

Title 9

PUBLIC PEACE, MORALS AND WELFARE

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Chapter 9.04

General Provisions

Sections:

- 9.04.010 Matters of local and mixed concern.
- 9.04.020 Offenses defined.
- 9.04.030 Misdemeanor and petty offenses—Defined.
- 9.04.040 Misdemeanor and petty offenses—Penalties.

9.04.010 Matters of local and mixed concern.

Those ordinances and provisions of this title that deal with matters of "local" concern supersede the laws of the state of Colorado to the extent that they conflict and those ordinances and provisions that deal with matters of "mixed" concern apply concurrently with the laws of the state of Colorado. No provision of this title on a matter of "mixed" concern is to be construed expressly or by implication to permit conduct that is illegal under the laws of the state of Colorado or to prohibit conduct that is expressly permitted by the laws of the state. The provisions of this title are to be construed to apply to misdemeanors and other minor and petty offenses only and are not to be interpreted to apply to conduct that is defined as a felony under the laws of the state of Colorado. (Ord. 248 §3, 1989; prior code §9-1.2)

9.04.020 Offenses defined.

"Offense," for purposes of this code, means a violation of, or conduct defined by, a provision of this code for which a fine, imprisonment or both a fine and imprisonment may be imposed. (Ord. 178 §1(part), 1982; prior code §9-1.3)

9.04.030 Misdemeanor and petty offenses—Defined.

For purposes of this code, "misdemeanor" includes those offenses for which imprisonment may be imposed upon conviction of a violation. "Petty offense" includes those offenses for which a fine only may be imposed upon conviction of a violation. (Ord. 178 §1(part), 1982; prior code §9-1.4)

9.04.040 Misdemeanor and petty offenses—Penalties.

The violation of any provision of this title shall be a misdemeanor, unless specified to be a petty offense, and upon conviction shall be punishable as follows:

- A. Misdemeanor: by a fine not to exceed nine hundred ninety-nine dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment.
- B. Petty offense: by a fine only. Unless specifically indicated otherwise in this code, such fine shall not exceed five hundred dollars. (Ord. 650 §5, 2008; Ord. 395 §1, 1998; Ord. 178 §1(part), 1982; prior code §9-1.5)

Chapter 9.08

Offenses Against Property

Sections:

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9.08.010 Trespass.

No person shall:

A. Enter or remain upon land or premises other than a dwelling of another in defiance of a legal request or order by the owner or some other authorized person; or

B. Enter into or upon land or a building other than a dwelling that is posted, locked or otherwise fenced or enclosed in a manner that a reasonably prudent person would understand that the owner does not want any such person on the land or in the building. (Ord. 246 §105(part), 1988; prior code §9-2.1.1)

9.08.020 Trespass to a motor vehicle.

No person shall enter any motor vehicle of another without permission of the owner. It is a specific defense to a charge under this section that the defendant had permission of the owner's agent for the entry, that the entry was for a brief period of time to secure the vehicle from harm, or was directed or authorized by a public official. This section does not apply where the entry was made with the intent to steal anything of value or where the vehicle was parked on the property of the defendant or of the defendant's principal. A violation of this section shall be a misdemeanor. (Ord. 246 §105 (part), 1988; prior code §9-2.1.2)

9.08.030 Trespass on public buildings.

A. No person shall climb on any building or other structure belonging to the town or under the possession and control of the town or any portion thereof not designed for such activity, or on any shrub or tree growing on town property.

B. No person shall attach or secure any object to town property not specifically designed for such purpose without first obtaining authorization from the town clerk.

C. A violation of this section shall be a misdemeanor. (Ord. 246 §105(part), 1988; prior code §9-2.1.3)

9.08.040 Trespass on public property.

No person shall enter any property belonging to the town or under the possession and control of the town that is fenced or otherwise enclosed in a manner designed to exclude intruders or is posted with signs at intervals of not more than one yard that forbid entry. (Ord. 251, §8, 1989; Ord. 246 §105(part), 1988; prior code §9-2.1.4)

9.08.050 Criminal mischief.

A. No person shall knowingly damage, destroy, injure or deface the real or personal property of another.

B. This section does not apply where the damage in the course of a single criminal episode is one thousand dollars or more, is effected by means of fire or explosives or is otherwise feloniously caused.

C. A violation of this subsection shall be a misdemeanor. (Ord. 651 §1, 2007; Ord. 248 §2, 1989; Ord. 246 §106(part), 1988; prior code §9-2.2.1)

9.08.060 Damaging public property.

A. No person shall damage, move, remove, destroy or injure in any manner whatsoever or cause to be damaged, moved, removed, destroyed or injured any grass, tree, shrub, plant, flower, railing, bridge, culvert, signs, building, or any other property whatsoever belonging to the town or under the possession and control of the town, unless done pursuant to a written permit or contract from the town.

B. This section does not apply where damage in the course of a single criminal episode is one thousand dollars or more, is effected by means of fire or explosives or is otherwise feloniously caused.

C. A violation of this section shall be a misdemeanor. (Ord. 651 §2, 2007; Ord. 246 §106(part), 1988; prior code §9-2.2.2)

9.08.070 Littering.

A. No person shall deposit, leave, dump or cause to be deposited, left or dumped any trash, refuse, garbage or rubble on any public or private property other than within those containers specifically designated for the deposit of such materials.

B. No driver of any vehicle, other than a vehicle carrying passengers for hire, shall fail to prevent any passenger in the driver's vehicle from violating Subsection A of this section.

C. It is a specific defense to a violation of this section that the owner of private property gave the defendant permission to perform the acts proscribed in this section.

D. This section does not apply to the distribution of literature on private property in the exercise of First Amendment rights under the United States Constitution when such literature is placed at reasonable locations designed to reach the attention of the occupant of the property.

E. This section does not apply to deposit of hazardous wastes in violation of C.R.S. 18-13-112, 1973.

F. No person shall deposit, leave, dump, or cause to be deposited, left or dumped any trash, refuse, garbage or rubble in any designated container in any town park, recreation area or open space unless such material originated from lawful activity in such area.

G. A violation of this section shall be a petty offense. (Ord. 649 §1, 2007; Ord. 246 §107, 1988; prior code §9-2.3)

9.08.080 Throwing missiles.

It shall be unlawful for any person to intentionally throw any stone or other missile at or against any person, any building, or other public or private property of another, without the consent of the owner thereof. A violation of this section shall be a petty offense. (Ord. 246 §108, 1988; Ord. 178 §1(part), 1982; prior code §9-2.4)

9.08.090 Defacing posted notice or sign.

Any person who knowingly mars, destroys or removes any posted notice or sign authorized by law commits a petty offense. (Ord. 178 §1(part), 1982; prior code §9-2.5)

9.08.100 Abandonment of a motor vehicle.

A. Any person who abandons any motor vehicle upon a street, highway, right-of-way or any other public property, or upon any private property without the express consent of the owner or person in lawful charge of that private property commits abandonment of a motor vehicle.

B. To "abandon" means to leave a thing with the intention not to retain possession of or assert ownership over it. The intent need not coincide with the act of leaving.

C. It is prima facie evidence of the necessary intent that:

1. The motor vehicle has been left for more than seven days unattended and unmoved; or
2. License plates or other identifying marks have been removed from the motor vehicle; or
3. The motor vehicle has been damaged or is deteriorated so extensively that it has value only for junk or salvage; or
4. The owner has been notified by a law enforcement agency to remove the motor vehicle, and it has not been removed within three days after notification.

D. Abandonment of a motor vehicle is a petty offense. (Ord. 178 §1(part), 1982; prior code §9-2.6)

9.08.110 Wrecked, nonoperating vehicles on private property.

No person in charge or control of any real property within the town, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, or nonoperating, wrecked, junked or discarded vehicle to remain on such property for a time period exceeding ten days. Such a condition is deemed a nuisance by the board of trustees and any person violating this section shall be guilty of a petty offense. It shall be a defense to the offense described in this section that: the vehicle described is stored within an enclosed building; the vehicle is stored on the premises of a business enterprise operating in a lawful place and manner and whose business is partially or entirely dependent on wrecked, nonoperating, junked or discarded vehicles; the vehicle described is in an appropriate storage area maintained by the town or a private individual in compliance with all applicable law. (Ord. 178 §1(part), 1982; prior code §9-2.7)

9.08.120 Theft under one thousand dollars.

A. No person shall knowingly obtain or exercise control over anything of value of less than one thousand dollars of another without authorization or by threat or deception and:

1. Intend to deprive the other person permanently of the use or benefit of the thing of value;
2. Knowingly use, conceal or abandon the thing of value in such manner as to deprive the other person permanently of its use or benefit;
3. Use, conceal or abandon the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or
4. Demand any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person.

B. A violation of this section shall be a misdemeanor. (Ord. 651 §3, 2007; Ord. 248 §4, 1989; prior code §9-2.8)

9.08.130 Fraud by check.

A. As used in this section, the following words shall have the following definitions, unless the context clearly indicates otherwise:

1. "Check" means a written, unconditional order to pay a sum certain in money, drawn on a bank, savings and loan association, industrial bank or credit union payable on demand and signed by the drawer. "Check," for the purposes of this section only, includes a negotiable order of withdrawal and a share draft.
2. "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.
3. "Drawer" means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature be that of such person or of someone authorized to draw the check on such person.
4. "Insufficient funds." A drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account with the

drawee, or has funds in such 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. A check dishonored for "no account" shall also be deemed to be dishonored for "insufficient funds."

5. "Issue." A person issues a check when the person makes, draws, delivers or passes it, or causes it to be made, drawn, delivered or passed.

6. "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 purposes of making payments to third persons or otherwise.

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

B. It shall be unlawful to commit fraud by check. Any person, knowing he or she has insufficient funds with the drawee, who, with intent to defraud, issues a check for the payment of services, wages, salary, commissions, labor, rent, money, property or other things of value commits fraud by check. This section shall only apply where the fraudulent check was for the sum of less than one thousand dollars and where the offender has not been twice previously convicted under Section 18-5-205, C.R.S., as amended, or a former statute of the State of Colorado of similar content and purport.

C. 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 for violation of this section, whether or not the person is the payee, holder or bearer of the check. Before filing any such complaint, the complainant shall first make a demand in writing to the drawer that the drawer make good the amount of the check by cash or means acceptable to the complainant within seven days after the date of mailing of the demand, and shall mail said demand by first class certified mail, return receipt requested, to the drawer's last known address. The complaint may be filed if the drawer has not complied with the demand within the period specified in the demand. A copy of the demand shall be attached to the complaint by the complainant.

D. 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 sheriff, deputy sheriff, under sheriff, police officer or other town employee, Firestone town attorney or prosecuting attorney, or authorized investigator for the town investigating or prosecuting a charge under this section.

E. This section does not relieve the prosecution from the necessity of establishing the required culpable mental state. However, for the purposes of this section, there exists a permissible inference of the issuer's knowledge of insufficient funds, except in the case of a postdated check or order, if:

1. The issuer has no account upon which the check or order is drawn with the bank or other drawee at the time the person issues the check or order; or

2. The issuer has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty days after issue.

F. A violation of this section shall be a misdemeanor.

G. In addition to any other court costs, a defendant who pleads guilty or nolo contendere to, or who enters into a plea agreement for, or who after trial is found guilty of, a violation of this Section, shall be assessed additional court costs of thirty-five dollars to defray the costs of the Town pertaining to enforcement of said Section. Subject to appropriations and budgeting as provided by law, such amounts may be used to defray the costs of police-related equipment or training in furtherance of enforcement of this Section.

H. If a plea agreement is approved, the court, as a condition thereof, may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the deferral in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

I. In addition to the remedies set forth above, the Town may charge a resident an insufficient funds check charge of thirty-five dollars for each check submitted by a resident to the Town that is returned from the bank of record due to insufficient funds after the Town attempts collection. (Ord. 764 §4, 2010; Ord. 651 §4, 2007; Ord. 571 §3, 2005; Ord. 290 §1, 1991)

9.08.140 Graffiti – Defacing property.

A. It is unlawful to deface, or to cause, aid in or permit the defacing of, public or private property by means of painting, drawing, etching or carving with paint, spray paint, ink, knife or any similar method.

B. A violation of this Section shall be a misdemeanor. Any person violating this Section shall be punished by a fine of five hundred dollars for the first offense; seven hundred fifty dollars for the second offense; and one thousand dollars for each subsequent offense, or by imprisonment not to exceed one year, or by both such fine and imprisonment at the discretion of the court.

C. If a person under the age of eighteen years is personally unable to pay a fine levied for acts prohibited by this Section, the parent or legal guardian of that person shall be liable for the payment of the fine.

D. In addition to any punishment specified in this Section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a person under the age of eighteen years, the parent or legal guardian shall be ordered jointly and severally liable with the violator to make the restitution.

E. As part of the penalties specified in this Section, a violator may be required to perform community service. Reasonable effort shall be made to assign the violator to a type of community service that is reasonably expected to have the most rehabilitative effect on the violator, including community service that involves graffiti removal. (Ord. 609 §1, 2006; Ord. 328 §1(part), 1996)

9.08.150 Graffiti nuisances.

A. As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

1. "Graffiti" means the defacing of public or private property by means of painting, drawing, writing, etching or carving with paint, spray paint, ink, knife or any similar method.

2. "Owner" means each person who owns, occupies or has under the person's control any building, property, lot or premises.

B. Upon the discovery of graffiti on public or private property, the Town shall send a notice to the owner thereof directing the removal of the graffiti. The notice shall be on forms prepared by the Chief of Police, shall state that the owner must remove the graffiti within fifteen days from receipt of the notice, and shall include such other information as determined appropriate by the Chief.

C. If the owner does not remove the graffiti within the time stated in the notice, the Town may proceed to enter the property and remove the graffiti.

D. The failure of an owner to remove the graffiti within the time stated in the notice shall be conclusively deemed to be an election by the owner to permit the town to enter the property and remove the graffiti, and shall constitute the agreement of the owner to pay for the costs incurred and assessed by the town for the removal of the graffiti.

E. If the owner fails to pay the costs assessed by the town for the removal of graffiti, the town may exercise any remedy available to it for the recovery of such costs. Such costs shall be a lien on the property from the time the assessment is made, and such costs may be collected and such lien enforced by a proceeding in the name of the town.

F. Nothing in this section shall create any duty to any person with regard to the enforcement thereof. No person shall have any civil liability remedy against the town, its officers, employees or agents, for any damages arising out of or in any way connected with the enforcement or nonenforcement of this section, including but not limited to any acts or omissions of any town officer, employee or agent who undertakes any action to enter property and remove graffiti therefrom. (Ord. 583 §6, 2005; Ord. 328 §1(part), 1996)

Editor's Note: Ordinance 583 §6, 2005 repealed Sections 8.16.080—8.16.120; therefore, the sentence containing the cross-reference to those Sections was deleted.

9.08.155 Possession of graffiti materials prohibited.

A. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

1. "Broad-tipped marker pen" means a felt-tip marker or similar implement containing a fluid that is not water soluble, with a tip that exceeds one-quarter inch in width.

2. "Paint pen" means a tube, marker or other pen-like instrument with a tip of one-quarter inch or less that contains paint or a similar fluid and an internal paint agitator.

3. "Prohibited graffiti material" means any can of spray paint, spray paint nozzle, broad tipped marker pen, paint pen, glass cutting tool, glass etching tool or instrument or any other article adapted, designed or commonly used for committing or facilitating the commission of graffiti as prohibited by Section 9.08.140 above.

4. "Spray paint" means any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.

5. "Spray paint nozzle" means a nozzle designed to deliver a spray of paint of a particular width or flow from a can of spray paint.

B. It is unlawful for any person under the age of eighteen years, except while under the direct supervision of the person's parent, legal guardian, school teacher, employer or law enforcement officer in the performance of duty, to purchase, procure or possess or attempt to purchase, procure or possess any prohibited graffiti material. It shall be an affirmative defense to charges under this section that the person under the age of eighteen years possessing the material was:

1. Within the person's home;
2. At the person's place of employment, or traveling directly to or from the person's place of employment, when such employment requires possession of such graffiti material;
3. Upon real property with permission from the owner, occupant or other person having lawful control of such property to possess such graffiti materials; or
4. At a school where the person is enrolled, or traveling directly to or from the person's school, when the person is participating in a class at the school that requires possession of such graffiti materials.

C. It is unlawful for any person to possess graffiti materials when such person intends to use any such materials in the commission of a graffiti offense prohibited by Section 9.08.140 above or knows that some other person intends to use such materials in the commission of such an offense. (Ord. 704 §1, 2008)

9.08.160 Graffiti signage required.

A. Every person who operates a retail commercial establishment selling aerosol paint containers, paint sticks or broad-tipped markers shall place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable by imprisonment of up to 365 days and/or a fine up to \$1,000."

B. A violation of this section shall be a petty offense. (Ord. 609 §2, 2006)

Chapter 9.12

Offenses Against the Person

Sections:

- 9.12.010 Assault.
- 9.12.020 Menacing.
- 9.12.030 Intimidation.
- 9.12.040 Endangerment.
- 9.12.050 Bodily injury defined.
- 9.12.060 Brawling.
- 9.12.070 Use of fighting words.
- 9.12.080 Disrupting quiet enjoyment of home.
- 9.12.090 Brandishing weapon.
- 9.12.100 Obstructing public streets, places or buildings.

9.12.010 Assault.

A person commits the offense of assault if he knowingly or recklessly causes bodily injury to another person. Assault is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-3.1)

9.12.020 Menacing.

A person commits the offense of menacing if, by any threat or physical action, he knowingly places or attempts to place another person in fear of imminent bodily injury. Menacing is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-3.2)

9.12.030 Intimidation.

A person commits the offense of intimidation if, without legal authority, that person threatens to confine, restrain or cause bodily harm to another or to damage the property or reputation of another with the intent hereby to induce the threatened person or another to do an act or to refrain from doing a lawful act against their will. (Ord. 178 §1(part), 1982; prior code §9-3.3)

9.12.040 Endangerment.

A person commits the offense of endangerment if that person recklessly engages in conduct which creates a substantial risk of bodily injury to another person. Endangerment is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-3.4)

9.12.050 Bodily injury defined.

For purposes of this title, "bodily injury" means physical pain, illness or impairment of physical or mental condition. (Ord. 178 §1(part), 1982; prior code §9-3.5)

9.12.060 Brawling.

No person shall fight with another in a public place except in a prearranged amateur or professional contest of athletic skills. A violation of this subsection shall be a misdemeanor. (Ord. 246 §109 (part), 1988; prior code §9-3.6)

9.12.070 Use of fighting words.

No person shall insult, taunt or challenge another in a manner likely to provoke a disorderly response. If the person to whom such insult, taunt or challenge is directed is a police officer, there is no violation of this section until the police officer requests the person to cease and discontinue the conduct, but the person repeats or continues the conduct. (Ord. 246 §109(part), 1988; prior code §9-3.7)

9.12.080 Disrupting quiet enjoyment of home.

No person shall recklessly engage in, or be responsible for, a course of loud or obstreperous conduct that materially interferes with or disrupts another individual in the conduct of lawful activities at such individuals home; but where the loud or obstreperous conduct consists solely of natural speech or communication by or between people, such conduct is not prohibited under this section unless it is used as a guide materially to

interfere with or disrupt another individual in the conduct of lawful activities at the individual's home and that is the result. The following standards and definitions shall be used in the application of this section:

A. The person engaging in such conduct must be at a location other than the complainant's home and not attending a bona fide outdoor public event such a football game.

B. "Home" includes the physical residence as well as the outside premises.

C. "Another individual" includes all members of the household as well as others rightfully in the residence or on the premises.

D. No person shall be convicted of a violation unless it has been communicated to the person that such conduct violative of this subsection is occurring or has recently occurred, and after such communication conduct violative of this section is repeated or continued; but if there have been both a similar situation within the previous ninety days and a communication about it to such person, then no such communication need be made a second time.

E. Conduct violative of this section originates upon private property and the owner or some other person with authority to control that property is present at the time that such occurs and if the owner or authorized person has received a communication requesting cessation or reduction in the level, the owner or authorized person is also responsible for the repeated or continued conduct under this section, even though not directly engaged in the conduct.

F. This section is in full force and effect twenty-four hours every day. (Ord. 246 §109(part), 1988; prior code §9-3.8)

9.12.090 Brandishing weapon.

No person not a marshal, police officer or a peace officer of any county, state or the United States and acting in such capacity, shall display a deadly weapon in a public place in a manner calculated to alarm. It is an affirmative defense to a charge of violating this section that the display constituted legitimate self-defense under state law. A violation of this subsection shall be a misdemeanor. (Ord. 246 §109(part), 1988; prior code §9-3.9)

9.12.100 Obstructing public streets, places or buildings.

A. No person without legal privilege shall knowingly obstruct vehicular or pedestrian movement in a public place.

B. For the purpose of this section, "obstruct" means to interfere with or prevent, whether alone or with others, convenient or reasonable passage or use.

C. For the purpose of this section, "public place" means in or upon any public highway, street, alley, walk, parking lot, building, park or other public property, or in or upon those portions of any private property upon which the public has an express or implied license to enter or remain

D. For the purpose of this section, "legal privilege" includes, without limitation, awaiting public transportation in areas designated therefor and acting in accordance with a license or permit issued by the

town authorizing a temporary street closure or construction or other work in, over, on or under, the public way or place.

E. No person shall be deemed to have violated this section solely because of a gathering of persons for the purpose of hearing such person speak or solely because of being a member of such a gathering. Such person commits a violation by refusing to obey a reasonable request or order by a police officer to move:

1. To prevent obstruction of a public street, alley, sidewalk, public way, place, or building, or entrance or doorway into or out of a building upon to the public, if compliance with that order at the same time permits the gathering to continue to satisfy its communicative purpose; or

2. To maintain public safety by dispersing those gathered in dangerous proximity to a fire or hazard. (Ord. 584 §2, 2005; Ord. 246 §109(part), 1988; prior code §9-3.10)

Chapter 9.16

Offenses Against Public Peace, Order and Decency

Sections:

- 9.16.010 Disorderly conduct.
- 9.16.020 Disrupting lawful assembly.
- 9.16.030 Riot.
- 9.16.040 Harassment.
- 9.16.050 Loitering.
- 9.16.060 Fighting by agreement.
- 9.16.070 Regulation of fireworks.
- 9.16.110 Obstructing highway.
- 9.16.120 Open container of alcoholic beverage.
- 9.16.130 Disturbance, breach of peace.
- 9.16.140 Amplified sound.
- 9.16.145 Excessive sound levels.
- 9.16.150 Go-carts and go-peds.
- 9.16.160 Engine compression or dynamic braking devices.
- 9.16.170 Public indecency.
- 9.16.180 Indecent exposure.

9.16.010 Disorderly conduct.

A. It shall be unlawful to commit disorderly conduct. A person commits disorderly conduct if the person intentionally, knowingly or recklessly:

1. Makes a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to incite an immediate breach of the peace; or

2. Abuses or threatens a person in a public place in an obviously offensive manner; or

3. Fights with another in a public place except in an amateur or professional contest of athletic skill; or

4. Not being a peace officer, discharges a firearm in a public place except when engaged in lawful target practice or hunting.

B. It is an affirmative defense to prosecution under Subsection A of this section that the actor had significant provocation for his or her abusive or threatening conduct.

C. The offense of disorderly conduct is a misdemeanor. (Ord. 300 §1, 1994; Ord. 246 §§110, 111, 112, 1988; Ord. 178 §1(part), 1982; prior code §9-4.1)

9.16.020 Disrupting lawful assembly.

A person commits disrupting a lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, that person significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance, or any other means. Disrupting a lawful assembly is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-4.2)

9.16.030 Riot.

Any person who engages in a public disturbance involving an assemblage of five or more persons which, by tumultuous and violent conduct, creates grave danger of damage or injury to property or persons, or substantially obstructs the performance of any governmental function, commits the crime of riot. Riot is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-4.3)

9.16.040 Harassment.

A. It shall be unlawful to commit harassment. A person commits the offense of harassment if, with the intent to harass, annoy or alarm another person, the person:

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

B. Harassment is a misdemeanor. (Ord. 301 §1, 1994; Ord. 178 §1(part), 1982; prior code §9-4.4)

9.16.050 Loitering.

A. "Loiter" means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.

B. A person commits petty offense if he:

1. Loiters for the purpose of begging; or
2. Loiters for the purpose of unlawful gambling with cards, dice or other gambling paraphernalia; or
3. Loiters for the purpose of engaging or soliciting another person to engage in prostitution or sexual intercourse; or
4. Loiters in or about a school building or grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific legitimate reason for being there, and not having written permission from a school administrator;
5. Loiters for the purpose of unlawfully using or possessing a narcotic or dangerous drug;
6. Loiters in or about a municipal park, not having any reason or relationship involving the legitimate use of the park during hours when the park is open for use.

C. It shall be an affirmative defense that the defendant's acts were lawful and he was exercising his rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise. (Ord. 251 §9, 1989; Ord. 209 §3, 1985; Ord. 178 §1(part), 1982; prior code §9-4.5)

9.16.060 Fighting by agreement.

If two or more persons shall fight by agreement in a public place, except in a sporting event authorized by law, the persons so fighting commit a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-4.6)

9.16.070 Regulation of fireworks.

A. Definitions. For the purposes of this Section, the following words and terms shall be defined as follows:

1. "Fireworks" means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of articles pyrotechnic and display fireworks as such terms are defined in Section 12-28-101, C.R.S., as may be amended, and permissible fireworks as defined in this Section. Excluded from this definition are the following:

- a. Toy caps, party poppers, and items similar to toy caps and party poppers that do not contain more than sixteen milligrams of pyrotechnic composition per item and snappers that do not contain more than one milligram of explosive composition per item;

b. Highway flares, railroad fuses, ship distress signals, smoke candles and other emergency signal devices;

c. Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means; and

d. Fireworks which are used in testing or research by a licensed explosives laboratory.

2. "Fireworks stand" means any location used for the lawful sale of permissible fireworks. A fireworks stand may include any temporary structure, tent, canopy, temporary membrane structure, fenced area or other place where permissible fireworks are lawfully sold. A fireworks stand may not be a building, vehicle or trailer.

3. "Permissible fireworks" include:

a. Cylindrical fountains with a total pyrotechnic composition not exceeding seventy-five grams for a single tube or, when more than one tube is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;

b. Cone fountains with a total pyrotechnic composition not exceeding fifty grams each for a single cone or, when more than one cone is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;

c. Wheels with a total pyrotechnic composition not exceeding sixty grams for each driver unit or two hundred grams for each complete wheel;

d. Ground spinners containing not more than twenty grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground;

e. Illuminating torches and colored fire in any form with a total pyrotechnic composition not exceeding two hundred grams each;

f. Dipped sticks and sparklers with a total pyrotechnic composition not exceeding one hundred grams, of which the composition of any chlorate or perchlorate shall not exceed five grams;

g. Any of the following that do not contain more than fifty milligrams of explosive composition:

i. Explosive auto alarms;

ii. Toy propellant devices;

iii. Cigarette loads;

iv. Strike-on-box matches; or

v. Other trick noise makers;

h. Snake or glow worm pressed pellets of not more than two grams of pyrotechnic composition and packaged in retail packages of not more than twenty-five units; and

i. Multiple tube devices with:

i. Each tube individually attached to a wood or plastic base;

ii. The tubes separated from each other on the base by a distance of at least one-half of one inch;

iii. The effect limited to a shower of sparks to a height of no more than fifteen feet above the ground;

iv. Only one external fuse that causes all of the tubes to function in sequence; and

v. A total pyrotechnic composition not exceeding five hundred grams.

Excluded from the definition of "permissible fireworks" are aerial devices or audible ground devices, including but not limited to firecrackers.

B. Prohibited acts. Except as provided in Subsections C., D. and E. of this Section, it is unlawful for any person to possess, sell, offer for sale or possess with the intent to offer for sale, or to use, discharge or explode any fireworks within the Town.

C. Permissible possession and use of fireworks. It is permissible for a person to possess permissible fireworks at any time. It is permissible for a person to use, discharge and explode permissible fireworks on private property within the Town between the hours of 10:00 a.m. and 11:00 p.m. on the Fourth of July, and when the Fourth of July falls on a Saturday or Sunday, it is permissible for a person to use, discharge or explode fireworks on the federally observed Fourth of July holiday, which generally is July 3 if July 4 falls on Saturday and July 5 if July 4 falls on a Sunday. No person shall possess, use, discharge or explode any fireworks, including permissible fireworks, while in any park, parkway, street, recreation area, trail or open space, or any other public property unless such person has first obtained a permit for the supervised display of fireworks in accordance with Subsection D below.

D. Permits for display. The Town Manager may grant permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks and other organizations and groups.

1. Application for a permit shall be made in writing at least fifteen days in advance of the date of display and shall be accompanied by payment of an application fee of one hundred dollars.

2. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person.

3. Before a permit is granted, the operator and the location and handling of the display shall be approved, after investigation, by the Chief of Police and the Fire Chief or such chiefs' authorized agents.

4. No permit shall be transferable or assignable.

5. No permit shall be required for a public display of fireworks at any duly authorized county fair, or at a display of the Town, provided that the person engaging in such display has been specifically

authorized in advance by the organizers of such fair to undertake such display and such display is supervised by the county sponsoring such fair.

6. The Town Manager shall require a performance bond from the permittee in a sum not less than one thousand dollars conditioned on compliance with the provisions of this Section; except that no permittee which is a governmental entity shall be required to file such a bond.

7. The Town Manager is authorized to establish administrative rules setting forth insurance requirements for public displays of fireworks appropriate for the protection of the public and the Town.

8. The Town Manager may impose such other conditions on the permit as it determines necessary for the protection of the public and the Town.

9. All persons obtaining a permit for the public display of fireworks shall comply with all applicable Colorado laws, including but not limited to Sections 12-28-102, 12-28-104, 12-28-105 and 12-28-108, C.R.S.

E. Sale of permissible fireworks; permit required. A person may sell, offer for sale or possess with the intent to offer for sale permissible fireworks within the Town if the person first applies for and obtains a permit from the Town Manager, which permit must be displayed on the premises at all times.

1. Application. Every person who desires to obtain a permit for the sale or possession for sale of permissible fireworks shall file an application with the Town at least thirty days in advance of the proposed sale, which application shall include the following:

a. A completed application form provided by the Town including all necessary and required information regarding the permissible fireworks intended to be sold, the amount of merchandise to be on hand, the area or place for sale, all safety and fire protection devices to be utilized, and such other information as required by the Town;

b. A site plan drawn to scale showing the location and size of the fireworks stand, all property lines and improvements within one hundred fifty feet of the stand including parking lots, buildings, roadways and overhead utilities;

c. A copy of the applicant's Colorado Retailer of Fireworks License from the Colorado Division of Fire Safety;

d. A certificate of insurance providing evidence of liability insurance as required by Paragraph 9.16.070.E.3 of this Code, naming the Town as an additional insured;

e. A nonrefundable fee of one hundred fifty dollars for each permitted location;

f. A refundable two hundred fifty dollars clean-up deposit for each permitted location;

g. Written evidence of authority or permission to use the property for fireworks sales and all related activity;

h. A copy of the applicant's sales tax license issued by the Town pursuant to Section 3.08.090 of this Code;

i. A statement and evidence that the applicant is twenty-one years of age or older; and

j. The name and address of an individual twenty-one years of age or older designated to receive service on behalf of applicant of any notice issued under this Code.

2. Restrictions on sale; time; location. The permit for the possession for sale or sale of permissible fireworks shall be valid only from June 19 at 8:00 a.m. through July 4, or the federally observed Fourth of July holiday if July 4 falls on a Saturday or Sunday, in the year in which the permit is issued. Sales shall only be permitted between the hours of 8:00 a.m. to 10:00 p.m. Fireworks stands shall only be permitted in zone districts in which retail sales are permitted.

3. Liability insurance. All persons obtaining a permit hereunder shall procure and maintain comprehensive general liability insurance, which affords coverage for all claims of bodily injury including death, with limits of liability of at least five hundred thousand dollars per occurrence and one million dollars in the aggregate, and all claims for destruction of or damage to property, with limits of liability of at least five hundred thousand dollars per occurrence and one million dollars in the aggregate, arising out of or in connection with the sale of fireworks.

4. Transfer/assign. No permit shall be transferable or assignable.

5. Processing of permits. The Town Manager shall not grant a permit for a fireworks stand located within three-fourths of a mile from another fireworks stand for which a permit was previously granted. Applications for permits will be processed in the order in which they were received.

6. Other conditions. The Town Manager may impose such other conditions on the permit as it determines necessary for the protection of the public and the Town.

7. Compliance with laws. All persons obtaining a permit for the sale of permissible fireworks from the Town shall comply with all applicable Colorado laws, including but not limited to Sections 12-28-102, 12-28-105 and 12-28-108, C.R.S.

8. Fireworks stands. It is unlawful for any person to sell any permissible fireworks except from temporary fireworks stands authorized under this Section. Sales from within buildings, from vehicles or trailers are prohibited. Fireworks stands must comply with the following:

a. Construction. Fireworks stands shall be constructed of noncombustible or fire resistive materials. When tents, canopies or temporary membrane structures are used as fireworks stands they shall also comply with the adopted fire code.

b. Electrical. All electrical installations shall comply with the adopted electrical code. Generators and generator fuel shall be located in a protected location at least twenty-five feet from the fireworks stand. Cords and lighting shall be secured to prevent contact with combustible materials and to prevent any tripping hazards.

c. Exits. Distance to an exit from any point in a fireworks stand shall not exceed fifteen feet. Two exits shall be available from any point within the structure. Dead-end aisles are prohibited. All fireworks stands shall provide for foot traffic at grade throughout. All aisles and exit openings shall be

at least forty-eight inches in width. Exits shall remain open; no curtain flap or door is allowed when the fireworks stand is occupied.

d. Location. No fireworks stand shall be located within one hundred feet of any other building, three hundred feet of a vehicle fueling station, or three-fourths of a mile from any other fireworks stand.

e. Storage. There shall not be any fireworks stored in any fireworks stand overnight. All fireworks must be removed at the end of each business day and stored in a type 1, 2, 3 or 4 magazine.

f. Supervision. Each temporary fireworks stand and each retail sale shall be under the direct personal supervision of a person at least twenty-one years of age at all times. It is unlawful for any person under the age of eighteen years to sell fireworks.

g. Smoking. It is unlawful to smoke inside or within twenty-five feet of a fireworks stand.

h. Signage. Each fireworks stand is limited to not more than three signs advertising the stand and two hundred square feet of signage. No off-site signs are permitted.

i. Parking lot coverage. Any fireworks stand which is located in a parking lot shall not cover more than ten percent of the parking spaces in such lot.

j. Combustible materials, ground cover, flammables. No straw, sawdust, hay or other combustible ground cover may be located inside or within twenty-five feet of a fireworks stand. Weeds and combustible vegetation shall be removed from the area occupied by a fireworks stand and from areas adjacent to and within twenty-five feet of a fireworks stand. All trash and rubbish shall be kept in containers at least twenty-five feet from a fireworks stand. No flammable or combustible liquids or gases may be stored, placed or used inside or within twenty-five feet of a fireworks stand.

k. Fire extinguisher. One five pound, or larger, ABC, U.L. rated 2A-10B:C portable fire extinguisher shall be provided at each cashier location in a fireworks stand.

l. Demonstrations or ignition of fireworks. Demonstration or ignition of fireworks is prohibited within one hundred feet of any fireworks stand or any combustible vegetation or materials.

m. Ignition sources. The use of any electrical, gas or fuel-fired heating device, candle, lantern, oil lamp, open flame or heat-generating device or cooking equipment is prohibited within twenty-five feet of a fireworks stand. All light bulbs in fireworks stands shall be protected and isolated from all combustible materials.

n. Phone required. A working telephone shall be available within one hundred feet of a fireworks stand at all times the stand is occupied.

o. Postings required.

i. A no smoking warning sign shall be prominently displayed on the exterior at each entrance and every fifteen feet above product displays throughout the interior of each fireworks stand, stating: **NO SMOKING**. The no smoking warning signs shall be printed in red lettering on a

contrasting background. Letters shall be in a block style print at least four inches high with a one-half-inch stroke.

ii. An unlawful purchase warning sign shall be prominently displayed at each entrance and at each cashier position in a fireworks stand stating: **WARNING – IT IS UNLAWFUL FOR ANY PERSON UNDER THE AGE OF 16 TO BUY FIREWORKS.** Unlawful purchase signs shall be printed in a color contrasting with the background. Letters shall be in a block style print at least two inches high with a three-eighths-inch stroke.

F. Violations; penalty. Any person who violates any provision of this Section is guilty of a misdemeanor and, upon conviction thereof, subject to revocation of the license or permit, if a license or permit has been issued to such person by the Town, in addition to the penalties set forth in Section 9.04.040 of this Title. Each day or portion thereof during which any act prohibited under this Section is committed, continued or permitted shall be deemed a separate offense. The Chief of Police and the Chief's designees may seize, take, remove and destroy, at the expense of the violator, any and all fireworks stored, held or possessed in violation of this Section.

G. Emergency prohibition of the use of fireworks and permissible fireworks by ordinance or resolution. In the event that the Governor of the State of Colorado, State Legislature or other local, state or federal entity endowed with decision-making authority concerning the use and sale of fireworks and permissible fireworks, or in the event that the Board of Trustees, due to dry weather conditions or other factors which through the danger of fire present a health and safety concern to the citizens and property of the Town, determine that a total prohibition of the use, sale and possession of fireworks and/or permissible fireworks is necessary and required, then the Board of Trustees may by emergency ordinance or resolution prohibit the use, sale and possession of fireworks and/or permissible fireworks for such time and under such conditions as the Board of Trustees deems necessary for the health, safety and welfare of its citizens and property.

H. Designees. Wherever this Section authorizes or requires the Town Manager or Chief of Police to undertake any action, he or she may authorize a designee to undertake such action. (Ord. 742 §1, 2010)

9.16.110 Obstructing highway.

A. An individual or corporation commits an offense if without legal privilege he intentionally, knowingly or recklessly:

1. Obstructs a highway, street, 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 conveyance, whether the obstruction arises from his or her acts alone or from his or her acts and the acts of others; or

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

B. For purposes of this Section, "obstruct" means to render impassable or to render passage unreasonably inconvenient or hazardous.

C. An offense under this Section is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-8.1)

9.16.120 Open container of alcoholic beverage.

A. Definitions. For purposes of this Section the following definitions shall apply:

1. "Open containers" means any open container, including but not limited to a container having the seal of the original cap, tab, pull top, lid or tax stamp broken or removed.

2. "Public place" includes but is not limited to streets, alleys, sidewalks, parks, school grounds, recreation facilities, parking areas or lots used in conjunction with commercial establishments generally open to the public, and all other public places in the Town.

B. It is unlawful for any person to carry, control or have in his or her possession any open container or containers of, or containing, malt, vinous or spirituous liquor or fermented malt beverage in any public place in the Town.

C. Possession of open containers of malt, vinous, spirituous or fermented malt beverages shall be a petty offense. (Ord. 251 §10, 1989; Ord. 182 §1, 1982; prior code §9-8.4)

9.16.130 Disturbance, breach of peace.

It is unlawful for any person to make, countenance or assist in the making of undue or unnecessary noise, disturbance or breach of peace, on public or private property. A violation of this subsection shall be a misdemeanor. (Ord. 250, §1, 1989)

9.16.140 Amplified sound.

A. No person shall use or operate any loudspeaker, public address system or other sound-amplifying equipment in a motor vehicle upon a public street or in a park, parkway, recreation area or open space in such a manner as to be plainly audible at thirty feet from the motor vehicle, or in such a manner which creates an unreasonable noise. A violation of this section shall be a petty offense.

B. The following definitions shall apply in the interpretation and enforcement of this section:

1. "Motor vehicle" means any vehicle such as, but not limited to, a passenger vehicle, truck, truck-trailer or semitrailer, propelled or drawn by mechanical power, and includes any motorcycle, snowmobile, minibike, go-cart or any other vehicle which is self-propelled.

2. "Plainly audible" means that the information content of the 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.

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

4. "Unreasonable noise" means any excessive or unusually loud sound which is objectionable due to intermittence, beat frequency, shrillness or deepness of pitch, or any sound which disturbs the peace and quiet of any neighborhood or causes damage to any property or business.

C. The provisions of this section shall not apply to sound made on property owned by, controlled by or leased to the Town, the federal government or to any branch, subdivision, institution or agency of the government of the state or any political subdivision within it, and when such sound is made by an activity of the governmental unit or sponsored by it or by others pursuant to the terms of a contract, lease or permit granted by such governmental unit, or as otherwise permitted by the provisions of this Code. (Ord. 341, §1, 1996)

9.16.145 Excessive sound levels.

A. It shall be unlawful for any person to:

1. Operate any type of vehicle, machine or device;
2. Carry on any activity; or
3. Promote or facilitate the carrying on of any activity which makes sound in excess of the level specified in this section.

B. Sound from a moving vehicular source located within the public right-of-way shall not exceed eighty decibels on the "A" weighting scale (dB(A)), except that sound from a vehicle with a manufacturer's gross weight rating of ten thousand pounds and above operated on a prescribed truck route at all times or elsewhere within the Town during the hours of 7:00 a.m. to 6:00 p.m. on Monday through Saturday may exceed eighty dB(A) but shall not exceed eighty-eight dB(A). Such sound shall be measured at a distance of at least twenty-five feet from a vehicle located within the public right-of-way.

C. Sound from any source, other than a moving vehicular source located within the public right-of-way, shall not exceed any of the following limits for the applicable zone:

Zoning designation of the property on which the sound is received	Maximum number of decibels permitted from 7:00 a.m. until 7:00 p.m. of the same day	Maximum number of decibels permitted from 7:00 p.m. until 7:00 a.m. of the following weekday and until 8:00 a.m. of the following weekend (Saturday & Sunday) day
Residential	55 dB(A)	50 dB(A)
Commercial	60 dB(A)	55 dB(A)
Industrial	70 dB(A)	65 dB(A)
Light-Industrial	80 dB(A)	75 dB(A)

D. For PUD zone districts, the maximum permitted noise level on private property shall be as specified in the table in Subsection C for the districts most similar to those listed, as determined by the Town Manager, unless other standards are specifically established on an applicable final development plan.

E. Sound from construction work for which a building permit has been issued shall be deemed to be received in an industrial zoning district during the hours of 7:00 a.m. and 7:00 p.m. for work of any type, and until 9:00 p.m. for light construction work that uses only hand tools and power tools (but not including nail guns) of no more than five horsepower. Under no circumstances shall amplified sound be considered as construction work activity. On Saturdays and Sundays, sound from construction work shall not commence until 8:00 a.m.

F. Sound from a source on private or public property shall be measured at a distance of at least twenty-five feet from the property line of the property on which the sound source is located.

G. For the purposes of this Section, a leasehold shall be deemed a property, and the boundary of the leasehold interest shall be deemed a property line.

H. All sound measurements shall be made on a sound level meter that meets ANSI specification S1.4-1974 for Type I and Type II equipment. The manufacturer's published indication of compliance with such specifications is prima facie evidence of compliance with this Subsection.

I. It is a specific defense to a charge of violating this Section 9.16.145 that:

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

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

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

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

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

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

b. The activity, operation or sound source will be of temporary duration, and even with the application of the best available control technology cannot be done in a manner that would comply with this Section. In either case, the Town Manager must also find that no reasonable alternative is available to the applicant. If the Town Manager grants a variance, the Town Manager shall prescribe such reasonable conditions or requirements as are necessary to minimize adverse effects upon the community or the surrounding neighborhood.

J. This Section shall not be construed to conflict with the right of the Town or any person to maintain an action in equity to abate a noise nuisance under the laws of the state.

K. Each offense of violation of this Section constitutes a separate and distinct violation. Further, three or more violations of Subsection C of this Section on different dates within any twelve-month period shall be grounds for revocation of any special use review permit or liquor license after a notice and hearing.

L. The provisions of this Section are in addition to all other requirements of this Code. (Ord. 731 §3, 2010; Ord. 712 §1, 2009; Ord. 631 §1, 2006; Ord. 611 §1, 2006)

9.16.150 Go-carts and go-peds.

A. The operation anywhere within the Town, whether on private or public property, of any so-called go-cart or go-ped or other such motorized toy vehicle not designed and equipped for operation on a public street or highway is hereby declared and deemed a public nuisance, and it shall be unlawful for any person to cause or maintain such a public nuisance.

B. This Section does not apply to the operation of a motorized wheelchair or any other conveyance designed for use by a person under a physical disability whose mobility is impaired.

C. A violation of this Section shall be a petty offense. (Ord. 649 §2, 2007; Ord. 451, 2000)

9.16.160 Engine compression or dynamic braking devices.

No person shall operate within the limits of the Town any motor vehicle with an engine compression or dynamic braking device (commonly referred to as "Jacobs brakes" or "Jake brakes") engaged. A violation of this Section shall be a misdemeanor. (Ord. 601 §1, 2006)

9.16.170 Public indecency.

A. It shall be unlawful for any person to commit public indecency. A person commits public indecency if that person performs or engages in any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public:

1. An act of sexual intercourse.
2. An act of deviant sexual intercourse.
3. A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person.
4. A lewd fondling or caress of the body of another person.
5. An act of masturbation.
6. An excretory function, including urination, defecation or expectoration.

B. A violation of this Section shall be a misdemeanor. (Ord. 651 §5, 2007)

9.16.180 Indecent exposure.

A person commits indecent exposure if that person knowingly exposes his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. A violation of this section shall be a misdemeanor. (Ord. 651 §6, 2007)

Chapter 9.20

Offense Against Government

Sections:

- 9.20.010 Definitions.
- 9.20.020 Obstructing government operations.
- 9.20.030 Resisting arrest.
- 9.20.040 Obstructing police officer or fireman.
- 9.20.045 Failure to comply; interference.
- 9.20.050 Refusing to aid marshal, deputy marshal or law enforcement officer.
- 9.20.060 False reporting to authorities.
- 9.20.065 False alarm.
- 9.20.070 Impersonating marshal, deputy marshal or law enforcement officer.
- 9.20.080 Impersonating a public servant.
- 9.20.090 Escape.
- 9.20.100 Aiding, abetting or assisting escape.
- 9.20.110 Failure to appear in municipal court.
- 9.20.120 Failure to pay municipal court fine.
- 9.20.130 Refusal to permit inspections.
- 9.20.140 Compounding.
- 9.20.150 Abuse of public record.

9.20.010 Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings set out in this chapter:

A. "Government" includes any branch, subdivision, institution or agency of the government of this state or any political subdivisions within it.

B. "Governmental function" includes any activity which a public servant is legally authorized to undertake on behalf of a government.

C. "Marshal," "deputy marshal" or "law enforcement officer," as used in this chapter, means a marshal, deputy marshal or law enforcement officer in uniform or, if out of uniform, one who has identified himself by exhibiting his credentials as such marshal, deputy marshal or law enforcement officer.

D. "Public servant" means any officer or employee of government, whether elected or appointed, and any person participating as an advisor, or consultant, engaged in the service of process, or otherwise performing a governmental function, but the term does not include witnesses. (Ord. 178 §1(part), 1982; prior code §9-5.1)

9.20.020 Obstructing government operations.

A. A person commits obstructing government operations if he intentionally obstructs, impairs or hinders the performance of a governmental function by a public servant, by using or threatening to use violence, force, or physical interference or obstacle.

B. It shall be an affirmative defense that:

1. The obstruction, impairment or hindrance was of unlawful action by a public servant; or
2. The obstruction, impairment or hindrance was of the making of an arrest; or
3. The obstruction, impairment or hindrance of a governmental function was by lawful activities in connection with a labor dispute with the government.

C. Obstructing government operations is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-5.2)

9.20.030 Resisting arrest.

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

1. Using or threatening to use physical force or violence against the marshal, deputy marshal or law enforcement officer or another; or
2. Using any other means which creates a substantial risk of causing physical injury to the marshal, deputy marshal or law enforcement officer.

B. It is no defense to a prosecution under this section that the marshal, deputy marshal or law enforcement officer was attempting to make an arrest which in fact was unlawful, if he was acting under color of his official authority, and in attempting to make the arrest he was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A marshal, deputy marshal or law enforcement officer acts "under color of his official authority" when in the regular course of assigned duties, he 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.

C. Resisting arrest is a misdemeanor. (Ord. 246 §114, 1988; Ord. 178 §1(part), 1982; prior code §9-5.3)

9.20.040 Obstructing police officer or fireman.

A. A person commits obstructing a marshal, deputy marshal, law enforcement officer or fireman when, by using or threatening to use violence, force, or physical interference or obstacle, he knowingly obstructs, impairs or hinders the enforcement of the penal law or the preservation of the peace by a marshal, deputy marshal or law enforcement officer, acting under color of his official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a fireman, acting under color of his official authority.

B. It is no defense to a prosecution under this section that the marshal, deputy marshal or law enforcement officer was acting in an illegal manner, if he was acting under color of his official authority as defined in this code.

C. This section does not apply to obstruction, impairment or hindrance of the making of an arrest.

D. Obstructing a marshal, deputy marshal, law enforcement officer or fireman is a misdemeanor. (Ord. 246 §115(part), 1988: Ord. 178 §1(part), 1982; prior code §9-5.4)

9.20.045 Failure to comply; interference.

A. A person commits failure or refusal to comply with a lawful order, signal or direction of a marshal, deputy marshal or law enforcement officer when he willfully fails or refuses to comply with any lawful order, signal or direction of a marshal, deputy marshal or law enforcement officer made or given in the discharge of the duties of the marshal, deputy marshal or law enforcement officer.

B. A person commits interference or hindrance with a marshal, deputy marshal or law enforcement officer when he, in any way, interferes with or hinders any marshal, deputy marshal or law enforcement officer who is discharging or apparently discharging the duties of the position. (Ord. 262 §1, 1990)

9.20.050 Refusing to aid marshal, deputy marshal or law enforcement officer.

A person, eighteen years of age or older, commits the offense of refusing to aid a marshal, deputy marshal or law enforcement officer if, upon command by a person known to him to be a marshal, deputy marshal or law enforcement officer, he unreasonably refuses or fails to aid the marshal, deputy marshal or law enforcement officer in effecting or securing an arrest, or preventing the commission by another of any offense. (Ord. 246 §115(part), 1988: Ord. 178 §1(part), 1982; prior code §9-5.5)

9.20.060 False reporting to authorities.

A. A person commits false reporting to authorities, if:

1. He knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service, or any other governmental agency which deals with emergencies involving danger to life or property; or

2. He makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he knows that it did not occur; or

3. He makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he knows that he has no such information or knows that the information is false.

B. False reporting to authorities is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-5.6)

9.20.065 False alarm.

A. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

1. "Security alarm system" means any mechanical or electrical device which is designed or used for the detection of an unauthorized entry into a building or other structure, or for alerting any person of the commission of an unlawful act within a building or other structure, and which emits a sound or transmits a signal or message when activated.

2. "False alarm" means any signal or message from a security alarm system to which the Police Department responds and which results from:

- a. The circumstances described in Section 9.20.060.A.1;
- b. Activation of the system by negligence or error; or
- c. Any malfunction of the system.

B. In addition to any other applicable penalty, if a false alarm occurs from any other security alarm system, the owner or occupant of the building or other structure in which the system is located, or which the system serves, shall be subject to a fine of \$25.00 for each such false alarm in excess of two false alarms in any calendar year. (Ord. 277 §1, 1990)

9.20.070 Impersonating marshal, deputy marshal or law enforcement officer.

Any person who falsely pretends to be a marshal, deputy marshal or law enforcement officer of the town and performs an act in that pretended capacity commits impersonating a marshal, deputy marshal or law enforcement officer. Impersonating a marshal, deputy marshal or law enforcement officer is a misdemeanor. (Ord. 246 §115(part), 1988; Ord. 178 §1(part), 1982; prior code §9-5.7)

9.20.080 Impersonating a public servant.

A person commits impersonating a public servant if he falsely pretends to be a public servant of the town other than a marshal, deputy marshal or law enforcement officer and performs any act in that pretended capacity. Impersonating a public servant is a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-5.8)

9.20.090 Escape.

It shall be a misdemeanor for any person, while being in custody of a marshal, deputy marshal, police officer or law enforcement official or confined in the town jail and charged with, held for or convicted of any misdemeanor set forth in this code or other ordinances of the town, to knowingly escape or attempt to escape from such custody or confinement. (Ord. 251 §11, 1989; Ord. 178 §1(part), 1982; prior code §9-5.9)

9.20.100 Aiding, abetting or assisting escape.

Any person who knowingly aids, abets or assists another person to escape who is in custody of a marshal, deputy marshal, police officer or law enforcement official or confined in the town jail and charged with, held for or convicted of any misdemeanor set forth in this code or other ordinances of the town shall be guilty of a misdemeanor under this section. (Ord. 251 §11, 1989; Ord. 178 §1(part), 1982; prior code §9-5.10)

9.20.110 Failure to appear in municipal court.

If a person whom a summons has been served pursuant to the Colorado Municipal Court Rules fails to appear in person or by counsel at the place and time specified in the summons, the nonappearing person shall be guilty of a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-5.11)

9.20.120 Failure to pay municipal court fine.

Any person, upon whom a fine or penalty shall have been imposed by the municipal court of the town, that fails to pay such fine or penalty within the time limits fixed by the court shall be guilty of a misdemeanor. (Ord. 178 §1(part), 1982; prior code §9-5.12)

9.20.130 Refusal to permit inspections.

A. No person, knowing that a public servant is legally authorized to inspect property, shall:

1. Refuse to produce or make available the property for inspection at a reasonable hour; or
2. Refuse to permit the inspection at a reasonable hour if the property is available for inspection.

B. For purposes of this section, "property" means any real or personal property, including without limitation, books, records and documents that are owned, possessed or otherwise subject to the control of the defendant. A "legally authorized inspection" means any lawful search, sampling, testing, or other examination of property, in connection with the regulation of a specific business or occupation, that is authorized by an ordinance, statute or lawful regulatory provision regulating such business or occupation or by a search warrant.

C. A violation of this section shall be a misdemeanor. (Ord. 246 §116(part), 1988; prior code §9-5.13)

9.20.140 Compounding.

A. No person shall accept or agree to accept any pecuniary benefit as consideration for:

1. Refraining from seeking prosecution of a violator; or
2. Refraining from reporting to law enforcement authorities the commission or suspected commission of any violation or information relating to a violation.

B. It is a specific defense to prosecution under this section that the benefit received by the accused did not exceed an amount that the accused reasonably believed to be due as restitution or indemnification to such accused for the damage caused by the violation. (Ord. 246 §116(part), 1988; prior code §9-5.14)

9.20.150 Abuse of public record.

A. No person shall:

1. Knowingly make a false entry in or falsely alter any public record;
2. Knowing that such person lacks the authority to do so, knowingly destroy, mutilate, conceal, remove or impair the availability of any public records; or
3. Knowing that such person lacks the authority to retain the record, refuse to deliver up a public record in such person's possession upon proper request of any individual lawfully entitled to receive such record.

B. As used in this Section, "public record" includes without limitation all official books, papers or records created, received, or used by or in any Town office or agency. (Ord. 246 §116(part), 1988; prior code §9-5.15)

Chapter 9.24

Offenses Involving Firearms and Weapons

Sections:

- 9.24.010 Carrying concealed weapon – Possession of weapons.
- 9.24.020 Discharging weapons.
- 9.24.030 Possessing firearm while intoxicated.
- 9.24.040 Furnishing firearm to intoxicated persons or minors.
- 9.24.050 Deadly weapons in Town Hall or Municipal Court prohibited.

9.24.010 Carrying concealed weapon – Possession of weapons.

A. A person commits a misdemeanor if he knowingly and unlawfully:

1. Carries a knife concealed on or about his person; or
2. Carries a firearm concealed on or about his person.

B. It shall be an affirmative defense that the defendant was:

1. A person in his own dwelling or place of business or on property owned or under his control at the time of the act of carrying; or

2. A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his or another's person or property while traveling, except that this affirmative defense shall be inapplicable if the weapon is tucked under the edge of a seat, or is otherwise hidden or concealed from view in a location within the easy reach of the person; or

3. A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to Colorado State Statute to carry a concealed weapon, and such permit is valid at the time of the carrying of the concealed weapon; or

4. The person is a marshal, deputy marshal or law enforcement officer as defined in this Title. (Ord. 275 §1, 1990; Ord. 251 §12, 1989; Ord. 178 §1(part), 1982; prior code §9-6)

9.24.020 Discharging weapons.

A. It is unlawful for any person to fire or discharge within the Town any firearm, airgun, BB gun, bow and arrow or any toy gun projecting lead or missiles.

B. Subsection A of this Section shall not apply to:

1. A private shooting range or gallery specifically designated for such purpose by the Town pursuant to an annexation agreement and Outline Development Plan.

2. Private hunting on a single parcel exceeding one hundred forty acres if such use is specifically designated for such purpose by the Town pursuant to an annexation agreement and Outline Development Plan.

3. Any officer of the law discharging a firearm in the performance of his duty.

4. Any person from discharging a firearm or other weapon when lawfully defending persons or property.

5. Such activities within St. Vrain State Park as part of a shooting event or activity sanctioned by the state agency having jurisdiction over state parks and in accordance with state statutes and regulations concerning the possession, carrying or discharge of firearms and other weapons in state parks, provided that the Town shall be given advance notice of such event or activity.

C. Subsection A of this Section and Section 9.16.130 of this Code shall not apply to any person discharging from a shotgun of 12 gauge or smaller a shell containing a timed pyrotechnic report projectile, commonly referred to as a "bird bomb" or "shell cracker," without lead or shot, solely when discharged for the purpose of scaring waterfowl, on private property of not less than one hundred acres under single ownership and only pursuant to and in full compliance with a written permit issued upon approval of the Board of Trustees, which permit shall be for a term prescribed by the Board. A violation of any terms of a permit issued under this Subsection shall be a misdemeanor offense and ground for revocation of such permit. A device subject to this Subsection shall not be considered a firework for the purposes of Section 9.16.070 of this Code. (Ord. 775 §1, 2011; Ord. 728 §1, 2009; Ord. 633 §1, 2007; Ord. 544 §1, 2003; Ord. 541 §1, 2003; Ord. 178 §1(part), 1982; prior code §9-6.2)

9.24.030 Possessing firearm while intoxicated.

No person shall possess a firearm while such person's ability is impaired by intoxicating liquor, as defined by state law, or a controlled substance, as defined by state law. A violation of this Section shall be a misdemeanor. (Ord. 246 §117(part), 1988; prior code §9-6.3)

9.24.040 Furnishing firearm to intoxicated persons or minors.

No person shall sell, loan or furnish any firearm to any person whose ability is impaired by intoxicating liquor, as defined by state law, or any controlled substance, as defined by state law, or to any person in a condition of agitation and excitability, or to any minor under the age of eighteen years who is not related to the person by blood, marriage or adoption. A violation of this Section shall be a misdemeanor. (Ord. 246 §117(part), 1988; prior code §9-6.4)

9.24.050 Deadly weapons in Town Hall or Municipal Court prohibited.

No person, other than a peace officer, shall carry, bring or possess a deadly weapon in the Town Hall or Municipal Court while the Board of Trustees or Municipal Court is in session. A violation of this Section shall be a misdemeanor. (Ord. 246 §117(part), 1988; prior code §9-6.5)

Chapter 9.28

Offenses Relating To Minors

Sections:

- 9.28.010 Curfew for minors.
- 9.28.020 Parental responsibility.
- 9.28.030 Illegal possession or consumption of ethyl alcohol by, or furnishing of the same to, an underage person.
- 9.28.040 Illegal possession or consumption of tobacco products.

9.28.010 Curfew for minors.

A. It is unlawful for any person age thirteen or under to loiter in or upon any public area at the following times:

1. From September 1st through May 31st:
 - a. Between 9:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday; and
 - b. Between 11:00 p.m. and 5:00 a.m. of the following day, Friday and Saturday.
2. From June 1st through August 31st:
 - a. Between 10:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday; and
 - b. Between 11:00 p.m. and 5:00 a.m. of the following day, Friday and Saturday.

B. It is unlawful for any person age fourteen through seventeen to loiter in or upon any public area at the following times:

1. From September 1st through May 31st:
 - a. Between 11:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday; and
 - b. Between 12:00 a.m. and 5:00 a.m., Friday and Saturday.
2. From June 1st through August 31st: between 12:00 a.m. and 5:00 a.m., Sunday through Saturday.

C. The provisions of this Section shall not be applicable to a minor who is:

1. Actively engaged in or returning directly home from lawful employment;
2. Accompanied by a parent, guardian or other person of the age of at least twenty-one years, such other person having permission of the parent or guardian to have care and custody of such minor;
3. Upon an emergency errand or legitimate business directed by the parent, guardian or other adult person having care and custody of the minor;
4. Engaged in lawful interstate travel; or

5. When returning from an officially sanctioned school or religious event, activity or function when within one half-hour after the conclusion of such an activity, function or event.

D. Violating curfew is a petty offense.

E. As used in this Section, the following words shall have the following definitions, unless the context clearly indicates otherwise:

1. "Loiter" means to remain idle in essentially one location or area, to be dilatory, tarry, to dawdle, linger, and shall include, but not be limited to, standing around, wandering about, hanging out, sitting, kneeling, sauntering or prowling, whether in or out of a vehicle.

2. "Public area" means any place to which the public or a substantial group of the public has access, whether publicly or privately owned, and includes streets, highways, alleys, parks, playgrounds, vacant lots, parking lots and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, stores, shops, restaurants, taverns and bowling alleys. (Ord. 730 §§1, 2, 2010; Ord. 522 §1, 2003; Ord. 178 §1(part), 1988; prior code §9-7.1)

9.28.020 Parental responsibility.

It is unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of eighteen years to knowingly permit such minor to loiter in or upon any public area at times other than those permitted pursuant to Section 9.28.010; provided, however, the provisions of this Section shall not apply to those instances excepted in Section 9.28.010. Violation of parental responsibility is a petty offense. The words used in this Section shall have the same definitions as set forth in Subsection 9.28.010E of this Code. (Ord. 730 §3, 2010; Ord. 522 §2, 2003; Ord. 178 §1(part), 1988; prior code §9-7.2)

9.28.030 Illegal possession or consumption of ethyl alcohol by, or furnishing of the same to, an underage person.

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

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

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

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

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

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

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

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

B. 1. Any person under twenty-one years of age who possesses or consumes ethyl alcohol anywhere in the town commits illegal possession or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

2. Illegal possession or consumption of ethyl alcohol by an underage person is a petty offense.

C. It shall be an affirmative defense to the offense described in subsection B of this section that the ethyl alcohol was possessed or consumed by a person under twenty-one years of age under the following circumstances:

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

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

D. The possession or consumption of ethyl alcohol shall not constitute a violation of this section if such possession or consumption takes place for religious purposes protected by the first amendment to the United States constitution.

E. Prima facie evidence of a violation of subsection B. of this section shall consist of:

1. Evidence that the defendant was under the age of twenty-one years and possessed or consumed ethyl alcohol anywhere in this state; or

2. Evidence that the defendant was under the age of twenty-one years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment while present anywhere in this state.

F. During any trial for a violation of Subsection B or K of this section, any bottle, can or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial,"

"alcohol" or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of ethyl alcohol.

G. A person or legal guardian of a person under twenty-one years of age or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of ethyl alcohol to or by a person under the age of twenty-one years under the conditions described in paragraph (1) of Subsection C of this section. This subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any such establishment to give, provide, make available or sell ethyl alcohol to a person under twenty-one years of age.

H. Nothing in this section shall be construed to limit or preclude prosecution for any offense pursuant to any other applicable law or ordinance.

I. The qualitative result of an alcohol test or tests shall be admissible at the trial of any person charged with a violation of Subsection B of this section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting alcohol by the executive director of the department of health.

J. During any trial for a violation of Subsection B of this section, the court shall take judicial notice of methods of testing a person's blood, breath, saliva or urine for the presence of alcohol and of the design and operation of devices certified by the department of health for testing a person's blood, breath, saliva or urine for the presence of alcohol. This subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

K. 1. Any person who sells or otherwise furnishes ethyl alcohol to any person under twenty-one years of age commits illegal furnishing of ethyl alcohol to an underage person. Illegal furnishing of ethyl alcohol to an underage person is a strict liability offense.

2. Illegal furnishing of ethyl alcohol to an underage person is a petty offense.

3. It shall be an affirmative defense to the offense described in paragraph (1) of this subsection that the ethyl alcohol was furnished to a person under twenty-one years of age under the circumstances described in paragraphs (1) or (2) of Subsection C of this section or in Subsection D of this section. (Ord. 273 §1, 1990)

9.28.040 Illegal possession or consumption of tobacco products.

A. As used in this section, "tobacco products" means cigarettes, cigars, cheroots, stogies, parquets, granulated, plug-cut, crimp-cut, ready-rubbed and other smoking tobacco, snuff, snuff flour, Cavendish, plug-and-twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds of forms of tobacco. "Possession of tobacco products" means that a person has or holds any amount of tobacco products anywhere on his or her person, or that a person owns or has control of tobacco products, or has tobacco products within his or her immediate presence and control and such products are not simultaneously within the immediate presence and control of a person that may by law have possession of the tobacco products.

B. Any person under eighteen years of age who possesses or consumes cigarettes or tobacco products commits illegal possession or consumption of tobacco by an underage person. Illegal possession or consumption of tobacco by an underage person is a strict liability offense and shall be punished by a fine of one hundred dollars, except that the court may sentence a person convicted under this subsection to participate in a tobacco education program or to perform community service and be granted credit for same against the fine.

C. It is unlawful for any person who is under the age of eighteen to purchase or attempt to purchase any cigarettes or tobacco products. Violation of this subsection shall be a petty offense and shall be punished by a fine of one hundred dollars, except that the court may sentence a person convicted under this subsection to participate in a tobacco education program or to perform community service and be granted credit for same against the fine.

D. It is unlawful for any person to knowingly furnish to any person who is under the age of eighteen years by gift, sale or any other means, cigarettes or tobacco products. Violation of this section shall be a petty offense and shall be punished by a fine of two hundred dollars. It shall be an affirmative defense to a prosecution under this subsection that the person furnishing the cigarettes or tobacco product was presented with and reasonably relied upon a document which identified the person receiving the cigarettes and/or tobacco product as being eighteen years of age or older. (Ord. 651 §7, 2007)

Chapter 9.32

Miscellaneous Offenses

Sections:

- 9.32.030 Possession of marijuana.
- 9.32.050 Possession of drug paraphernalia.
- 9.32.070 Manufacture, sale or delivery of drug paraphernalia.
- 9.32.090 Advertisement of drug paraphernalia.
- 9.32.110 Defenses.

9.32.030 Possession of marijuana.

A. It is an offense to possess marijuana in an amount of one ounce or less.

B. A violation of this section is a petty offense, and upon conviction only a fine, not to exceed one hundred dollars, shall be imposed. (Ord. 395 §2, 1998; Ord. 254 §1, 1989)

9.32.050 Possession of drug paraphernalia.

A. It is an offense to possess drug paraphernalia under circumstances where the possessor knows or reasonably should know that the drug paraphernalia could be used in violation of the laws of Colorado or the ordinances of the town.

B. As used in this section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing,

packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the laws of Colorado or the ordinances of the town. "Drug paraphernalia" includes, but is not limited to:

1. Testing equipment used, intended for use or designed for use in identifying the strength, effectiveness or purity of controlled substances under circumstances in violation of the laws of Colorado;

2. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

3. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

4. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

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

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

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

a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish beads or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons or cocaine vials; or

g. Chamber pipes, carburetor pipes, electric pipes, air-driven pipes, chillums, bongs or chillers.

C. In determining whether an object is drug paraphernalia, the following factors, in addition to all other relevant factors, may be considered:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. The proximity of the object to controlled substances;

3. The existence of any residue of controlled substances on the object;

4. Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he knows or reasonably should know, could use the object to facilitate a violation of the laws of Colorado or the ordinances of the town;

5. Instructions, oral or written, provided with the object concerning its use;

6. Descriptive materials accompanying the object which explain or depict its use;

7. National or local advertising concerning its use;

8. The manner in which the object is displayed for sale;

9. Whether the owner, or anyone in control of the object, is a supplier of like or related items in the community for legal purposes, such as an authorized distributor or dealer of tobacco products;

10. The existence and scope of legal uses for the object in the community; and

11. Expert testimony concerning its use.

D. As used in this section, "controlled substance" means a drug or other substance or an immediate precursor which is declared to be a controlled substance under Part 3 of Article 22 of Title 12, Colorado Revised Statutes, as said part existed in Volume 5 (1985 Replacement Volume) of said Statutes and in the 1989 Cumulative Supplement to said Volume of said Statutes.

E. A violation of this section is a petty offense. (Ord. 254 §1, 1989)

9.32.070 Manufacture, sale or delivery of drug paraphernalia.

It shall be unlawful for any person to sell or deliver, possess with intent to sell or deliver or manufacture with intent to sell or deliver equipment, products or materials knowing, or under circumstances where one reasonably should know, that such equipment, products or materials could be used as drug paraphernalia. A violation of this section is a petty offense. (Ord. 302 §1(part), 1994)

9.32.090 Advertisement of drug paraphernalia.

It shall be unlawful for any person to place an advertisement in any newspaper, magazine, handbill or other publication and who intends thereby to promote the sale in the town of equipment, products or materials designed and intended for use as drug paraphernalia. A violation of this section is a petty offense. (Ord. 302 §1(part), 1994)

9.32.110 Defenses.

The common law defense known as the "Procuring Agent Defense" is not a defense to any offense in this Chapter 9.32. (Ord. 302 §1(part), 1994)