

## **Title 9**

### **PUBLIC PEACE, ORDER AND MORALS**

#### **Chapters:**

#### **I. OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT**

##### **9.04 Obstructing Justice**

#### **II. OFFENSES AGAINST THE PERSON**

##### **9.07 Harassment**

#### **III. OFFENSES AGAINST PUBLIC DECENCY**

##### **9.16 Indecency-Immorality**

##### **9.20 Promotion and Display of Obscene Material**

#### **IV. OFFENSES AGAINST PUBLIC PEACE**

##### **9.28 Disturbing the Peace-Loitering-Molesting**

##### **9.30 Prohibited Solicitations**

##### **9.32 Disorderly Conduct**

##### **9.34 Theft**

##### **9.36 Intoxication-Liquor Consumption and Sale**

##### **9.40 Toxic Vapors**

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

#### **V. OFFENSES AGAINST PROPERTY**

##### **9.44 Obstructing, Defacing or Injuring Property**

##### **9.45 Graffiti**

##### **9.46 Distribution of Handbills**

##### **9.48 Trespassing**

##### **9.49 Abandoned Refrigerators**

#### **VI. CONSUMER PROTECTION**

##### **9.50 Keg Identification Tags**

##### **9.52 Defrauding Consumers and Others**

#### **VII. OFFENSES BY OR AGAINST MINORS**

#### **VIII. WEAPONS**

##### **9.60 Possession or Use of Weapons**

#### **IX. MISCELLANEOUS PROVISIONS**

##### **9.64 Aiding and Abetting**

##### **9.65 Liability of Business Entities and Corporate Agents**

# I. OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

## Chapter 9.04

### OBSTRUCTING JUSTICE

#### Sections:

- 9.04.010**      **Resisting or obstructing an officer.**
- 9.04.020**      **Aiding prisoner to escape.**
- 9.04.025**      **Escape.**
- 9.04.030**      **Failure to obey a lawful order of a police officer.**
- 9.04.040**      **Failure to obey a lawful order of a fire department member.**
- 9.04.050**      **Harassment of police canines and horses.**
- 9.04.060**      **False alarm.**
- 9.04.070**      **False report.**
- 9.04.080**      **Impersonating a police officer.**

#### **9.04.010**      **Resisting or obstructing an officer.**

- A. It is unlawful for any person to resist arrest by a police officer of the city. A person commits resisting arrest if he knowingly prevents or attempts to prevent a police officer acting under color of his official authority from effecting an arrest of the actor or another by using or threatening to use physical force or violence against the police officer or another, or using any other means which creates a substantial risk of causing physical injury to the police officer or another.

It is no defense to a prosecution under this section that the police officer was attempting to make an arrest which in fact was unlawful, if he 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 police 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 arrest should be made by him.

The term “police officer” as used in this section means a police officer in uniform, or, if out of uniform, one who has identified himself by exhibiting his credentials as such police officer to the person whose arrest is attempted.

- B. It is unlawful for a person to obstruct a police officer. A person commits obstructing a police officer 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 police officer acting under color of his official authority.

It is no defense to a prosecution under this section that the police officer was acting in an illegal manner, if he was acting under color of his official authority as defined in subsection A. (Ord. 1931, § 1, 1980; prior code § 29.3)

#### **9.04.020**      **Aiding prisoner to escape.**

It is unlawful for any person to rescue or attempt to rescue, or to aid in the escape of any person in the custody of a police officer or in the custody of the police department at the city jail, or to aid or attempt to aid any person who has escaped from such custody in attempting to avoid recapture. Escape is defined for purposes of this section as beginning with the formation of a plan for escape and continuing until the prisoner has been returned to police custody. (Ord. 1346 § 1, 1974; prior code § 29.4)

**9.04.025      Escape.**

It is unlawful for any person to escape or attempt to escape from custody or confinement while held for, charged with or convicted of a violation of any ordinance of the City. (Ord. 5253 § 1, 2007)

**9.04.030      Failure to obey a lawful order of a police officer.**

It is unlawful for any person to fail to obey the lawful order of a police officer. A lawful order is that order issued by a police officer in the exercise of his assigned duties relating to the enforcement of the penal law or the preservation of the peace or the protection of the safety of a person. A police officer may issue a lawful order while performing his assigned duties or preserving the peace or protecting the safety of a person when in uniform, or, if not in uniform, after having identified himself as a police officer. (Ord. 3221 § 1, 1985)

**9.04.040      Failure to obey a lawful order of a fire department member.**

It is unlawful for any person to fail to obey the lawful order of a fire department member. A “lawful order” is that order issued by a fire department member in the exercise of his assigned duties at the scene of a fire or other emergency relating to the enforcement of the penal law or the preservation of the peace or the protection of the safety of a person. A fire department member may issue a lawful order only after having identified himself as a fire department member. (Ord. 3550 § 1, 1988)

**9.04.050      Harassment of police canines and horses.**

It is unlawful for any person intentionally to harass, alarm or annoy or attempt to harass, alarm or annoy a canine or horse by taunting, teasing, frightening, agitating, hindering or striking such canine or horse while such animal is serving a law enforcement or police purpose with a governmental entity. (Ord. 3832 § 1, 1992)

**9.04.060      False alarm.**

It is unlawful for any person to intentionally make, turn in or give a false alarm of fire or need for police or ambulance assistance or aid or abet in the commission of such act. (Ord. 5253 § 1, 2007)

**9.04.070      False report.**

It is unlawful for any person to make to, or file with, a police officer any false or misleading statement or report concerning the commission or alleged commission of any crime occurring within the city. (Ord. 5253 § 1, 2007)

**9.04.080      Impersonating a police officer.**

It is unlawful for any person, other than a police officer of the city, to wear or carry the uniform, apparel, badge, identification card or any other insignia of office like or similar to, or a colorable imitation of, that adopted or worn or carried by police officers. It is unlawful for any person to in any other way falsely represent himself or herself to be a police officer or to exercise any duty, power or function of a police officer. (Ord. 5253 § 1, 2007)

## II. OFFENSES AGAINST THE PERSON

### Chapter 9.07

#### HARASSMENT

##### Sections:

##### 9.07.010 Harassment.

##### 9.07.010 Harassment.

- A. It is unlawful for any person, with intent to harass, annoy or alarm another person, to:
  - 1. Strike, shove, kick or otherwise touch a person or subject him or her to physical contact; or
  - 2. In a public place direct obscene language or make an obscene gesture to or at another person; or
  - 3. Follow a person in or about a public place; or
  - 4. Initiate communication with a person, anonymously or otherwise, by telephone, computer, computer network, or computer system in a manner intended to harass or threaten bodily injury or property damage, or make any comment, request, suggestion or proposal by telephone, computer, computer network or computer system which is obscene; or
  - 5. Make a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation; or
  - 6. Make 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 private property; or
  - 7. Repeatedly insult, taunt or challenge another in a manner likely to provoke a violent or disorderly response.
- B. As used in this section, unless the context otherwise requires, obscene means a blatantly offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.
- C. Any act prohibited by subsection 4 of paragraph A of this section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received. (Ord. 5253 § 2, 2007)

### III. OFFENSES AGAINST PUBLIC DECENCY

#### Chapter 9.16

#### INDECENCY-IMMORALITY\*

##### Sections:

- |                 |                           |
|-----------------|---------------------------|
| <b>9.16.010</b> | <b>Prostitution.</b>      |
| <b>9.16.030</b> | <b>Indecent exposure.</b> |
| <b>9.16.040</b> | <b>Window peeping.</b>    |

\* For statutory provisions authorizing cities and towns to suppress bawdy and disorderly houses, see CRS § 139-32-1 (52).

##### **9.16.010 Prostitution.**

It is unlawful for any person to keep or maintain a bawdy house, house of assignation, house of prostitution, house of ill fame, or other place for the practice of prostitution, fornication, adultery or sexual perversion; or to offer to secure another person for the purpose of committing an act of prostitution; or to commit or offer or agree to commit an act of prostitution. (Prior code § 29.13)

##### **9.16.030 Indecent exposure.**

It is unlawful for any person to expose his or her genital area, or, in the case of a woman, her breasts below the top of the nipple, or to expose his or her buttocks, in or near any public place or in any place open to the public view. (Ord. 1362 § 3, 1974; Ord. 1340 § 1, 1974; prior code § 29.9)

##### **9.16.040 Window peeping.**

It shall be unlawful for any person to be upon any property owned or occupied by another for the purpose of looking or peeping into any window, door, skylight or other opening in any house, room or other building occupied as a residence or loiter in a public street, alley, parking lot or other public place for the purpose of wrongfully observing the actions of the occupant of such house or other building or place occupied as a residence. (Ord. 5253 § 3, 2007)

## Chapter 9.20

### PROMOTION AND DISPLAY OF OBSCENE MATERIAL\*

#### Sections:

- 9.20.010**      **Definitions.**  
**9.20.020**      **Promotion-Prohibited.**

\* For statutory provisions authorizing cities and towns to prohibit the sale of obscene or immoral publications, see CRS § 139-32-1(52).

#### **9.20.010**      **Definitions.**

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

- A. “Material” means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three-dimensional obscene device.
- B. “Obscene” means material or a performance that:
  - 1. The average person, applying contemporary community standards, would find that taken as a whole, appeals to the prurient interest in sex;
  - 2. Depicts or describes:
    - a. Patently offensive representations or descriptions of ultimate sex acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality, or
    - b. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, or covered male genitals in a discernibly turgid state; and
  - 3. Taken as a whole, lacks serious literary, artistic, political, or scientific value.
- C. “Obscene device” means a device, including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.
- D. “Patently offensive” means so offensive on its face as to affront current community standards of tolerance.
- E. “Performance” means a play, motion picture, dance or other exhibition performed before an audience.
- F. “Person” means any individual, corporation, association, partnership, trustee, lessee, agent or assignees.
- G. “Promote” means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.
- H. “Prurient interest” means a shameful or morbid interest.
- I. “Simulated” means the explicit depiction or description of any of the types of conduct set forth in paragraph 2 of subsection B of this section, which creates the appearance of such conduct.
- J. “Wholesale promote” means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale. (Ord. 3612 § 1 (part), 1989; Ord. 1362 § 4, 1974; Ord. 1338 § 1 (part), 1974; prior code § 29.15-1)

#### **9.20.020**      **Promotion-Prohibited.**

- A. It is unlawful for any person to:
  - 1. Promote or possess, with the intent to promote, any obscene material when such person knows the content and character of such material; or

2. Produce, present or direct an obscene performance or participate in a portion thereof that is obscene or that contributes to its obscenity, when such person knows the content and character of such performance or portion thereof;
  3. Wholesale promote or possess with the intent to wholesale promote any obscene material when such person knows the content and character of such material.
- B. This section does not apply to a person who possesses or distributes obscene material or participates in conduct otherwise proscribed by this section when the possession, participation, or conduct occurs in the course of law enforcement activities.
- C. This section does not apply to a person's conduct otherwise proscribed by this section which occurs in that person's residence as long as that person does not engage in the promotion of obscene material in his residence.
- D. A person who possesses six or more identical obscene materials is presumed to possess them with intent to promote the same. (Ord. 3612 § 1 (part), 1989; Ord. 1412 § 3 (h), 1975; Ord. 1338 § 1 (part), 1974; prior code § 29.15-2)

## IV. OFFENSES AGAINST PUBLIC PEACE

### Chapter 9.28

#### DISTURBING THE PEACE-LOITERING-MOLESTING\*

##### Sections:

- 9.28.010**        **Disturbing the peace.**
- 9.28.015**        **Disturbing the peace with sound amplifying equipment.**
- 9.28.020**        **Unlawful assemblies.**
- 9.28.030**        **Disturbance of religious worship.**
- 9.28.040**        **Definition.**
- 9.28.050**        **Unlawful presence on school grounds.**
- 9.28.070**        **Penalties for Sections 9.28.040 through 9.28.050.**
- 9.28.080**        **Curfew for minors.**
- 9.28.090**        **Parent responsibility.**
- 9.28.100**        **Affirmative defense to curfew violations.**

\* For statutory provisions authorizing cities and towns to prevent and suppress riots, affrays and disturbances, see CRS § 31-15-401.

##### **9.28.010        Disturbing the peace.**

It is unlawful for any person to disturb the peace and quiet of others by violent, tumultuous, offensive or obstreperous conduct. (Ord. 1988 § 2, 1981; prior code § 29.5)

##### **9.28.015        Disturbing the peace with sound amplifying equipment.**

- A. It is unlawful for any person to use, operate or allow to be used or operated any loudspeaker, public address system, radio, tape player, disc player or other sound system amplifying equipment in or on a motor vehicle in such a manner as to be plainly audible at twenty-five (25) feet or more from the motor vehicle unless a permit has been issued by the city manager pursuant to Section 7.32.070 of this code and such person is in compliance with the provisions of such permit.
- B. For the purposes of this section, the phrase “plainly audible” means that the information content of sound is unambiguously transferred to the auditor, such as but not limited to understanding of spoken speech, comprehension of raised or normal voices or comprehension of musical rhythms.
- C. The provisions of this section shall not apply to sound made or controlled by the city, the federal government or to any branch, subdivision or agency of the government of this state or any political subdivision within it or when such sound is made by an activity of the governmental body or sponsored by it or by others pursuant to the terms of a contract, lease or permit granted by such governmental body. (Ord. 4092 § 1, 1995)

##### **9.28.020        Unlawful assemblies.**

It is unlawful for any three or more persons to assemble together in the city with an intent to do an unlawful act, or, being assembled, mutually to agree or act in concert to do an unlawful act with force or violence against the person or property of another or against the peace and to the terror of others; or being present at such meeting or assembly, to fail to endeavor to prevent the commission or perpetration of such unlawful act. (Prior code § 29.7)

##### **9.28.030        Disturbance of religious worship.**

It is unlawful for any person to disquiet or disturb any congregation or assembly for religious worship by making a noise or by rude or indecent behavior or profane discourse within the place of worship or so near the same as to disturb the order or solemnity of the meeting. (Prior code § 29.6)

**9.28.040 Definition.**

For the purposes of Section 9.28.050, the term “grounds adjacent thereto” includes but is not limited to any highway, street, alley or sidewalks within the city adjacent to the property in question. (Ord. 1077 § 1 (part), 1970; prior code § 29.29-3)

**9.28.050 Unlawful presence on school grounds.**

- A. It is unlawful for any person, with intent to interfere with or disrupt the school program or with intent to interfere with or endanger school children, to loiter in a school building or on school grounds or within one hundred feet of school grounds when persons under the age of eighteen are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific, legitimate reason for being there, and having been asked to leave by a school administrator or his representative or by a peace officer.
- B. For purposes of this section, the word “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.
- C. It shall be an affirmative defense to this section 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. 3539 § 1, 1988; Ord. 1077 § 1 (part), 1970; prior code § 29.29-1)

**9.28.070 Penalties for Sections 9.28.040 through 9.28.050.**

Any person found guilty of violating Sections 9.28.040 through 9.28.050 shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars or by imprisonment for a term not to exceed ten days, or by both such fine and imprisonment. (Ord. 3539 § 3, 1988; Ord. 1412 § 5(a) (part), 1975; Ord. 1077 § 1 (part), 1970; prior code § 29.29-4)

**9.28.080 Curfew for minors.**

No person under the age of eighteen years shall be in or upon any public street, alley, sidewalk, park, playground, school yard, public building or other public place between the hours of midnight on any Sunday through Thursday of each week and five o'clock a.m. of the next day, and between the hours of one o'clock a.m. and five o'clock a.m. on any Saturday or Sunday, unless he or she is:

- A. Accompanied by his or her parent or guardian; or
- B. In the custody of and accompanied by a person who is over the age of eighteen years, but only if said person has in his or her immediate possession the written consent of the minor's parent or guardian; or
- C. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop. (Ord. 4252 § 1, 1997; Ord. 3748 § 1, 1991)

**9.28.090 Parent responsibility.**

No parent or guardian of a person under the age of eighteen years shall knowingly permit or allow said minor to be in any public place between the hours of midnight on any Sunday through Thursday of each week and five o'clock a.m. of the next day, and between the hours of one o'clock a.m. and five o'clock a.m. on any Saturday or Sunday, unless the minor is:

- A. Accompanied by the minor's parent or guardian; or
- B. In the custody of and accompanied by a person who is over the age of eighteen years, but only if said person has in his or her immediate possession the written consent of the minor's parent or guardian; or

- C. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop. (Ord. 4252 § 2 (part), 1997)

**9.28.100 Affirmative defense to curfew violations.**

- A. It shall be an affirmative defense to charges under Sections 9.28.080 and 9.28.090 of this chapter that the minor was:
  - 1. Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization, school, religious organization, or other similar entity; or
  - 2. Going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, school, religious organization, or other similar entity;
  - 3. Upon an emergency errand or legitimate business directed by the parent or guardian of the minor.
- B. At any trial for a violation of Sections 9.28.080 or 9.28.090 of this chapter at which the defendant raises an affirmative defense set forth in subsection A of this section, the defendant shall have the burden of proving every element of the affirmative defense. (Ord. 4252 § 2 (part), 1997)

## Chapter 9.30

### PROHIBITED SOLICITATIONS

#### Sections:

- 9.30.010**      **Definitions**
- 9.30.020**      **Panhandling Restricted**
- 9.30.030**      **Solicitations on or Near Streets or Highways**

#### **9.30.010**      **Definitions**

When used in this Chapter, the following words, terms and phrases shall have the meanings ascribed to them herein:

- A. At-risk person shall mean a natural person who is sixty (60) years of age or older, under eighteen (18) years of age, or who is a person with a disability. A person with a disability shall mean, for the purposes of this subparagraph (1), a natural person of any age who suffers from one (1) or more substantial physical or mental impairments that render the person significantly less able to defend against criminal acts directed toward such person that he would be without such physical or mental impairments. A substantial physical or mental impairment shall be deemed to include, without limitation, the loss of, or the loss of use of, a hand or foot; loss of or severe diminishment of, hearing; loss of or severe diminishment in the ability to walk; and any developmental disability, psychological disorder, mental illness or neurological condition that substantially impairs a person's judgment or capacity to recognize reality or to control behavior.
- B. Knowingly shall mean, with respect to the conduct or circumstances described in this Section, that a person is aware that such person's conduct is of that nature or that the circumstances exist. With respect to a result of such conduct, this means that a person is aware that such person's conduct is practically certain to cause the result.
- C. Obscene shall mean a blatantly offensive description of an ultimate sexual act or solicitation to commit an ultimate sexual act, whether or not such ultimate sexual act is normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.
- D. Obstruct shall mean to render impassible or to render passage unreasonably inconvenient or hazardous.
- E. Panhandle shall mean to knowingly approach, accost or stop another person in a public place and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for a gift of money or thing of value.
- F. School grounds shall mean all buildings that are owned, leased, rented, or otherwise used by a school for instruction, administration support services, maintenance, or storage and the grounds surrounding such buildings over which the school is authorized to exercise dominion or control.
- G. Traveled portion of a street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

#### **9.30.020**      **Panhandling Restricted**

It shall be unlawful for any person to panhandle if such panhandling occurs:

- A. any time from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise;
- B. in a manner that involves the person panhandling knowingly engaging in conduct toward the person solicited that is intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety;
- C. in a manner that involves the person panhandling knowingly directing fighting words to the person solicited;
- D. in a manner that involves the person panhandling knowingly touching or grabbing the person solicited;

- E. in a manner that involves the person panhandling knowingly continuing to request the person solicited for a gift of money or thing of value after the person solicited has refused the panhandler's initial request;
- F. in a manner that involves the person panhandling knowingly soliciting an at-risk person;
- G. on a sidewalk or other passage way in a public place used by pedestrians and is done in a manner that obstructs the passage of the person solicited or that requires the person solicited to take evasive action to avoid physical contact with the person panhandling or with any other person;
- H. within one hundred (100) feet of an automatic teller machine or of a bus stop;
- I. on a public bus;
- J. in a parking garage, parking lot or other parking facility;
- K. when the person solicited is entering or exiting a parked motor vehicle, in a motor vehicle stopped on a street, or present within the patio or sidewalk serving area of a retail business establishment that serves food and/or drink; or
- L. on, or within one hundred (100) feet of any school grounds.

**9.30.030 Solicitations on or Near Streets or Highways**

- A. It shall be unlawful for any persons to solicit employment, business, contributions, or sales of any kind, or collect monies for the same, from the occupant of any vehicle traveling upon any street or highway when:
  - 1. such solicitation or collection causes the person performing the activity to enter onto the traveled portion of a street or highway;
  - 2. such solicitation or collection involves the person performing the activity to be located upon any median area of the traveled portion of a street or highway which separates traffic lanes for vehicular travel in opposite directions; or
  - 3. the person performing the activity is located such that vehicles cannot move into a legal parking area to safely conduct the transaction.
- B. It shall be unlawful for any person to solicit or attempt to solicit employment, business, or contributions of any kind from the occupant of any vehicle on any highway included in the interstate system including any entrance to or exit from such highway. (Ord. 4955 § 1, 2005)

## Chapter 9.32

### DISORDERLY CONDUCT\*

#### Sections:

#### **9.32.010 Designated.**

\* For statutory provisions authorizing cities and towns to prevent all disorderly conduct, see CRS 1973 § 31-15-401.

#### **9.32.010 Disorderly conduct.**

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

1. Make a coarse and obviously offensive utterance, gesture or display in a public place and such utterance, gesture or display tends to incite an immediate breach of the peace; or
2. Make unreasonable noise in a public place or near a private residence that s/he has no right to occupy; or
3. Fight with another in a public place except in an amateur or professional contest of athletic skill; or
4. Not being a police officer, display a deadly weapon, display any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represent verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm; or
5. To urinate in or near any public place or in any place open to the public view. (Ord. 3912 § 2, 1993; Ord. 3339 § 1, 1986; Ord. 1496 § 1, 1976; Ord. 1412 § 3(i), 1975; Ord. 1309 § 1, 1973; prior code § 29.8; Ord. 5253 § 4, 2007)

## Chapter 9.34

### THEFT

#### Sections:

- 9.34.010 Theft.**
- 9.34.020 Concealment.**
- 9.34.030 Evidence of value.**

#### **9.34.010 Theft.**

- A. It is unlawful for any person to knowingly obtain or exercise control over anything of a value less than one thousand dollars (\$1,000.00) 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; or
  - 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; or
  - 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 is not legally entitled as a condition of restoring the thing of value to the other person.
- B. For the purposes of this section, a thing of value is that of “another” if anyone other than the defendant has a possessory or proprietary interest therein.
- C. This section shall not be applicable to the theft of a thing of value when such theft would constitute a felony under the laws of the state in effect at the time of such theft. (Ord. 3912 § 1 (part), 1993; Ord. 5235 § 5, 2007)

#### **9.34.020 Concealment.**

If any person willfully conceals unpurchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment be on his own person or otherwise and whether on or off the premises of said store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the offense of theft. (Ord. 3912 § 1 (part), 1993)

#### **9.34.030 Evidence of value.**

- A. For purpose of this Chapter, when theft occurs from a store, evidence of the retail value of the thing involved shall be prima facie evidence of the value of the thing involved. Evidence offered to prove retail value may include, but shall not be limited to, affixed labels and tags, signs, shelf tags, and notices.
- B. For purposes of this Chapter, in all cases where theft occurs, evidence of the value of the thing involved may be established through the sale price of other similar property and may include, but shall not be limited to, testimony regarding affixed labels and tags, signs, shelf tags, and notices tending to indicate the price of the thing involved. Hearsay evidence shall not be excluded in determining the value of the thing involved. (Ord. 3912 § 1 (part), 1993)

#### **9.34.040 Theft of rental property.**

- A. No person shall:
  - 1. Obtain the temporary use of personal property of another of a value of less than one thousand dollars (\$1,000.00), which is available only for hire, by means of threat or deception, or knowing that such use is without the consent of the person providing the personal property; or
  - 2. Having lawfully obtained possession for temporary use of the personal property of another of a value of less than one thousand dollars (\$1,000.00) which is available only for hire, knowingly

fail to reveal the whereabouts of or to return the property to the owner thereof or a representative of the owner or to the person from whom the property was received within seventy-two (72) hours after the time at which the person agreed to return it.

- B. The date or time specified in any rental agreement signed by the person charged with the violation of this section shall be prima facie evidence of the time or date on which the property should have been returned. (Ord. 5253 § 5, 2007)

## Chapter 9.36

### INTOXICATION-LIQUOR CONSUMPTION AND SALE\*

#### Sections:

**9.36.010 Soliciting sales of drinks.**

**9.36.020 Open display of fermented malt beverage, malt, vinous or spirituous liquor.**

**9.36.025 Underage possession and consumption of ethyl alcohol.**

\*For statutory provisions empowering cities and towns to prevent intoxication, see CRS 1973 § 31-12-101(53); for provisions regarding unauthorized sale and consumption of alcoholic beverages, see CRS 1973 § 12-47-124.

#### **9.36.010 Soliciting sales of drinks.**

It is unlawful for any person to be employed in or to frequent or loiter in any tavern or place where fermented malt beverages or intoxicating liquors are sold, for the purpose of soliciting others to purchase such drinks. It is also unlawful for the proprietor or operator of any such establishment to allow the presence of any such person in his establishment for such purpose. Nothing herein shall be construed to prohibit any person employed for the purpose of dispensing or serving such drinks from taking orders for such drinks. (Ord. 3030 § 1, 1983; prior code § 29.12)

#### **9.36.020 Open display of fermented malt beverage, malt, vinous or spirituous liquor.**

- A. It is unlawful to consume in public or to display openly any open container of fermented malt beverage, malt, vinous or spirituous liquor, which container has a measurable amount of liquid remaining in the container, in or upon any street or highway or alley or parking lot, which lot is provided for public use, or in any city park or recreation area, except that fermented malt beverage, malt and vinous spirits may be consumed in a city park or recreation area pursuant to a valid permit issued in accordance with municipal ordinances and regulations.
- B. It is unlawful to keep an open container of fermented malt beverage, malt, vinous or spirituous liquor in any automobile except in a locked trunk, in or upon any street, highway, alley or parking lot, which lot is provided for public use, within the city.
- C. It is unlawful to sell, serve or openly display any fermented malt beverage, malt, vinous or spirituous liquor in or upon the premises of any restaurant, lunch stand, store or other place of business within the city, except at such places where the same may be sold lawfully, or sold and served as specifically designated by the laws of the state.
- D. Fermented malt beverage, malt liquor, vinous liquor and spirituous liquor shall be defined as in the Colorado Beer Code and Colorado Liquor Code, respectively. (Ord. 3625 § 1, 1989; Ord. 3338 1, 1986; Ord. 1469 § 1, 1975; Ord. 1310 § 1, 1973; Ord. 1122 § 1, 1970; Ord. 1086 § 1, 1970; Ord. 1029 § 1, 1969; prior code § 29.10)

#### **9.36.025 Underage possession and consumption of ethyl alcohol.**

- A. It is unlawful for any person under twenty-one years of age to:
  1. Obtain or attempt to obtain any ethyl alcohol by misrepresentation of age or by any other method in any place where ethyl alcohol is sold; or
  2. Possess any ethyl alcohol in any store, in any public place, including public streets, alleys, roads or highways or upon property owned by the state of Colorado or any subdivision thereof, or inside vehicles while upon the public streets, alleys, roads or highways; or
  3. Possess any ethyl alcohol anywhere in the city of Loveland, Colorado, other than those locations specified in subsection (A)(2) of this section; or
  4. Consume ethyl alcohol anywhere in the city of Loveland.

- B. A violation of any provision of subsection A of this section shall be a strict liability offense. It shall be an affirmative defense to the offenses described in subsection (A)(2) through (A)(4) above 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 the 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), CRS, 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;
  3. The possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.
- C. Prima facie evidence of the violation of subsection A 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 the city of Loveland, Colorado; 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 the city of Loveland, Colorado.
- D. During any trial for a violation of a provision of this chapter, 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. The fact finder 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," "rum," "armagnac," "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.
- E. As used in this section, unless the context otherwise requires:
1. "Ethyl alcohol" means any substance which is or contains ethyl alcohol and includes fermented malt beverage, malt liquor, vinous liquor and spirituous liquor as defined in the Colorado Beer Code and Colorado Liquor Code.
  2. "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.
  3. "Private property" means any dwelling and its curtilage which is being used by a natural person or natural persons for habitation which is not open to the public, and privately owned real property which is not open to the public. Private property shall not include any establishment which has or is required to have a license pursuant to article 46, 47 or 48 of title 12, CRS or any establishment which sells ethyl alcohol or upon which ethyl alcohol is sold or any establishment which leases, rents or provides accommodations to members of the public generally.
- F. Upon a plea of guilty or no contest (except when such plea is entered in conjunction with a deferred sentence), or a verdict of guilty by the court or jury, to a violation of subsections (A)(1)

or (A)(2) of this section, the court shall forward to the Colorado Department of Revenue a notice of plea or verdict on the form prescribed by the department.

- G. The court may, in its discretion and as part of the sentence to be imposed, require a person convicted of violating any portion of this section to complete court-approved public service in an amount to be set by the court.
- H. Whenever the court requires that a person complete any amount of public service pursuant to subsection (G) of this section, the court shall also impose upon that person, in addition to any other fine, cost or penalty, a public service fee in an amount set by resolution of the city council.
- I. It is unlawful for the parent, guardian or other adult person having the duty of care and custody of a minor under the age of eighteen years to knowingly allow or permit such minor to violate subsection (A) of this section. (Ord. 4292 §§ 1§3, 1997; Ord. 3819 § 1, 1992; Ord. 3804 § 1, 1992; Ord. 3684 § 1, 1990; Ord. 5376 § 5-8, 2008)

## Chapter 9.40

### TOXIC VAPORS

#### Sections:

- 9.40.010 Definition.**
- 9.40.020 Abuse of toxic vapors prohibited.**
- 9.40.030 Sales-Minors.**
- 9.40.040 Sales-From commercial establishments only.**
- 9.40.050 Sales-Knowledge of unlawful use.**
- 9.40.060 Exception.**

#### **9.40.010 Definition.**

As used in this chapter, the term “toxic vapor” means the following substances or products containing such substances:

- A. Alcohols, including methyl, isopropyl, propyl, or butyl;
- B. Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
- C. Acetone;
- D. Benzene;
- E. Carbon tetrachloride;
- F. Cyclohexane;
- G. Freons, including freon 11 and freon 12;
- H. Gasoline;
- I. Hexane;
- J. Methyl ethyl ketone;
- K. Methyl isobutyl ketone;
- L. Naphtha;
- M. Perchloroethylene;
- N. Toluene;
- O. Trichloroethane;
- P. Xylene. (Ord. 3964 § 1, 1994; Ord. 1064 § 1 (part), 1969; prior code § 11.16-1)

#### **9.40.020 Abuse of toxic vapors prohibited.**

- A. No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system. No person shall knowingly possess, buy, or use any such substance for the purposes described in this section, nor shall any person knowingly aid any other person to use any such substance for the purposes described in this section. This section shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.
- B. In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in Section 9.40.010, as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits fumes thereof. (Ord. 3964 § 2, 1994; Ord. 1064 § 1 (part), 1969; prior code § 11.16-2)

#### **9.40.030 Sales-minors.**

It is unlawful to sell, give, deliver or furnish any substance releasing toxic vapors to any minor under the age of eighteen years without the personal or written consent of a parent or guardian of such minor, provided that this section shall not prohibit the sale of one tube of glue simultaneously with or as a part of a sale, purchase or delivery of a hobby or model kit, nor shall this section prohibit the sale of

one bottle of lacquer thinner simultaneously with or as a part of the sale, purchase or delivery of model or hobby paints. (Ord. 1064 § 1 (part), 1969; prior code § 11.16-3)

**9.40.040 Sales-From commercial establishments only.**

No person, except a person who is at the time of such sale actually employed by or engaged in operating a bona fide commercial establishment at a fixed location, shall sell to any other person any substance releasing toxic vapors, and all sales of such substance not made in or from such an establishment are unlawful. (Ord. 1064 § 1 (part), 69; prior code § 11.16-4)

**9.40.050 Sales-Knowledge of unlawful use.**

It is unlawful for any person knowingly to sell or offer for sale, deliver, or give away to any other person any substance releasing toxic vapors, where the seller, offerer or deliverer knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses or nervous system. (Ord. 1064 § 1 (part), 1969; prior code § 11.16-5)

**9.40.060 Exception.**

This chapter shall not apply to the inhalation of anesthesia for medical or dental purposes. (Ord. 1064 § 1 (part), 1969; prior code § 11.16-6)

## Chapter 9.41

### MARIJUANA AND DRUG PARAPHERNALIA

#### **9.41.010 Definitions.** As used in this Chapter, the following definitions shall apply:

- A. "Amendment 20" shall mean Article XVIII, Section 14 of the Colorado Constitution added to the Constitution by a state-wide voter initiative adopted on November 7, 2000.
- B. "Controlled substance" shall have the same meaning as set forth in C.R.S. §18-18-102(5), as amended.
- C. "Debilitating medical condition" shall have the same meaning as set forth in Section (1)(a) of Amendment 20.
- D. "Item" or "item of drug paraphernalia" means all equipment, products or materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the laws of this state or the United States.
- E. "Marijuana" shall have the same meaning as set forth in C.R.S. §18-18-102(18), as amended.
- F. "Medical use" shall have the same meaning as set forth in Section (1)(b) of Amendment 20.
- G. "Patient" shall have the same meaning as set forth in Section (1)(d) of Amendment 20.
- H. "Physician" shall have the same meaning as set forth in Section (1)(e) of Amendment 20.
- I. "Primary care-giver" shall have the same meaning as set forth in Section (1)(f) of Amendment 20.
- J. "Registry identification card" shall have the same meaning as set forth in Section (1)(g) of Amendment 20.

#### **9.41.020 Marijuana Possession Unlawful.**

- A. It is unlawful for any person to possess not more than one (1) ounce of marijuana.
- B. It is unlawful for any person to openly and publicly display, consume or use not more than one (1) ounce of marijuana.
- C. For enforcement purposes, consumption or use of marijuana shall be deemed possession thereof.
- D. Transferring or dispensing not more than one (1) ounce of marijuana from one person to another for no consideration shall be deemed possession and not dispensing or sale thereof.
- E. The provisions of this Section shall not apply to any person who possesses, uses, prescribes, dispenses or administers any drug classified under Group C guidelines of the National Cancer Institute, as amended, approved by the Federal Food and Drug Administration.
- F. The provisions of this Section shall not apply to any person who possesses, uses, prescribes, dispenses or administers dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product, pursuant to the "Colorado Licensing of Controlled Substances Act," Part 3 of Article 22 of Title 12, C.R.S.

#### **9.41.030 Sale or Possession of Drug Paraphernalia Unlawful.**

- A. It is unlawful for any person to knowingly sell or offer for sale any item of drug paraphernalia.
- B. It is unlawful for any person to possess any item of drug paraphernalia who knows or reasonably should know that the item could be used for illegal purposes.

**9.41.040 Prosecutions-Evidence.**

In any prosecution for violation of Section 9.41.030.A., the following factors shall be considered in determining whether the defendant knowingly offered for sale or sold any item of drug paraphernalia:

- A. Statements by an owner or anyone in control of the item concerning its use;
- B. The proximity of the item to a controlled substance;
- C. Knowledge by the defendant of the use to which a purchaser or prospective purchaser intends to put the item;
- D. Oral or written instructions provided in connection with the item concerning its use;
- E. Descriptive materials accompanying the object or displayed in connection with the item suggesting, explaining, or depicting its use;
- F. National or local advertising suggesting, explaining, or depicting the use of the item;
- G. The circumstances and manner in which the item is displayed for sale;
- H. The character and nature of other merchandise displayed or sold;
- I. Knowledge by the defendant of a common use to which the item is put in the community;
- J. The existence of common lawful uses for the item in the community;
- K. Expert testimony concerning the use of the item;
- L. All other relevant evidence showing the character and nature of the item, and the circumstances surrounding its sale or offering for sale.

**9.41.050 Medical Marijuana Exception to Enforcement.**

- A. It shall be an exception from the enforcement of any provision of Sections 9.41.020 and 9.41.030 if the suspected violation relates to any patient or primary care-giver, in lawful possession of a registry identification card, engaging or assisting in the medical use of marijuana unless:
  - 1. Such use is in violation of any state law promulgated under Section (8) of Amendment 20; or
  - 2. The patient is engaging in the medical use of marijuana in a way that endangers the health or well-being of any person; or
  - 3. The patient is engaging in the medical use of marijuana in plain view of, or in a place open to, the general public.
- B. The exception to enforcement in paragraph A. of this Section shall not protect any person, including a patient or primary care-giver, from his or her acquisition, possession, manufacture, production, use, sale, distribution, dispensing, or transportation of marijuana for any use other than medical use to the extent authorized in Amendment 20.

**9.41.060 Medical Marijuana Affirmative Defense.**

- A. Except as otherwise provided in paragraph B. of this Section, a patient or primary care-giver charged with a violation under any provision of Section 9.41.020 or 9.41.030 related to a patient's medical use of marijuana will be deemed to have established an affirmative defense to such a charge, where:
  - 1. The patient was previously diagnosed by a physician as having a debilitating medical condition;
  - 2. The patient was advised by his or her physician, in the context of a *bona fide* physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with a debilitating medical condition; and
  - 3. The patient and his or her primary care-giver were collectively in possession of only those amounts of marijuana as permitted under Amendment 20.
- B. The affirmative defense in paragraph A. of this Section shall not be available with respect to:

1. A patient engaging in the use of marijuana in a way that endangers the health or well-being of any person; or
  2. A patient engaging in the medical use of marijuana in plain view of, or in a place open to, the general public; or
  3. A patient under eighteen years of age engaging in the medical use of marijuana whose use of medical marijuana does not meet all the requirements of Section (6) of Amendment 20; or
  4. A patient or a primary care-giver in violation of any applicable state law promulgated under Section (8) of Amendment 20.
- C. The affirmative defense in paragraph A. of this Section shall not preclude a patient or primary care-giver from asserting any other legally available affirmative defenses to any charge under Section 9.41.020 or 9.41.030. In addition, this affirmative defense shall not protect any person, including a patient or primary care-giver, from his or her acquisition, possession, manufacture, production, use, sale, distribution, dispensing, or transportation of marijuana for any use other than medical use to the extent authorized in Amendment 20. (Ord. 5484 § 1, 2010)

## V. OFFENSES AGAINST PROPERTY

### Chapter 9.44

#### OBSTRUCTING, DEFACING OR INJURING PROPERTY

##### Sections:

- 9.44.010 Damaging city property.**
- 9.44.020 Damaging private property.**
- 9.44.030 Throwing objects.**
- 9.44.040 Spitting on sidewalks and floors.**
- 9.44.050 Prohibited Posting of Signs.**
- 9.44.060 Unlawful Use of City Fire Hydrants.**

##### **9.44.010 Damaging city property.**

It is unlawful for any person to willfully, maliciously, wantonly, negligently, or in any other manner injure or destroy real property or improvements thereon, or movable or personal property, belonging to the city. (Prior code § 29.21)

##### **9.44.020 Damaging private property.**

It is unlawful for any person to willfully, maliciously or wantonly injure or destroy any real or personal property belonging to any person. (Prior code § 29.22)

##### **9.44.030 Throwing objects.**

It is unlawful for any person to throw any stone, snowball or any other object upon or at any vehicle, building, tree or other public or private property, or upon or at any person in any public way or place, or on any enclosed or unenclosed ground. (Prior code § 29.24)

##### **9.44.040 Spitting on sidewalks and floors.**

It is unlawful for any person within the city to spit upon the sidewalks or upon the floors of the post office or any other public building therein. (Prior code § 29.25)

##### **9.44.050 Prohibited Posting of Signs.**

No person shall post, affix or fasten in any way any sign, notice, poster or other advertising or promotional materials upon publicly-owned property including, without limitation, upon utility or traffic poles, or upon any privately-owned property including, without limitation, personal property, without having permission to do so from the owners or occupants of said property. Any sign, notice, poster or other advertising or promotional material so posted, affixed or fastened in violation of this Section may be removed and disposed of by the property owner or occupant, or by their agent, without any civil or criminal liability. However, permission to fasten or affix such materials by door hangers or by similar means at the entrances or publicly-owned or privately-owned premises shall be implied from the presence of an improved walkway connecting such premises directly to a public right-of-way unless:

- A. access to such walkway is physically restricted by a fence, gate or other permanent structure; or
- B. a "No Trespassing" or "No Solicitation" sign or a sign prohibiting posting is posted at or near the entrance to such premises. (Ord. 4729 § 8, 2002)

**9.44.060 Unlawful Use of City Fire Hydrants.**

It shall be unlawful for any person to use a city fire hydrant so as to allow water to flow from that fire hydrant without authorization from the city's water and power department or its fire and rescue department. Any person convicted of violating this section shall be subject to the penalties set forth in City Code Section 1.12.010, except that a fine of one thousand dollars (\$1,000) shall be imposed for each such violation.(Ord. 4898 § 1, 2004)

## Chapter 9.45

### GRAFFITI

#### Sections:

- 9.45.010 Definitions.**
- 9.45.020 Graffiti prohibited.**
- 9.45.030 Abatement of defaced property.**

#### **9.45.010 Definitions.**

As used in this chapter, the following definitions shall apply:

- A. "City Manager" means the City Manager of the City of Loveland, Colorado, or the City Manager's designee.
- B. "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 without written permission of the owner of the property.
- C. "Owner" means any person owning, leasing, occupying or having control or possession of any property in the City.
- D. "Owner of record" means any person who is specified as the owner of property by the records of the Larimer County Assessor. (Ord. 4006 § 1 (part), 1994)

#### **9.45.020 Graffiti prohibited.**

- A. It shall be unlawful for any person to paint, spray paint, draw, write, etch, carve or by any similar method whatsoever deface any public or private property, except with the written permission of the owner of the property.
- B. It shall be unlawful for any person to possess any paint, spray paint, or other substance or article adapted, designed, or commonly used for committing or facilitating the commission of the offense set forth in subsection A of this section, with the intent to use the substance or article, or with the knowledge that some person intends to use the substance or article, in the commission of such offense. (Ord. 4006 § 1 (part) 1994)

#### **9.45.030 Abatement of defaced property.**

- A. All property which is defaced by graffiti which is visible to public view is hereby declared to be a public nuisance and in the interest of public health, safety, morals, and general welfare, shall be abated as set forth in this section.
- B. Whenever any graffiti is found which is visible to public view, the City Manager may cause a written order to be sent to the owner of the property upon which the graffiti exists directing the owner to:
  - 1. remove or correct the same within ten (10) calendar days or such longer period as determined for good cause by the City Manager, at the owner's own expense, or
  - 2. provide written consent and agreement to the City for the City to enter upon the property to remove the same within ten (10) calendar days or such longer period as determined for good cause by the City Manager, with the City to pay not more than fifty percent (50%) of the out of pocket expense of such removal, with the owner to pay the balance.

The City Manager shall make a good faith effort to cause the written order to be sent to the owner of record in addition to any other owners the City Manager may choose as defined herein. The written order shall also advise the owner of his or her right to a hearing before the City Manager to present evidence as to why the owner is not subject to section. If the owner does not comply with the order of the City Manager, the City may cause the graffiti to be removed or corrected and assess the whole cost thereof, including ten percent (10%) for

inspection and other incidental costs in connection therewith, upon the owner. Such assessment shall be a lien upon the property until paid if the owner to whom the above order is sent is also the owner of record.

- C. If any assessment is not paid within thirty (30) days after it is made and notice thereof is mailed to the owner who was ordered to abate the graffiti, the City may:
1. seek collection through any court of competent jurisdiction, and/or
  2. certify the assessment amount, plus a ten (10) percent collection fee, to the county treasurer for collection in the same manner as though it was part of the property taxes if the owner to whom the order described in subsection B, hereof, was sent is also the owner of record. Prior to certification, the owner of record shall be advised of his or her right to a hearing before the City Manager to present evidence as to why the amount of the assessment is not accurate.
- D. Appeal and hearing. Upon the mailing of an order or notice made pursuant to this section, an owner or alleged owner may request and be granted an informal hearing before the City Clerk within ten (10) calendar days of such mailing. The City Manager shall schedule and conduct an informal hearing at which time the owner or alleged owner may present evidence as to his or her liability pursuant to this section. All removal and collection activity as to the appealing owner or alleged owner shall be stayed until the hearing is concluded. (Ord. 4006 § 1 (part) 1994)

## Chapter 9.46

### DISTRIBUTION OF HANDBILLS

#### Sections:

- 9.46.010 Purposes.**
- 9.46.020 Definitions.**
- 9.46.030 Throwing handbills broadcast in public places prohibited.**
- 9.46.040 Placing in vehicles prohibited.**
- 9.46.050 Distribution on uninhabited or vacant private premises prohibited.**
- 9.46.060 Distribution on inhabited premises prohibited.**
- 9.46.070 Distribution where property posted prohibited.**
- 9.46.090 Exemptions.**
- 9.46.100 Provisions of chapter additional to current code provisions.**

#### **9.46.010 Purposes.**

To protect the people against the nuisance of and incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as defined in this chapter, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof and to that end the purposes of this chapter are specifically declared to be as follows:

- A. To protect local residents against trespassing by solicitors, canvassers or handbill distributors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive handbills or advertising matter;
- B. To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills;
- C. To preserve to the people their Constitutional right to receive and disseminate information by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial circulars and the right to receive noncommercial handbills to all who are willing to receive the same. (Ord. 1989 § 2 (part), 1981)

#### **9.46.020 Definitions.**

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. "Commercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:
  - 1. Which advertises for sale any merchandise, product, commodity, or thing; or
  - 2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or
  - 3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to any such event; or
  - 4. Which while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for private benefit and gain of any person so engaged as advertiser or distributor.
- B. "Newspaper" means and includes any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States postal service, in accordance with

federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

- C. "Noncommercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not included in the aforesaid definition of commercial handbill, and shall also include any newspaper as above defined.
- D. "Private premises" means and includes any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.
- E. "Public place" means and includes any and all streets, boulevards, avenues, lanes, alleys, or other public ways, in any and all public parks, squares, spaces, plazas, grounds and buildings. (Ord. 1989 § 2 (part), 1981)

**9.46.030 Throwing handbills broadcast in public places prohibited.**

It is unlawful for any person to deposit, place, throw, scatter or cast any commercial handbill in or upon any public place within the city; and it is also unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided, however, that it is not unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept such noncommercial handbill. (Ord. 1989 § 2 (part), 1981)

**9.46.040 Placing in vehicles prohibited.**

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handing, transmitting or distributing of any noncommercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same. (Ord. 1989 § 2 (part), 1981)

**9.46.050 Distribution on uninhabited or vacant private premises prohibited.**

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Ord. 1989 § 2 (part), 1981)

**9.46.060 Distribution on inhabited premises prohibited.**

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or any other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted as provided in this chapter, such person may, unless requested by anyone upon such premises not to do so, place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be so used when so prohibited by federal postal laws or regulations. (Ord. 1989 § 2 (part), 1981)

**9.46.070 Distribution where property posted prohibited.**

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or to have their right of privacy disturbed, or to have any such handbills left upon such premises. (Ord. 1989 § 2 (part), 1981)

**9.46.090 Exemptions.**

The provisions of this chapter shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this chapter. (Ord. 1989 § 2 (part), 1981)

**9.46.100 Provisions of chapter additional to current code provisions.**

The restrictions, prohibitions and requirements of this chapter are in addition to, and do not repeal or modify, any provisions in this code prohibiting, regulating or licensing canvassers, hawkers, peddlers, transient merchants, or any person, using the public streets or places for any private business or enterprise, or for commercial sales. (Ord. 1989 § 2 (part), 1981)

## Chapter 9.48

### TRESPASSING

#### Sections:

#### **9.48.010 Trespassing on private or public property.**

#### **9.48.010 Trespassing on private or public property.**

It shall not be a defense to any violation of the following subsections that the real or personal property involved is commonly used by the public or that the public is invited expressly or by implication to use the real or personal property:

- A. It is unlawful for any person to knowingly use or occupy any privately owned real or personal property without the permission of the owner or person entitled to possession thereof.
- B. It is unlawful for any person to remain upon or to return to and be upon any privately owned real property after the owner or rightful occupant thereof has requested such person to leave the property.
- C. It is unlawful for any person to knowingly use or occupy any publicly owned real or personal property when the property is not open for business with the public or when the property is not normally accessible to the public, without the permission of the owner or person entitled to possession thereof, or to remain thereon when directed to leave by the person in charge.
- D. It is unlawful for any person to knowingly use or occupy any publicly owned real or personal property in any manner or for any purpose other than in the manner or for the purpose for which the property was intended. (Ord. 3340 § 1, 1986; Ord. 1306 § 1, 1973; prior code § 29.29)

## **Chapter 9.49**

### **ABANDONED REFRIGERATORS**

#### **Sections:**

#### **9.49.010 Abandoned refrigerators.**

#### **9.49.010 Abandoned refrigerators.**

It shall be unlawful for any person to leave outside of any building or dwelling place or in any uninhabited building or any place accessible to children any abandoned, unattended or discarded refrigerator, icebox or similar container which has an airtight or soundproof door having a snap lock or similar device which cannot be opened from the inside, without first removing the lock or similar device on the door from the refrigerator, icebox or similar container. (Ord. 5253 § 8, 2007)

## VI. CONSUMER PROTECTION

### Chapter 9.50

#### KEG IDENTIFICATION TAGS

##### Sections:

- 9.50.010 Definitions.**
- 9.50.020 Keg identification tags-City property.**
- 9.50.030 Destruction of keg identification tag.**
- 9.50.040 Penalty.**

##### **9.50.010 Definitions.**

- A. “Keg” means any brewery-sealed, individual container of malt beverage having a liquid capacity of more than seven gallons.
- B. “Keg identification tag” means the self-locking, plastic, numbered seals given by the Loveland police department to liquor licensees and attached to kegs by liquor licensees through their voluntary involvement in Operation Keg Shadow.
- C. “Liquor licensee” means a person or business that has been granted a license to manufacture or sell malt, vinous, or spirituous liquors pursuant to the state liquor code.
- D. “Purchaser” means a person who rents a keg. (Ord. 4477 § 1 (part), 1999)

##### **9.50.020 Keg identification tags-City property.**

The keg identification tags provided to liquor licensees and attached to kegs through the voluntary Operation Keg Shadow program are city property. (Ord. 4477 § 1 (part), 1999)

##### **9.50.030 Destruction of keg identification tag.**

- A. No person shall remove a keg identification tag from a keg.
- B. The purchaser of a keg to which a liquor licensee has attached a keg identification tag shall return the keg to the liquor licensee with the keg identification tag securely attached to the keg. The purchaser shall be liable to the city for the cost of the damage to city property if the identification tag is cut or removed from the keg in an amount as established by resolution of the city council.
- C. It is not a defense to a prosecution of the purchaser under this section that a person other than the purchaser cut or removed the keg identification tag from the keg. In the event a keg identification tag is removed from a keg, it shall be conclusively presumed that the purchaser of the keg removed the keg identification tag. (Ord. 4477 § 1 (part), 1999)

##### **9.50.040 Penalty.**

Any person violating any provisions of this chapter, upon conviction thereof, shall be punished as provided in Section 1.12.010 of the Loveland Municipal Code. (Ord. 4477 § 1 (part), 1999)

## **Chapter 9.52**

### **DEFRAUDING CONSUMERS AND OTHERS**

#### **Sections:**

#### **9.52.010 Coin operated machines-Defrauding.**

#### **9.52.010 Coin operated machines-Defrauding.**

It is unlawful for any person to insert or attempt to insert into the coin box or money receptacle of any coin operated machine, device or parking meter, any slug, button or other article or substance, or to manipulate or operate in any manner whatever, any mechanism or device connected or commonly used therewith, in an attempt to obtain goods, service or time there from without proper payment therefore. (Prior code § 29.19)

## VII. OFFENSES BY OR AGAINST MINORS

(RESERVED)

## VIII. WEAPONS

### Chapter 9.60

#### POSSESSION OR USE OF WEAPONS

##### Sections:

**9.60.020 Discharging-Permit-Exceptions.**

**9.60.030 Offering of certain weapons prohibited.**

##### **9.60.020 Discharging-Permit-Exceptions.**

It is unlawful for any person, except a law enforcement officer in the performance of his duties, to fire or discharge within the city a revolver or pistol of any description, shotgun or rifle, which may be used for the explosion of cartridges or shells, or any air gun, gas operated gun, spring gun or bows and arrows, without first obtaining a permit therefore from the police department. It shall be an affirmative defense to a violation of this section that the person was reasonably exercising the use of physical force in defense of person, property or premises, as recognized by state law. (Ord. 3468 § 1, 1987; Ord. 1030 § 1, 1969; prior code § 29.2)

##### **9.60.030 Offering of certain weapons prohibited.**

- A. It is unlawful for the owner, operator, manager, and employee of any carnival or circus to display, sell, give away, or provide as a prize, or offer to sell, give away, or provide as a prize any knife, sword, switchblade knife, gravity knife, blackjack, metallic knuckles, throwing star, or nunchaku.
- B. As used in this section, the following words shall be defined as follows:
  1. "Blackjack" means any billy, sand club, or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.
  2. "Knife" means any dagger, dirk, knife, or stiletto with a blade over three and one-half inches in length, or any other dangerous instrument capable of inflicting cut-ting, stabbing, or tearing wounds.
  3. "Nunchaku" means an instrument consisting of two sticks, clubs, bars, or rods to be used as handles, connected by a rope, cord, wire, or chain, which is in the design of a weapon used in connection with the practice of a system of self-defense.
  4. "Throwing star" means a disk having sharp radiating points or any disk-shaped bladed object which is hand-held and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense.
- C. In the event that a summons and complaint is issued to any individual or entity for a violation of this section, the issuing law enforcement officer is hereby authorized to seize and hold as evidence in the prosecution of such offense any knife, sword, switchblade knife, gravity knife, blackjack, metallic knuckles, throwing star, or nunchaku which is being displayed or is in view of the officer. (Ord. 4808 § 7, 2003; Ord. 2062 § 1, 1982; prior code § 29.1; Ord. 4514 § 1, 2000)

## **IX. MISCELLANEOUS PROVISIONS**

### **Chapter 9.64**

#### **AIDING AND ABETTING**

##### **Sections:**

##### **9.64.010 Aiding and abetting.**

##### **9.64.010 Aiding and abetting.**

Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of any act violating the provisions of this title, whether individually or in connection with one or more other persons, or as a principal, agent, or accessory, is guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this title is likewise guilty of such offense. (Prior code § 29.27)

## Chapter 9.65

### LIABILITY OF BUSINESS ENTITIES AND CORPORATE AGENTS

#### Sections:

**9.65.010 Definitions.**

**9.65.020 Liability of an individual for corporate conduct.**

**9.65.030 Liability of business entities.**

#### **9.65.010 Definitions.**

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

- A. "Agent" means any director, officer, or employee of a business entity, or any other person who is authorized to act in behalf of the business entity, and "high managerial agent" means an officer of a business entity or any other agent in a position of comparable authority with respect to the formulation of the business entity's policy or the supervision in a managerial capacity of subordinate employees.
- B. "Business entity" means a corporation or other entity that is subject to the provisions of Title 7 of the Colorado Revised Statutes, including foreign corporations qualified to do business in this state, specifically including federally chartered or authorized financial institutions; a corporation or other entity that is subject to the provisions of Title 11 of the Colorado Revised Statutes; or a sole proprietorship or other association or group of individuals doing business in the state. (Ord. 5253 § 9, 2007)

#### **9.65.20 Liability of an individual for corporate conduct.**

A person is criminally liable for conduct constituting an offense which he performs or causes to occur in the name of or in behalf of a corporation to the same extent as if that conduct were performed or caused by him in his own name or behalf. (Ord. 5253 § 9, 2007)

#### **9.65.030 Liability of business entities.**

- A. A business entity is guilty of an offense if:
  - 1. The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on the business entity by law; or
  - 2. The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or knowingly tolerated by the governing body or individual authorized to manage the affairs of the business entity or by a high managerial agent acting within the scope of his or her employment or in behalf of the business entity. (Ord. 5253 § 9, 2007)