property within the city limits owned or leased by the United States of America, State, Moffat County or the city or any agency or political subdivision thereof.
  - b. On or within a business establishment that is open to the public and is posted for no tobacco use by minors, upon any other private property posted *no trespassing* or *no smoking* or upon any vacant property.
  - c. The entire width of street and alley rights-of-way, parking areas and grounds outside of establishments open to the public such as restaurants, grocery stores, convenience stores, bars and other places of public gathering for amusement and entertainment.
  - d. The inside of vehicles located upon any of the above listed places.
4. *Tobacco* means any cigarette, chew tobacco or other tobacco product as defined in Section 39-28.5-101, C.R.S., but shall not include spent cigarette butts or empty cigarette or chew tobacco containers.
5. *Use* means to consume by taking into the body a tobacco product, or the smoke or other resultant of a tobacco product. (Ord. 924 §1, 2003; Ord. 902 §1, 2001)

**9.63.020 Limitations on right of police to search vehicles.**

The police shall not have the right to search the vehicle of a person suspected or charged with violating this section unless there exists other probable cause of another criminal offense, which would authorize such a search. (Ord. 924 §1, 2003; Ord. 902 §1, 2001)

**9.63.030 Unlawful acts.**

It is unlawful for any person under the age of eighteen (18) years to possess, use or consume any cigarettes or tobacco products at or upon any public place. (Ord. 924 §1, 2003; Ord. 902 §1, 2001)

**9.63.040 Sentencing guidelines.**

A. For a first conviction for the unlawful use or possession of tobacco in a public place, the judge shall consider the following sentencing options:

1. A fine of not more than thirty dollars (\$30.00).
  2. Attendance of a tobacco education and cessation class and payment of applicable fees of the class. All or a portion of the fines may be suspended upon completion of the class.
- B. For a second or subsequent conviction for the unlawful use or possession of tobacco in a public place, the judge shall consider the following sentencing options:
1. A fine of not more than fifty dollars (\$50.00).
  2. Attendance of a more comprehensive tobacco education and cessation class and payment of applicable fees.
  3. Useful public service of up to twenty-four (24) hours and payment of applicable fees.
  4. There shall be a preference of meaningful useful public service rather than the assessment of fines. (Ord. 924 §1, 2003; Ord. 902 §1, 2001)

## **Chapter 9.64**

### **Assault on a Minor**

Sections:

9.64.010 Assault; penalty

#### **9.64.010 Assault; penalty.**

Any person who assaults any child under eighteen (18) years of age and takes indecent or improper liberties with the person of such child, or who entices, allures or persuades any such child into any room, office or to any other place for the purpose of taking such immodest, immoral and indecent liberties with such child, shall upon conviction be fined in a sum not exceeding three hundred dollars (\$300.00) or imprisoned for a term not to exceed ninety (90) days or by both such fine and imprisonment. (Ord. 567 §1, 1980)

## **Chapter 9.65**

### **Aiding or Harboring a Runaway**

Sections:

9.65.010 Unlawful acts

9.65.020 Definitions

9.65.030 Violation; classification

#### **9.65.010 Unlawful acts.**

A person commits aiding or harboring a runaway child if he or she:

A. Knowingly aids a child in running away from home or any lawful place of residence by concealing the child's whereabouts, or failing to report the child's whereabouts to the child's parents, legal guardian, legal custodian or a law enforcement officer within six (6) hours after discovering that the child is a runaway;

B. Knowingly harbors a child who has run away from home without reporting the child's whereabouts to the child's parents, legal guardian, legal custodian or any law enforcement officer within six (6) hours after discovering that the child is a runaway; or

C. Knowingly misrepresents the child's whereabouts to the child's parents, legal guardians, social service agencies or law enforcement officers. (Ord. 717 §4(part), 1988)

#### **9.65.020 Definitions.**

A. *Aid* means to provide such runaway child with money, transportation, clothing or any other thing to be used in avoiding discovery or apprehension.

B. *Harbor* means to keep secreted, cohabit with or provide shelter for any unmarried minor/juvenile/child without the consent of the parent, legal guardian or any other person having legal custody of the child, but the term does not include use of any facility or residence under the department of institutions.

C. *Home* means the child's place of residence, including the home of any parent, legal guardian or other legal custodian.

D. *Runaway child* means any unmarried minor who has run away from home or is otherwise beyond the control of his/her parent, legal guardian or other legal custodian, but the term does not include a child who is under the legal custody of the department of institutions. (Ord. 717 §4(part), 1988)

#### **9.65.030 Violation; classification.**

Violation of this chapter is a Class A offense. (Ord. 717 §4(part), 1988)

## **IX. Weapons**

### **Chapter 9.68**

#### **Dangerous Weapons**

Sections:

9.68.010 Dangerous or deadly weapons defined

9.68.020 Exceptions

9.68.030 Concealed weapons

- 9.68.040 Reserved
- 9.68.050 Switch blade knives
- 9.68.060 Unlawful possession of certain weapons
- 9.68.070 Unlawful acts involving alcoholic beverages or drugs
- 9.68.080 Furnishing weapons to certain persons
- 9.68.090 Discharge of firearms
- 9.68.100 Forfeiture of weapon
- 9.68.110 Arrest; forfeiture or weapons; disposition
- 9.68.120 Violation; classification.

**9.68.010 Dangerous or deadly weapons defined.**

For the purposes of this section, *dangerous or deadly weapon* means:

A. Any firearm whether loaded or unloaded, including any pistol, revolver, rifle, shotgun, air gun, gas-operated gun, spring gun, B-B gun; any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever; any cross knuckles, or knuckles of lead, brass or other metal; any bludgeon; any knife, dirk or dagger, or any knife with a switch blade or device whereby the blade or blades can be opened by any mechanical contrivance; any other object resembling any such weapons; or two (2) or more pieces of wood, metal, plastic or similar substance which are attached by means of rope, wire, metal, chain or other similar substances and are capable of or designed to be manipulated by swinging, throwing or other means, commonly referred to as *nunchakus*; or

B. Any other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner used or intended to be used is calculated to produce serious bodily injury. (Ord. 522 §11(11), 1979)

**9.68.020 Exceptions.**

Nothing in this chapter shall be construed to forbid any person in possession of a valid and current concealed weapons permit issued by a Colorado sheriff; or any enforcement officer of the various law enforcement agencies of the federal government or the State; any sheriff or his or her deputies; or any regular, special or ex officio peace officer from carrying, wearing or using such weapon as shall be necessary in the proper discharge of his or her duties. (Ord. 922 §1, 2003; Ord. 522 §11(8), 1979)

**9.68.030 Concealed weapons.**

It is unlawful for any person to wear under his or her clothes, or conceal about his or her person, any dangerous or deadly weapon. For purposes of this chapter, *conceal* means placement of the dangerous or deadly weapon in question about the person, or within his or her immediate reach, in such a manner as to be either completely hidden from view or partially hidden to such an extent that another person cannot ascertain the true nature of the weapon. Also for purposes of this chapter, knives having blades less than three and one-half (3½) inches shall not be considered dangerous or deadly weapons. *About his or her person* includes briefcase, purse or other similar article carried by the person or within his or her immediate reach. (Ord. 522 §11(1), 1979)

**9.68.040 Reserved.**

**9.68.050 Switch blade knives.**

It is unlawful for any person to sell, offer to sell, display, use, possess or carry any switch blade knife. Any such knife is declared to be contraband and shall be destroyed. (Ord. 522 §11(5), 1979)

**9.68.060 Unlawful possession of certain weapons.**

It is unlawful for any person, except a law enforcement officer while in the discharge of his or her duties, to possess brass knuckles, bludgeon, switch blade knife or other knife, dirk or dagger which is opened by a mechanical contrivance, or nunchakus. (Ord. 522 §11(6), 1979)

**9.68.070 Unlawful acts involving alcoholic beverages or drugs.**

It is unlawful for any person as a patron of an establishment where beer or alcoholic beverages are sold for consumption on the premises to possess, carry or display any dangerous or deadly weapon whether concealed or not while on the premises of such establishment, and for any person to have in immediate possession or use in any manner while under the influence of alcohol or drugs. (Ord. 522 §11(3), 1979)

**9.68.080 Furnishing weapons to certain persons.**

It is unlawful for any person to purchase, sell, loan or furnish any dangerous or deadly weapon to any person intoxicated or under the influence of alcohol or any narcotic or dangerous drug or glue, to any person in a condition of agitation and excitement, or to any minor under the age of eighteen (18) years. (Ord. 522 §11(7), 1979)

**9.68.090 Discharge of firearms.**

It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm whatsoever within the city; provided that the discharge of firearms using only blank ammunition by the members of any military company when on parade or when engaged in an official ceremony, and in accordance with the command of the commanding officer, or the discharge of firearms by any law enforcement officer in the discharge of his or her duty, shall not be deemed a violation of this chapter. The discharge of firearms at shooting galleries as a licensed business or part of a business licensed or permitted to operate within the city shall not be deemed a violation. (Ord. 522 §11(4), 1979)

**9.68.100 Forfeiture of weapon.**

Any dangerous or deadly weapon as defined by this chapter used or possessed in violation of this chapter is declared to be contraband, and shall be forfeited to the city upon a conviction resulting from such use or possession. (Ord. 522 §11(9), 1979)

**9.68.110 Arrest; forfeiture of weapons; disposition.**

It shall be the duty of every police officer upon making an arrest and taking such a weapon, thing or substance from the person of the offender to deliver or cause to be delivered the same to the director of public safety to be held in his or her custody until the final determination of the prosecution of the offense. The director of public safety, or his or her authorized agent, shall dispose

of weapons forfeited pursuant to Section 9.68.100 by destruction or sale in accordance with procedures and regulations of the department of public safety. Any proceeds received from such sale shall, after deducting costs or other expenses of sale, be paid into the general fund of the city. (Ord. 522 §11(10), 1979)

**9.68.120 Violation; classification.**

Violation of this section is a Class A offense. (Ord. 522 §11(12), 1979)