

Title 9

PUBLIC PEACE, SAFETY AND MORALS

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Chapter 9.02

GENERAL

Sections:

- 9.02.010 Authority.
- 9.02.020 Purpose.
- 9.02.030 Penalties.

9.02.010 Authority. The Town of Eagle hereby adopts Title 9 relating to public peace, safety and morals in accordance with the powers granted it in Section 31-15-401 C.R.S., as amended.

9.02.020 Purpose. This Title shall be construed in such manner as to promote maximum fulfillment of its general purposes, namely:

A. To define offenses, to define adequately the act and mental state which constitute each offense, to place limitations upon the condemnation of conduct as criminal when it is without

fault, and to give fair warning to all persons concerning the nature of the conduct prohibited and the penalties authorized upon conviction;

B. To forbid the commission of offenses, and to prevent their occurrence through the deterrent influence of the sentences authorized; to provide for the rehabilitation of those convicted, and their punishment when required in the interest of public protection.

9.02.030 Penalties. A. Unless otherwise specified, any person violating any of the provisions of this Title shall be deemed guilty of a municipal offense. All such offenses are divided into three (3) categories of municipal offenses. The three (3) classifications, and maximum penalties which may be imposed, for each classification are as follows:

CLASS	MAXIMUM FINE	MAXIMUM IMPRISONMENT
A	\$1,000.00	One (1) year
B	\$500.00	Six (6) Months
Non-Criminal	\$500.00	None

If any particular offense carries a specific penalty, then that penalty shall apply. Any offense not otherwise classified which does not carry a specific penalty is hereby denominated as a Class B municipal offense. Upon conviction of any violation contained in this Title, a person shall be punished by a fine not to exceed the amount set forth above, by incarceration not to exceed the amount set forth above, if any, or by both such fine and incarceration, if applicable. (Amended Ord. 10-2001 §46, 2001).

B. A separate and distinct offense shall be deemed to have been committed for each day on which any violation of this Title shall continue.

C. For the purposes of this Title, a “juvenile offender” is defined as any person accused of an offense under this Title who, on the date of the alleged offense, was at least 10 years of age, but had not yet attained the age of eighteen (18) years.

D. Any juvenile offender convicted of a violation of this Title shall be punished by a fine not to exceed the amounts set forth in subsection (A) of this Section, unless otherwise specified for a particular offense. Notwithstanding any provision of this Title to the contrary, a juvenile offender shall not be subject to imprisonment except as herein provided. (Amended Ord. 10-2001 §47, 2001).

E. Notwithstanding any provision of law to the contrary, the Eagle Municipal Court shall have the authority to order a juvenile offender confined in a juvenile detention facility operating or contracted by the Colorado Department of Institutions or a temporary holding facility operated by or under contract with a municipal government for failure to comply with a lawful order

of the Court, including an order to pay a fine imposed under this Title. Any confinement of a juvenile offender for contempt of Municipal Court shall not exceed forty-eight (48) hours.

F. Notwithstanding any provision of law to the contrary, a juvenile offender arrested for an alleged violation of this Title, convicted of violating a provision under this Title or probation conditions imposed by the Municipal Court for a violation under this Title, or found in contempt of court in connection with a violation or alleged violation of this Title shall not be confined in a jail, lock-up, or other place used for the confinement of adult offenders, but may be held in a juvenile detention facility operated by or under contract with the Colorado Department of Institutions or a temporary holding facility operated by or under contract with a municipal government which shall receive and provide care for such child. The Municipal Court, in imposing penalties for violation of probation conditions imposed or for contempt of Court in connection with a violation or alleged violation of this Title may confine a juvenile offender for up to forty-eight (48) hours in a juvenile detention facility operated by or under contract with the Colorado Department of Institutions.

Chapter 9.04

Principles of Criminal Culpability

Sections:

9.04.010	Applicability.
9.04.020	Definitions.
9.04.030	Requirements for Criminal Liability.
9.04.040	Construction of Sections With Respect to Culpability Requirements.
9.04.050	Effect of Ignorance or Mistake.
9.04.060	Consent.
9.04.080	Criminal Attempt.

9.04.010 Applicability. This Chapter shall be applicable to all offenses defined in this Title as well as any other criminal offenses prosecuted in the Eagle Municipal Court.

9.04.020 Definitions. The following definitions are applicable to the determination of culpability requirements for offenses defined in this Title as well as any other criminal offenses prosecuted in the Eagle Municipal Court.

- A. “Act” means a bodily movement, and includes words and possession of property.
- B. “Conduct” means an act or omission and its accompanying state of mind or, where relevant, a series of facts or omissions.
- C. “Criminal negligence”. A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.
- D. “Culpable mental state” means intentionally, or with intent, or knowingly, or willfully, or recklessly, or with criminal negligence, as these terms are defined in this Section.
- E. “Intentionally” or “with intent”. All criminal offenses in which the mental culpability requirement is expressed as “intentionally” or “with intent” are declared to be specific intent offenses. A person acts “intentionally” or “with intent” when his conscious objective is to cause the specific result proscribed by the statute defining the offenses. It is immaterial to the issue of specific intent whether or not the result actually occurred.
- F. “Knowingly” or “willfully”. All criminal offenses in which the mental culpability requirement is expressed as “knowingly” or “willfully” are declared to be general intent crimes. A person acts “knowingly” or “willfully” with respect to conduct or to a circumstance described by a

section defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts “knowingly” or “willfully” with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

G. “Omission” means a failure to perform an act as to which a duty of performance is imposed by law.

H. “Recklessly”. A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

I. “Voluntary act” means an act performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.

9.04.030 Requirements for Criminal Liability. The minimum requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is physically capable of performing. If that conduct is all that is required for commission of a particular offense, or if an offense or some material element thereof does not require a culpable mental state on the part of the actor, the offense is one of “strict liability”. If a culpable mental state on the part of the actor is required with respect to any material element of an offense, the offense is one of “mental culpability”.

9.04.040 Construction of Sections With Respect to Culpability Requirements. A. When the commission of an offense, or some element of an offense, requires a particular culpable mental state, that mental state is ordinarily designated by use of the terms “intentionally”, “with intent”, “knowingly”, “willfully”, “recklessly”, or “criminal negligence”.

B. Although no culpable mental state is expressly designated in a section defining an offense, a culpable mental state may nevertheless be required for the commission of that offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such a culpable mental state.

C. If a section provides that criminal negligence suffices to establish an element of an offense, that element also is established if a person acts recklessly, knowingly, or intentionally. If recklessness suffices to establish an element, that element also is established if a person acts knowingly or intentionally. If acting knowingly suffices to establish an element that element also is established if a person acts intentionally.

D. When a section defining an offense prescribes as an element thereof a specified culpable mental state, that mental state is deemed to apply to every element of the offense unless an intent to limit its application clearly appears.

9.04.050 Effect of Ignorance or Mistake. A. A person is not relieved of criminal

liability for conduct because he engaged in that conduct under a mistaken belief of fact, unless:

1. It negates the existence of a particular mental state essential to commission of the offense; or
2. The section defining the offense or any section relating thereto expressly provides that a factual mistake or the mental state resulting therefrom constitutes a defense or exemption; or
3. The factual mistake or the mental state resulting therefrom is of a kind that supports a defense of justification as defined in this Title.

B. A person is not relieved of criminal liability for conduct because he engages in that conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless the conduct is permitted by one of the following:

1. A statute or ordinance binding in this State and Town;
2. An administrative regulation, order, or grant of permission by a body or official authorized and empowered to make such order or grant the permission under the laws of the Town of Eagle and the State of Colorado;
3. An official written interpretation of the ordinance or law relating to the offense, made or issued by a public servant, agency, or body legally charged or empowered with the responsibility of administering, enforcing, or interpreting an ordinance, regulation, order, or law. If such interpretation is by judicial decision, it must be binding in the Town of Eagle and the State of Colorado.

C. Any defense authorized by this Section is an affirmative defense.

9.04.060 Consent. A. The consent of the victim to conduct charged to constitute an offense or to the result thereof is not a defense unless the consent negates an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

B. When conduct is charged to constitute an offense because it causes or threatens bodily injury, consent to that conduct or to the infliction of that injury is a defense only if the bodily injury consented to or threatened by the conduct consented to is not harmful or the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport, or the consent established a justification under this Title.

C. Unless otherwise provided by this Title or by the law defining the offense, assent does not constitute consent if:

1. It is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense; or

2. It is given by a person who, by reason of immaturity, mental disease or mental defect, or intoxication, is manifestly unable and is known or reasonably should be known by the defendant to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

3. It is given by a person whose consent is sought to be prevented by the law defining the offense; or

4. It is induced by force, duress, or deception.

D. Any defense authorized by this Section is an affirmative defense.

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

B. A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his complicity under Section 9.06.040 were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

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

Chapter 9.06

PARTIES TO OFFENSES - ACCOUNTABILITY

Sections:

- 9.06.010 Applicability.
- 9.06.020 Liability Based Upon Behavior.
- 9.06.030 Behavior of Another.
- 9.06.040 Complicity.
- 9.06.050 Exemptions From Liability Based Upon Behavior of Another.
- 9.06.060 Liability Based on Behavior of Another - No Defense.

9.06.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offenses prosecuted in the Eagle Municipal Court.

9.06.020 Liability Based Upon Behavior. A person is guilty of an offense if it is committed by the behavior of another person for which he is legally accountable as provided in this Chapter.

9.06.030 Behavior of Another.

A. A person is legally accountable for the behavior of another person if:

1. He is made accountable for the conduct of that person by the law defining the offense or by specific provision of this Code; or
2. He acts with the culpable mental state sufficient for the commission of the offense in question and he causes an innocent person to engage in such behavior.

B. As used in subsection (A) of this section, “innocent person includes any person who is not guilty of the offense in question, despite his behavior, because of duress, legal incapacity or exemption, or unawareness of the criminal nature of the conduct in question or of the defendant’s criminal purpose, or any other factor precluding the mental state sufficient for the commission of the offense in question.

9.06.040 Complicity. A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he aids, abets, or advises the other person in planning or committing the offense.

9.06.050 Exemptions From Liability Based Upon Behavior of Another. A. Unless otherwise provided by the Section defining the offense, a person shall not be legally accountable for behavior of another constituting an offense if he is a victim of that offense or the offense is so

defined that his conduct is inevitably incidental to its commission.

B. It shall be an affirmative defense to a charge under Section 9.06.040 if, prior to the commission of the offense, the defendant terminated his effort to promote or facilitate its commission and either gave timely warning to law enforcement authorities or gave timely warning to the intended victim.

9.06.060 Liability Based on Behavior of Another - No Defense. In any prosecution for an offense in which criminal liability is based upon the behavior of another pursuant to this Chapter, it is no defense that the other person has not been prosecuted for or convicted of any offense based upon the behavior in question or has been convicted of a different offense or degree of offense, or the defendant belongs to a class of persons who by definition of the offense are legally incapable of committing the offense in an individual capacity.

Chapter 9.08

JUSTIFICATION AND EXEMPTIONS FROM CRIMINAL RESPONSIBILITY

Sections:

9.08.010	Applicability.
9.08.020	Execution of Public Duty.
9.08.030	Choice of Evils.
9.08.040	Use of Physical Force - Special Relations.
9.08.050	Use of Physical Force in Defense of a Person.
9.08.060	Use of Physical Force in Defense of Premises.
9.08.070	Use of Physical Force in Defense of Property.
9.08.080	Use of Physical Force in Making an Arrest.
9.08.090	Duress.
9.08.100	Entrapment.
9.08.110	Affirmative Defense.

9.08.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offenses prosecuted in the Eagle Municipal Court.

9.08.020 Execution of Public Duty. Unless inconsistent with other provisions of this Chapter, defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by a provision of law or a judicial decree binding in Eagle, Colorado.

9.08.030 Choice of Evils. A. Unless inconsistent with other provisions of this Chapter, defining justifiable use of physical force or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of the actor, and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the law defining the offense in issue.

B. The necessity and justifiability of conduct under subsection (A) of this Section shall not rest upon considerations pertaining only to the morality and advisability of the ordinance, either in its general application or with respect to its application to a particular class of cases arising thereunder. When evidence relating to the defense of justification under this Section is offered by the defendant, before it is submitted for the consideration of the jury, the Court shall first rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a justification.

9.08.040 Use of Physical Force - Special Relations.

A. The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

1. A parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person, and a teacher or other person entrusted with the care and supervision of a minor, may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent it is reasonably necessary and appropriate to maintain discipline or promote the welfare of the minor or incompetent person.

2. A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use reasonable and appropriate physical force when and to the extent that it is necessary to maintain order and discipline.

3. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use reasonable and appropriate physical force upon that person to the extent that it is reasonably necessary to thwart the result.

4. A duly licensed physician, or a person acting under his direction, may use reasonable and appropriate physical force for the purpose of administering a recognized form of treatment which he reasonably believes to be adapted to promoting the physical or mental health of the patient if:

a. The treatment is administered with the consent of the patient, or if the patient is a minor or an incompetent person, with the consent of his parent, guardian, or other person entrusted with his care and supervision; or

b. The treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient would consent.

9.08.050 Use of Physical Force in Defense of a Person.

A. Except as provided in subsection (B) of this Section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the infliction or imminent infliction of bodily harm, if there exists an actual and real danger of such physical harm. A person may use a minimum degree of force which he reasonably believes to be necessary and is actually necessary for that purpose. Provided, however, a person justified in using such physical force may not at any time become an aggressor.

B. Notwithstanding the provisions in subsection (A) of this Section, a person is not

justified in using physical force if:

1. The physical force involved is used to resist any arrest or to interfere with any arrest which he knows is being made by a peace officer, even though the arrest is unlawful; or
2. With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical force by that other person; or
3. He is the aggressor, except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the infliction of bodily harm; or
4. The physical force involved is the product of a combat by agreement not specifically authorized by law.

9.08.060 Use of Physical Force in Defense of Premises. A person in possession or control of any building, realty, or other premises, or a person who is licensed or privileged to be thereon, is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably and actually necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission of an unlawful trespass by the other person in or upon the building, realty, or premises.

9.08.070 Use of Physical Force in Defense of Property. A person is justified in using reasonable and appropriate physical force upon another person when and to the extent that it is reasonably and actually necessary to prevent what he reasonably believes to be an attempt by the other person to commit theft, criminal mischief, or criminal tampering involving property.

9.08.080 Use of Physical Force in Making an Arrest.

A. A peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

1. To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or
2. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

B. For purposes of this Section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous

though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsection (A) of this Section unless the warrant is invalid and is known by the officer to be invalid.

C. A person who has been directed by a peace officer to assist him to effect an arrest or to prevent an escape from custody is justified in using reasonable and appropriate physical force when and to the extent that he reasonably believes that force to be necessary to carry out the peace officer's direction, unless he knows that the arrest or prospective arrest is not authorized.

D. A private person acting on his own account is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest, or to prevent the escape from custody of an arrested person who has committed an offense in his presence.

9.08.090 Duress. A person may not be convicted of an offense, based upon conduct in which he engaged because of the use or threatened use of unlawful force upon him or upon another person, which force or threatened use thereof a reasonable person in his situation would have been unable to resist. This defense is not available when a person intentionally, recklessly, or negligently places himself in a situation in which it is foreseeable that he will be subjected to such force or threatened use thereof.

9.08.100 Entrapment. The commission of acts which would otherwise constitute an offense is not criminal if the defendant engaged in the proscribed conduct because he was induced to do so by a law enforcement official or other person acting under his direction, seeking to obtain evidence for the purpose of prosecution, and the methods used to obtain that evidence were such as to create a substantial risk that the acts would be committed by a person who, but for such inducement, would not have conceived of or engaged in conduct of the sort induced. Merely affording a person an opportunity to commit an offense is not entrapment even though representations or inducements calculated to overcome the offender's fear of detection are used.

9.08.110 Affirmative Defense. The issues of justification or exemption from criminal liability under this Chapter are affirmative defenses in any prosecution of a criminal offense in the Eagle Municipal Court.

Chapter 9.10

RESPONSIBILITY

Sections:

- 9.10.010 Applicability.
- 9.10.020 Insufficient Age.
- 9.10.030 Intoxication.
- 9.10.040 Responsibility - Affirmative Defense.

9.10.010 Applicability. This Chapter shall be applicable to all offenses in this Title as well as to any other criminal offense prosecuted in the Eagle Municipal Court.

9.10.020 Insufficient Age. No child under ten (10) years of age shall be found guilty of any offense prosecuted in the Eagle Municipal Court.

9.10.030 Intoxication. A. Intoxication of the accused is not a defense to any criminal offense, except as provided in subsection (B) of this Section.

B. A person is not criminally responsible for his conduct if, by reason of intoxication that is not self-induced at the time he acts, he lacks capacity to conform his conduct to the requirements of the law.

C. “Intoxication” as used in this Section means a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

D. “Self-induced intoxication” means intoxication caused by substances which the defendant knows or ought to know have the tendency to cause intoxication and which he knowingly introduced or allowed to be introduced into his body, unless they were introduced pursuant to medical advice or under similar circumstances that would afford a defense to a criminal offense.

9.10.040 Responsibility - Affirmative Defense. The issue of responsibility under this Chapter is an affirmative defense in any prosecution of a criminal offense in the Eagle Municipal Court.

Chapter 9.12

OFFENSES RELATING TO PUBLIC PEACE, ORDER AND SAFETY

Sections:

- 9.12.010 Obstructing Highway or Other Passageway.
- 9.12.020 Disrupting Lawful Assembly.
- 9.12.030 Interference with Staff, Faculty or Students of Educational Institution.
- 9.12.040 Public Buildings - Trespass, Interference.
- 9.12.050 Harassment.
- 9.12.060 Disorderly Conduct.
- 9.12.070 Assault and Battery.
- 9.12.080 Disturbing the Peace.
- 9.12.090 Loitering.
- 9.12.100 Tents, Campers and Trailers - Restrictions on Use in Public Places.
- 9.12.110 Hindering Transportation.
- 9.12.120 Throwing Missiles.
- 9.12.130 Unlawful to Carry Concealed Weapon.
- 9.12.140 Prohibited Use of Weapons.
- 9.12.150 Selling Weapons to Intoxicated Persons Prohibited.
- 9.12.160 Possession of Weapons in Licensed Establishment Prohibited.
- 9.12.170 Storage of Explosives Prohibited.

9.12.010 Obstructing Highway or Other Passageway. A. An individual 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 conveyances, whether the obstruction arises from his acts alone or from his 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 peace officer, a fireman, or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard.

B. For purposes of this Section, “obstruct” means to interfere with, to render impassable or to render passage unreasonably inconvenient or hazardous.

C. Any person who violates this Section commits a Class B municipal offense. (Amended Ord. 10-2001 §48, 2001).

9.12.020 Disrupting Lawful Assembly. A person commits the Class A municipal offense of disrupting a lawful assembly if, intending to prevent or disrupt any lawful meeting, procession, or gathering, he significantly obstructs or interferes with the meeting, procession, or gathering by physical action, verbal utterance or any other means. (Amended Ord. 10-2001 §49, 2001).

9.12.030 Interference With Staff, Faculty or Students of Educational Institution. A. No person shall, on or near the premises or facilities of any educational institution, willfully deny to students, school officials, employees, and invitees:

1. Lawful freedom of movement on the premises;
2. Lawful use of the property or facilities of the institution;
3. The right of lawful ingress and egress to the institution's physical facilities.

B. No person shall, on the premises of any educational institution or at or in any building or other facility being used by any educational institution, willfully impede the staff or faculty of such institution in the lawful performance of their duties or willfully impede a student of the institution in the lawful pursuit of his educational activities through the use of restraint, abduction, coercion, or intimidation or when force and violence are present or threatened.

C. No person shall willfully refuse or fail to leave the property of or any building or other facility used by any educational institution upon being requested to do so by the chief administrative officer, or his designee charged with maintaining order on the school premises and in its facilities, if such person is committing, threatens to commit, or incites others to commit any act which would disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions of the institution.

D. It shall be an affirmative defense that the defendant was exercising his right to lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor, or any employee thereof.

E. Any person who violates this Section commits a Class A municipal offense. (Amended Ord. 10-2001 §50, 2001).

9.12.040 Public Buildings - Trespass, Interference. A. No person shall so conduct himself at or in any public building owned, operated, or controlled by the Town of Eagle as to willfully deny to any public official, public employee, or invitee on such premises the lawful rights of such official, employee, or invitee to enter, to use the facilities of, or to leave any such public building.

B. No person shall, at or in any such public building, willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, or intimidation or by force and violence or threat thereof.

C. No person shall willfully refuse or fail to leave any such public building upon being requested to do so by the chief administrative officer or his designee charged with maintaining order in such public building, if the person has committed, is committing, threatens to commit, or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions being carried on in the public building.

D. No person shall, at any meeting or session conducted by any judicial, legislative, or administrative body or official at or in any public building willfully impede, disrupt, or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session or by any act designed to intimidate, coerce, or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

E. No person shall, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, willfully impede, disrupt, or hinder the normal proceedings of such body or official.

F. The term “public building”, as used in this Section, includes any premises being permanently or temporarily used by a public officer or employee in the discharge of his official duties.

G. It shall be an affirmative defense that the defendant was exercising his right to lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between the Town and its employees, any contractor or subcontractor, or any employee thereof.

H. Any person who violates this Section commits a Class A municipal offense. (Amended Ord. 10-2001 §51, 2001).

9.12.050 Harassment. A. A person commits the Class A municipal offense of harassment if, with intent to harass, annoy, or alarm another person, he:

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; or
3. Follows a person in or about a public place; or

4. Directly or indirectly initiates communication with a person or directs language toward another person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system, or other interactive electronic medium 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, computer system, data network, text message, instant message, or other interactive electronic medium that is obscene. (Amend. Ord. 15-2016 §1 – 5/10/2016)

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 or in offensively coarse language; or

7. Repeatedly insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response.
(Amended Ord. 10-2001 §52, 2001).

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

As used in this Section, unless the context otherwise requires, “annoy” means to irritate with a nettling or exasperating effect.

As used in this Section, unless the context otherwise requires, “alarm” means to arouse to a sense of danger, to put on the alert, to strike with fear, to fill with anxiety as to threaten danger or harm.

C. Any act prohibited by subsections (4), (5) and (6) of subsection (A) of this Section may be deemed to have occurred or have been committed at the place at which the telephone call was either made or received.
(Amended Ord. 10-2001 §52, 2001).

9.12.060 Disorderly Conduct. It shall be unlawful for any person to commit disorderly conduct. A person commits disorderly conduct if he intentionally, knowingly, or recklessly:

A. Uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

- B. Makes an obviously offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;
- C. Abuses or threatens a person in a public place in an obviously offensive manner;
- D. Urinates or defecates in any public place not designed for such purpose;
- E. Exposes his genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person;

Any person who violates subsections (A), (B), (C), and (E) of this Section commits a Class A municipal offense. Any person who violates subsection (D) of this Section commits a non-criminal municipal offense. (Amended Ord. 10-2001 §53, 2001).

9.12.070 Assault and Battery. A. Any person who intentionally, knowingly, or recklessly assaults, strikes, fights, injures or commits battery upon the person of another, except in an amateur or professional contest of athletic skill, commits a Class A municipal offense. (Amended Ord. 10-2001 §54, 2001).

B. “Assault” as used in this Section shall mean an attempt, coupled with a present ability, to commit a bodily injury upon the person of another. “Battery” as used in this Section shall mean any use of force or violence upon the person of another.

9.12.080 Disturbing the Peace. A. A person commits the offense of disturbing the peace if he intentionally, knowingly, or recklessly disturbs the peace and quiet of others by violent or tumultuous carriage or conduct or by making loud, unusual or unreasonable noise in a public place or near or in a private residence, whether or not he has a right to occupy said residence.

B. A person commits the offense of disturbing the peace if he knowingly allows or permits other persons to congregate in a dwelling or other premises under his control where the conduct of such persons disturbs the peace and quiet of others by violent or tumultuous carriage or conduct or by making loud, unusual or unreasonable noise near a private residence.

C. Any person who violates this Section commits a Class B municipal offense. (Amended Ord. 10-2001 §55, 2001).

9.12.090 Panhandling and Solicitation; Loitering on School Grounds.

- A. For the purpose of this Section, the term “aggressive panhandling” means:
 - 1. Intentionally or causing physical contact with another person without that person’s consent in the course of soliciting; or

2. Intentionally blocking or interfering with safe or free passage of a pedestrian or vehicle by any means including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact; or
3. Using violent or threatening gestures toward a person being solicited; or
4. Using profane or abusive language which is likely to provoke an immediate violent reaction from the person being solicited; or
5. Approaching or following a person for solicitation as part of a group of two (2) or more persons, in a manner and with conduct, words or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value.

B. For the purpose of this Section, the term “public place” means a place to which the public or substantial group of persons has access, including, but not limited to, any street, sidewalk, highway, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

C. For the purposes of this Section, the terms “soliciting” or “panhandling” are interchangeable and mean any solicitation made in person requesting an immediate donation of money. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose this Section. “Panhandling” does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.

D. A person commits a Class A municipal offense if he/she engages in aggressive panhandling in any public place. A person further commits a Class A municipal offense if he/she panhandles on private or residential property unless the owner or other person lawfully in possession of such property grants permission for such activity to occur on such property prior to the commencement of the panhandling activity.

E. A person commits a Class A municipal offense if he/she loiters in or upon a school building or grounds or within one hundred (100) feet of school grounds when persons under the age of eighteen (18) are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil, or not having any other reason or relationship involving the business, functions or mission of the school and impairs the orderly educational process, after having been asked to leave by a school administrator or his representative or by a peace officer.

(Ord. 05, Series 2016 §1, 1/26/2016)

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.

9.12.100 Tents, Campers and Trailers - Restrictions On Use In Public Places. It shall be unlawful for any person to knowingly sleep, spend the night, cook or establish a place of abode in any vehicle, tent, travel trailer, mobile home or camper vehicle in any public park, place or public street, way or sidewalk within the Town or owned by the Town, except in any area designated for camping and the temporary parking of such vehicles referred to herein. In no event shall any vehicle, travel trailer, mobile home, tent or camper vehicle be parked or stored in the designated area for a period in excess of ten (10) days. Any violation of this Section shall constitute a Class B municipal offense. (Amended Ord. 10-2001 §57, 2001).

9.12.110 Hindering Transportation. A person commits a Class B municipal offense if he knowingly and without lawful authority forcibly stops or hinders the operation of any vehicle used in providing transportation of any kind to the public or to any person, association, or corporation. (Amended Ord. 10-2001 §58, 2001).

9.12.120 Throwing Missiles. No person shall knowingly throw or shoot any stone, snowball or other missile at or upon any person, animal, motor vehicle, public property or at or upon any building, structure, tree or other private property not belonging to that person. Violation of this Section shall constitute a Class B municipal offense. (Amended Ord. 10-2001 §59, 2001).

9.12.130 Unlawful to Carry Concealed Weapon. A. A person commits a Class A municipal offense if he knowingly and unlawfully wears, or carries under his clothes, or concealed about or upon his person, any dangerous or deadly weapon including, but not by way of limitation, any firearm; explosive or incendiary device; blackjack; cross knuckles or knuckles of lead, brass or other metal; knife, dagger, dirk or stiletto with a blade over three and one-half inches (3 ½") in length; any switchblade or gravity knife; nunchakus, stun gun; or any other dangerous or deadly weapon.

B. Any person convicted of any violation of this Section shall forfeit to the Town such dangerous or deadly weapon so concealed or displayed.

C. 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 personal property while traveling;

or

3. A person who, at the time of carrying a concealed weapon, held a valid written permit to carry a concealed weapon issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to its repeal, or, if the weapon involved was a handgun, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Article 12 of Title 18, C.R.S.; except that it shall be an offense under this Section if the person was carrying a concealed handgun in violation of the provisions of Section 18-12-214, C.R.S.; or

4. A peace officer as defined in Section 16-2.5-101 C.R.S., as amended.

(Amended Ord. 24-2004 §1, 2004).

9.12.140 Prohibited Use of Weapons. A. A person commits a Class A municipal offense if:

1. He knowingly and unlawfully displays or aims a deadly weapon at another person in a manner calculated to alarm; or

2. Not being a peace officer, he knowingly fires or discharges any cannon, gun, pistol, revolver, or any other firearm anywhere within the Town except at a lawfully authorized target range; or

3. He knowingly and unlawfully discharges any air gun, gas operated gun, B.B. gun, pellet gun, slingshot, or spring gun anywhere within the Town; or

4. He knowingly and unlawfully sets off, or explodes any firecracker, torpedo ball, rocket or other fireworks, except on the celebration of some holiday or event, by the consent of the Mayor or Town Administrator; or

5. He knowingly and unlawfully explodes or sets off any combustible or explosive material; or

6. He knowingly sets a loaded gun, trap, or device designed to cause explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present; or

7. He has in his possession a firearm while he is under the influence of intoxicating liquor or of a controlled substance, as defined in Section 12-22-303(7), C.R.S., as amended, unless such person held a valid written permit to carry a concealed weapon issued pursuant to Section 18-12-105.1, C.R.S., as it existed prior to its repeal, or, if the firearm involved was a handgun, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to Article 12 of Title 18, C.R.S.; except that it

shall be an offense under this Section if the person was carrying a concealed handgun in violation of the provisions of Section 18-12-214, C.R.S.; or

8. He knowingly, aims, swings, or throws a throwing star or nunchaku as defined herein at another person, or he knowingly possesses a throwing star or nunchaku in a public place, except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting a throwing star or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, non-accessible container. For purposes of this paragraph, “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; and “throwing star” means a disk having sharp radiating points or any disk-shaped blade 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.

(Amended Ord. 10-2001 §61, 2001; Amended Ord. 24-2004 §2, 2004).

B. The Mayor or Town Administrator may grant an exception to this Section, in writing, for contests, sporting events, construction and/or maintenance work. Said permission shall limit the time and place of such firing, and shall be subject to being revoked by the Board of Trustees at any time after the same has been granted.

C. Every person convicted of any violation of this Section shall forfeit to the Town of Eagle such firearm or weapon illegally discharged or displayed.

9.12.150 Selling Weapons to Intoxicated Persons Prohibited. A. It shall be unlawful for any person, firm or corporation to knowingly sell, loan, or furnish a gun, pistol, or other firearm in which any explosive substance can be used, to any person under the influence of intoxicating liquor or of a controlled substance, as defined in Section 12-22-303(7), C.R.S., as amended, or to any person in a condition of agitation and excitability.

B. Any such unlawful sale, loan or furnishing of a weapon shall be grounds for the revocation of any license issued by the Town of Eagle to such person, firm or corporation.

C. Any violation of this Section shall constitute a Class A municipal offense.
(Amended Ord. 10-2001 §62, 2001).

9.12.160 Possession of Weapons in Licensed Establishment Prohibited. A. Any person who knowingly carries, possesses, or has on or about his person a knife, as defined in subsection 9.12.130(B), including a hunting or fishing knife, firearm, or other deadly weapon in any establishment having a license to sell fermented malt beverages or malt, vinous or spirituous liquors for consumption on the premises commits a Class A municipal offense.

(Amended Ord. 10-2001 §63, 2001).

B. It shall be an affirmative defense that the defendant was a peace officer, as defined in Section 18-1-901(3)(1), C.R.S., as amended, or that the defendant was the licensee, proprietor, agent or employee of the licensed establishment. Possession of a permit issued under Section 18-12-105(2)(c), C.R.S., as amended, shall not be a defense to a violation of this Section.

C. Every person convicted of a violation of this Section shall forfeit to the Town such knife, firearm or other weapon illegally possessed or carried.

9.12.170 Storage of Explosives Prohibited. It shall be unlawful for any person to knowingly store within the Town limits or within one mile thereof any amount of gunpowder, blasting power, nitroglycerin, dynamite, or other high explosive in excess of one (1) fifty pound (50 lb.) box or in excess of five hundred (500) caps or other devices used for the detonation of such high explosives. This Section shall not be deemed to apply to sporting goods businesses and other businesses licensed to store explosives pursuant to law. Violation of this Section shall constitute a Class A municipal offense. (Amended Ord. 10-2001 §64, 2001).

Chapter 9.14

OFFENSES AGAINST PERSONAL AND REAL PROPERTY

Sections:

- 9.14.010 Petty Theft.
- 9.14.015 Theft of Rental Property.
- 9.14.020 Fraud by Check.
- 9.14.030 Procuring Food or Accommodations with Intent to Defraud.
- 9.14.040 Injuring or Destroying Public Property.
- 9.14.050 Criminal Mischief.
- 9.14.060 Criminal Trespass.
- 9.14.070 Littering of Public and Private Property.
- 9.14.080 Posting of Handbills and Circulars Prohibited.
- 9.14.090 Abandoned Containers.
- 9.14.100 Theft of Cable Television Service.

9.14.010 Petty Theft.

A. A person commits the Class A municipal offense of petty theft when he knowingly obtains or exercises control over anything of value of less than five hundred dollars (\$500.00) belonging to another without authorization or, if applicable, without paying the purchase price therefor, or by threat or deception, and:

1. Intends to deprive the other person permanently of the use or benefit of the thing of value; or
2. Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit; or
3. Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use and benefit; or
4. Demands any consideration to which he is not legally entitled as a condition of restoring the thing of value to the other person.

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.
(Amended Ord. 10-2001 §65, 2001).

B. If any person willfully conceals unpurchased goods, wares, or merchandise owned or

held by and offered or displayed for sale by any store or 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 obtain control over a thing of value and intended to deprive the owner permanently of its use or benefit without paying the purchase price therefor.

C. For the purposes of this Section, in all cases where theft occurs, evidence of the value of the thing involved may be established through the sales 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.
(Amended Ord. 10-2001 §66, 2001).

9.14.015 Theft of Rental Property.

A. A person commits the Class A municipal offense of theft of rental property if he:

1. Knowingly obtains the temporary use of personal property of another with a value of less than five hundred dollars (\$500.00), 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 with a value of less than five hundred dollars (\$500.00), which is available only for hire, knowingly fails to reveal the whereabouts of or to return said property to the owner thereof or his representative or to the person from whom he has received it within seventy-two (72) hours after the time at which he agreed to return it.
(Amended Ord. 10-2001 §67, 2001).

B. For the purposes of this Section, personal property is that of “another” if anyone other than the defendant has a possessory or proprietary interest therein.

C. If a person signs a rental agreement or a similar agreement for the temporary use of the personal property of another, and said agreement provides that failure to reveal the whereabouts of said property or to return said property within seventy-two (72) hours after the time at which he agreed to return it shall constitute a wrongful or unlawful retention of the rental property, such agreement shall constitute prima facie evidence of the culpable mental state required under subsection (A)(2) of this Section.

9.14.020 Fraud by Check. A. As used in this Section, unless the context otherwise requires:

1. “Check” means a written, unconditional order to pay a sum certain in money, drawn on a bank or other financial institution, payable on demand, and signed by the drawer.

“Check,” for the purposes of this Section only, also includes a negotiable order of withdrawal and a share draft.

2. “Drawee” means the bank or other financial institution 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 himself or of a person authorized to draw the check on himself.

4. “Insufficient funds” means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account, or share draft account with the drawee or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for “no account” shall also be deemed to be dishonored for insufficient funds.”

5. “Issue.” A person issues a check when he 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 purpose of making payments to third parties 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 of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, or 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 (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawals by negotiable order of withdrawal or share draft.

B. Any person knowing he has insufficient funds with the drawee, who, with intent to defraud, issues a check in the sum of less than five hundred dollars (\$500.00) for the payment of services, wages, salary, commissions, labor, rent, money, property, or other thing of value, commits the Class A municipal offense of fraud by check.
(Amended Ord. 10-2001 §68, 2001).

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 under this Section, whether or not he is the payee, holder, or bearer of the check.

D. Any person who opens a checking account, negotiable order withdrawal account, or share draft account using false identification or an assumed name for the purposes of issuing fraudulent checks commits a Class A municipal offense. (Amended Ord. 12-2004 §7 (part), 2004).

E. If a deferred prosecution or judgment and sentence is ordered, the Court as a condition of probation 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 probation in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

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

1. He has no account upon which the check or order is drawn with the bank or other drawee at the time he issued the check or order; or

2. He has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within twelve (12) days after issue.

9.14.030 Procuring Food or Accommodations with Intent to Defraud. A. Any person who, with intent to defraud, procures food or accommodations in any public establishment, without making payment therefor in accordance with his agreement with such public establishment, is guilty of a Class B municipal offense if the total amount due under such agreement is five hundred dollars (\$500.00) or less. Upon conviction thereof, a person shall be punished by a fine not to exceed more than five hundred dollars (\$500.00), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. (Amended Ord. 10-2001 §69, 2001).

B. "Agreement with such public establishment" means any written or verbal agreement as to the price to be charged for, and the acceptance of, food, beverage, service, or accommodations where the price to be charged therefor is printed on a menu or schedule of rates shown to or made available by a public establishment to the patron and includes the acceptance of such food, beverage, service, or accommodations for which a reasonable charge is made.

C. "Public establishment" means any establishment selling or offering for sale prepared food or beverages to the public generally, or any establishment leasing or renting overnight sleeping accommodations to the public generally, including, but not exclusively, restaurants, cafes, dining rooms, lunch counters, coffee shops, boarding houses, hotels, motor hotels, motels, and rooming houses, unless the rental thereof is on a month-to-month basis or a longer period of time.

D. It shall be evidence of an intent to defraud that food, service, or accommodations were given to any person who gave false information concerning his name or address, or both, in obtaining such food, service, or accommodations, or that such person removed or attempted to remove his baggage from the premises of such public establishment without giving notice of his intent to do so to such public establishment. These provisions shall not constitute the sole means of establishing evidence that a person accused under subsection (A) had an intent to defraud. Proof of such intent to defraud may be made by any facts or circumstances sufficient to establish such intent to defraud beyond a reasonable doubt as provided by law.

9.14.040 Injuring or Destroying Public Property.

A. No person shall intentionally, knowingly, negligently, or recklessly injure, deface, destroy, or remove real property or improvements thereto or moveable or personal property belonging to the Town of Eagle.

B. No person shall intentionally, knowingly, negligently, or recklessly tamper with, injure, deface, destroy, or remove any sign, notice, marker, fire alarm box, fire plug, topographical survey monument, or any other personal property erected or placed by the Town of Eagle.

C. Violation of this Section shall constitute a Class A municipal offense.
(Amended Ord. 10-2001 §70, 2001).

9.14.050 Criminal Mischief.

A. Any person who intentionally, knowingly, negligently, or recklessly damages, injures, defaces, destroys, removes; or causes, aids in, or permits the damaging, injuring, defacing, destruction, or removal; of real property or improvements thereto, or movable or personal property of another in a course of single criminal episode where the aggregate damage to the real or personal property is less than five hundred dollars (\$500.00) commits a Class A municipal offense.

B. For the purposes of this Section, property shall be deemed to be injured or damaged when physical effort or the expenditure of monies is required to restore the property to its previous condition.

C. For the purposes of this Section, property shall be deemed to belong to “another,” if anyone other than the defendant has a possessory or proprietary interest therein.

(Amended Ord. 10-2001 §71, 2001).

9.14.060 Criminal Trespass. A person commits the Class A municipal offense of criminal trespass if he intentionally, knowingly, or willfully:

A. Unlawfully enters or remains in or upon premises which are enclosed in a manner designed to exclude intruders or are fenced or if he unlawfully enters or remains in or upon the premises or a hotel, motel, bar, lounge, restaurant, condominium, or apartment building.

B. Unlawfully enters or remains in or upon any other premises or a motor vehicle.

C. A person “unlawfully enters or remains in or upon premises when he is not licensed, invited, or otherwise privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of the premises or some other authorized person in charge or control thereof. License or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice forbidding entry is given by posting with signs at intervals of not more than four hundred and forty (440) yards or, if there is a readily identifiable entrance to the land, by posting with signs at such entrance to the private land or the forbidden part of the land.

D. As used in this Section, “premises” means real property, buildings, and other improvements thereon.

(Amended Ord. 10-2001 §72, 2001).

9.14.070 Littering of Public and Private Property.

A. Any person who knowingly deposits, throws, or leaves any litter on any public or private property or in any waters, or permits the same, commits the Class A municipal offense of littering.

(Amended Ord. 10-2001 §73, 2001).

B. It shall be an affirmative defense that:

1. Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property; or

2. The litter is placed in a receptacle or container installed on such property for that purpose; or

3. Such person is the owner or tenant in lawful possession of such property, or he has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

C. The term “litter” as used in this Section means all rubbish, waste material, refuse, garbage, trash, debris, or other foreign substances, solid or liquid, of every form, size, kind, and description.

D. The phrase “public or private property” as used in this Section includes, but is not limited to, the right-of- way of any road or highway, any body of water or watercourse, including frozen areas or the shores or beaches thereof, any park, playground, or building, any refuge, conservation, or recreation area, and any residential, commercial, farm, or ranch properties.

E. Littering is punishable, upon conviction, by a fine of fifteen dollars (\$15.00) if only one item is deposited, thrown, or left. If two (2) or more items are thrown, deposited, or left, said offense shall be punishable, upon conviction, by a fine of not less than twenty-five dollars (\$25.00).

F. It is in the discretion of the Court, upon the conviction of any person and the imposition of a fine under this Section, to suspend the fine upon the condition that the convicted person gather and remove from specified public property or specified private property, with prior permission of the owner or tenant in lawful possession thereof, any litter found thereon.

G. Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped, or dumped therefrom.

9.14.080 Posting of Handbills and Circulars Prohibited.

A. It is unlawful for any person to knowingly place, post, erect or paint any handbill, placard, circular, notice, advertising device or matter of any kind upon any public building, structure, or upon any tree, post, pole or other improvement located within a Town right-of-way, park or open space without the prior written permission of the Town Administrator.

B It is unlawful for any person to knowingly place, post, erect or paint any handbill, placard, circular, notice, advertising device or matter of any kind upon any private premises without permission from the owner, tenant, or occupant of the same.

C. Any violation of this Section shall constitute a non-criminal municipal offense. (Amended Ord. 10-2001 §74, 2001).

9.14.090 Abandoned Containers. It shall be unlawful for any person to knowingly leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, structure or dwelling under his control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has a door or lid, snaplock, or other locking device which may not be released from the inside without first removing said door or lid, snaplock or other locking device. Any violation of this Section shall constitute a Class A municipal offense. (Amended Ord. 10-2001 §75, 2001).

9.14.100 Theft of Cable Television Service.

A. A person commits the Class B municipal offense of theft of cable television service if he knowingly:

1. Obtains cable television service from a licensed or duly permitted cable television system without the authorization of the cable television system supplying service; or

2. Makes or maintains a connection or connections, whether mechanically, electrically, or acoustically, or attaches or maintains an attachment of any device or devices to any cable, wire, or other component of a licensed or duly permitted cable television system without the authorization of such system, or makes or maintains any modification or alteration to any device installed with the authorization of a licensed or duly permitted cable television system, but shall not include the attachment of a wire or cable to extend service he has paid for or which has been authorized; or

3. Manufactures, distributes, sells, or offers for sale, rental, or use any decoding or descrambling device or any plan or kit for such device, designed in whole or in part to facilitate the doing of any of the acts specified in paragraph (1) or (2) of this subsection (A). (Amended Ord. 10-2001 §76, 2001).

B. The provisions of this Section shall not apply to satellite dishes.

Chapter 9.15

OFFENSES RELATING TO INTOXICATING LIQUOR AND DRUGS

Sections:

- 9.15.005 Definitions
- 9.15.010 Establishment Restrictions.
- 9.15.020 Warning Display Required.
- 9.15.030 Underage Persons in Premises Prohibited.
- 9.15.040 Exceptions.
- 9.15.050 Distribution of Alcohol to Underage Persons and Others Prohibited.
- 9.15.060 Possession of Open Alcoholic or Fermented Malt Beverage Container Prohibited.
- 9.15.070 Unlawful Purchase of Alcohol by an Underage Person.
- 9.15.080 Illegal Possession Or Consumption Of Ethyl Alcohol Or Marijuana By An Underage Person – Illegal Possession Of Marijuana Paraphernalia By An Underage Person
- 9.15.090 Possession Of More Than One (1) Ounce Of Marijuana By A Person Twenty-One (21) Years Of Age And Over – Prohibited.
- 9.15.100 Open And Public Use Of Marijuana – Prohibited.
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- 9.15.140 Marijuana Clubs – Prohibited.
- 9.15.150 Marijuana Enterprises – Prohibited.
- 9.15.160 Abusing Toxic Vapors – Prohibited.

9.15.005 Definitions. Definitions applicable to Chapter 9.15 as used in the sections below, unless the context otherwise requires:

A. “Alcoholic beverage” shall mean any fermented malt beverage or malt, vinous, or spirituous liquors, including 3.2 percent beer, of any kind and in any quantity.

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

C. “Ethyl alcohol” means any substance which is or contains ethyl alcohol.

D. "Fermented malt beverage" shall mean any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one-half of one percent alcohol by volume and not more than three and two-tenths percent alcohol by weight or four percent alcohol by volume; except that "fermented malt beverage" shall not include confectionery containing alcohol within the limits prescribed by section 25-5-410 (1)(i)(II), C.R.S.

E. "Malt liquors" includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water containing more than three and two tenths percent of alcohol by weight or four percent alcohol by volume.

F. "Marijuana" has the same meaning as in Section 16 (2) (f) of Article XVIII of the Colorado Constitution. (Ord. 27 §5, 2014)

G. "Marijuana Accessories" means any equipment, products or material of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana or ingesting, inhaling or otherwise introducing marijuana into the human body.

H. "Marijuana Club" means any place of private assembly for the purpose of inviting members, their guests or members of the general public to use or consume marijuana/and or marijuana products on the premises of any commercial or industrial zoned property except for those spaces which are occupied for residential use in accordance with the Town's Land Use and Development Code governing residential uses.

I. "Marijuana Enterprise" means any commercial operation, facility, machine or business which sells or dispenses marijuana or marijuana products, including but not limited to, marijuana or marijuana products in vending machines.

J. "Marijuana paraphernalia" has the same meaning as marijuana accessories in Section 16 (2) (g) of Article XVIII of the Colorado Constitution.

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

L. "Possession of marijuana" means that a person has or holds any amount of marijuana anywhere on his or her person or that a person owns or has custody of marijuana or has marijuana within his or her immediate presence and control.

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

1. Any establishment which has or is required to have a license pursuant to Article 46, 47, or 48 of Title 12, C.R.S.;
2. Any establishment which sells ethyl alcohol or upon which ethyl alcohol is sold; or
3. Any establishment which leases, rents, or provides accommodations to members of the public generally.

N. "Spirituous liquor" means any alcohol beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin, and every liquid or solid, patented or not, containing at least one-half of one percent alcohol by volume and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in subsections (C) and (M) of this Section, shall not be construed to be fermented malt or malt or vinous liquor but shall be construed to be spirituous liquor.

O. "Transfer" means to deliver or convey in a manner not permissible pursuant to Section 16 of Article XVIII of the Colorado Constitution.

P. "Vinous liquors" means wine and fortified wines that contain not less than one-half of one percent and not more than twenty-one percent alcohol by volume and shall be construed to mean an alcohol beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

(Ord. 17 §2, 2013, Amended Ord. 27 §4, 2014)

9.15.010 Establishment Restrictions.

A. It shall constitute a Class B municipal offense for the licensee, proprietor, agent or employee of any establishment having a license to sell fermented malt beverages or malt, vinous, or spirituous liquors for consumption on the premises, to permit or allow the following:

1. Persons under the age of twenty-one (21) years to enter, frequent, visit, or be present in any establishment where fermented malt beverages or malt, vinous, or spirituous liquors are sold for consumption on the premises.

2. Persons, customers, and guests to be in places where fermented malt beverages, malt, vinous, or spirituous liquors are sold for consumption on the premises during the hours and days that State law prohibits the sale, serving or distribution of fermented malt beverages, or malt, vinous, or spirituous liquors.

(Amended Ord. 10-2001 §77, 2001).

B. The offense created under this Section shall be one of "strict liability."

C. It shall be an affirmative defense to any prosecution for violation of this Section, if

said licensee, proprietor, agent or employee of the licensed establishment can establish, by a preponderance of the evidence, that he required a minor to exhibit a State of Colorado operator's license, chauffeur's license, or identification card, prior to entry by said person into the establishment, and said proof of age exhibited was fraudulent.

9.15.020 Warning Display Required. Every licensee or proprietor of an establishment where fermented malt beverages or malt, vinous, or spirituous liquors are sold for consumption on the premises shall display, at all times in a prominent place near each entry way of the establishment, a printed card with a minimum height of fourteen inches (14") and a width of eleven inches (11"), with each letter to be of a minimum of one-half inch (½") in height, which shall read as follows:

A. For establishments selling fermented malt beverages or malt, vinous or spirituous liquors, for consumption on the premises and not serving regular meals:

“WARNING

IT IS ILLEGAL TO SELL 3.2 BEER OR WHISKEY, WINE, OR BEER TO ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE TO POSSESS OR ATTEMPT TO PURCHASE THE SAME.

IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE TO BE IN OR VISIT THIS ESTABLISHMENT.

IF YOU ARE TWENTY ONE (21) YEARS OF AGE OR OLDER, IT IS ILLEGAL FOR YOU TO PURCHASE 3.2 BEER OR WHISKEY, WINE OR BEER FOR A PERSON UNDER TWENTY ONE (21) YEARS OF AGE.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THIS ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.”

(Amended Ord. 10-2001 §78(part), 2001).

B. For establishments holding a hotel and restaurant license and selling fermented malt beverages or malt, vinous or spirituous liquors, for consumption on the premises:

“WARNING

IT IS ILLEGAL TO SELL 3.2 BEER OR WHISKEY, WINE OR BEER TO ANY

PERSON UNDER TWENTY ONE (21) YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE TO POSSESS OR ATTEMPT TO PURCHASE THE SAME.

IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY ONE (21) YEARS OF AGE TO VISIT OR BE IN THIS ESTABLISHMENT UNLESS HE IS ACTUALLY CONSUMING A MEAL SERVED BY THIS ESTABLISHMENT PRIOR TO 8:00 P.M.

IF YOU ARE TWENTY ONE (21) YEARS OF AGE OR OLDER, IT IS ILLEGAL FOR YOU TO PURCHASE 3.2 BEER OR WHISKEY, WINE OR BEER FOR A PERSON UNDER TWENTY ONE (21) YEARS OF AGE.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAYBE CONFISCATED BY THIS ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

FINES AND IMPRISONMENT MAYBE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.”

(Amended Ord. 10-2001 §78(part), 2001).

C. Any violation of this Section shall constitute a non-criminal municipal offense. (Amended Ord. 10-2001 §78(part), 2001).

9.15.030 Underage Persons in Premises Prohibited.

A. It shall constitute a non-criminal municipal offense for any person under the age of twenty one (21) years to enter, visit, frequent, or be present in any establishment where fermented malt beverages or malt, vinous, or spirituous liquors are sold for consumption on the premises. (Amended Ord. 10-2001 §79, 2001).

B. Any offense created under this Section shall be one of “strict liability.” (Amended Ord. 10-2001 §79, 2001).

9.15.040 Exceptions. Nothing contained in Section 9.15.010 and Section 9.15.030 shall prohibit:

A. Minors from entering the dining room portion of a licensed establishment for the consumption of food, when the dining room portion of said establishment is separated from the bar portion of said establishment by a complete physical barrier;

B. Minors from entering or remaining in the restaurant portion of an establishment, holding a hotel and restaurant liquor license, prior to 8:00 P.M., for the limited purpose of

consuming meals actually and regularly served. Provided however, a minor must leave the premises after consuming said meal;

C. Minors from entering or remaining in the restaurant portion of an establishment, holding a fermented malt beverages license for consumption on the premises, prior to 8:00 P.M. for the limited purpose of consuming meals actually and regularly served; provided however, a minor must leave the premises after consuming said meal;

D. Minors from passing through the bar portion of an establishment for the necessary ingress and egress to and from restrooms;

E. Owners or necessary maintenance employees from being in the establishment which they own or where they work;

F. Minors between the age of eighteen (18) and twenty-one (21) who are members of an entertainment group paid or employed by the licensee from being present in a licensed establishment during the period of time they are actually working or performing.

9.15.050 Distribution of Alcohol to Underage Persons and Others Prohibited. It shall be a Class A municipal offense for any person to sell, serve, give away, dispose of, exchange, procure, or deliver or permit the sale, serving, giving or procuring of any fermented malt beverages or malt, vinous, or spirituous liquors to or for any person under the age of twenty one (21) years, or to a visibly intoxicated person, or to a known habitual drunkard. Said offense shall be one of "strict liability". (Amended Ord. 10-2001 §80, 2001).

9.15.060 Possession of Open Alcoholic or Fermented Malt Beverage Container Prohibited.

A. It shall be unlawful for any person to intentionally, knowingly, willfully, or negligently have either in his possession or within a motor vehicle under his control, while in or upon any public street, highway, alley, sidewalk, park, elementary or secondary school building or grounds, or other publicly owned property located within the Town limits, or parking area open to the public, a bottle, can or other receptacle which is open, or which has a broken seal, or the contents of which have been partially removed, and which contains any alcoholic or fermented malt beverage. Any violation of this Section shall constitute a non-criminal municipal offense. (Amended Ord. 10-2001 §81, 2001).

B. Nothing in this Section shall prohibit the consumption, possession or sale of alcoholic or fermented malt beverages when the Town Administrator or Town Clerk has issued a permit therefor; provided, that:

1. Such permit shall be issued only for a designated area;
2. Such permit shall not be issued for longer than ten (10) calendar days in any

year; and

3. The Town Administrator or Town Clerk shall have determined that the permit shall be necessary for conducting a public event or celebration and that adequate provision has been made for police supervision and area maintenance.

C. Nothing in this Section shall prohibit the consumption or possession of fermented malt beverages or malt, vinous or spirituous liquor in the following public parks located within the Town of Eagle:

1. Bull Pasture Park.
2. Main Town Park.
3. Chambers Park.

9.15.070 Unlawful Purchase of Alcohol by an Under Age Person.

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

1. “Ethyl alcohol” means any substance which is or contains ethyl alcohol.

B. 1. Any person under twenty-one (21) years of age who obtains, or attempts to obtain ethyl alcohol by any method in any place where fermented malt beverages or malt, vinous or spirituous liquors are sold commits the municipal offense of illegal purchase of ethyl alcohol by an underage person. Illegal purchase of ethyl alcohol by an underage person is a strict liability offense.

2. Any person under twenty-one (21) years of age who uses any false, fraudulent or altered identification card or makes other misrepresentations of age in order to purchase, or to attempt to purchase, any fermented malt beverage or any malt, vinous or spirituous liquor commits the municipal offense of fraudulent purchase of ethyl alcohol. Said offense is a strict liability offense.

9.15.080 Illegal Possession Or Consumption Of Ethyl Alcohol Or Marijuana By An Underage Person – Illegal Possession Of Marijuana Paraphernalia By An Underage Person

A. Except as described by Section 18-1-711, C.R.S. and subsection (K) of this Section, a person under twenty-one (21) years of age who possesses or consumes ethyl alcohol anywhere in the State of Colorado 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.

B. Except as described by Section 14 of Article XVIII of the Colorado Constitution and Section 18-18-406.3, C.R.S., a person under twenty-one (21) years of age who possesses one (1) ounce or less of marijuana or consumes marijuana anywhere in the Town of Eagle commits illegal

possession or consumption of marijuana by an underage person. Illegal possession or consumption of marijuana by an underage person is a strict liability offense.

C. Except as described by Section 14 of Article XVIII of the Colorado Constitution and Section 18-18-406.3, C.R.S, a person under twenty-one (21) years of age who possesses marijuana paraphernalia anywhere in the Town of Eagle and knows or reasonably should know that the drug paraphernalia could be used in circumstances in violation of the laws of this Town of Eagle commits illegal possession of marijuana paraphernalia by an underage person. Illegal possession of marijuana paraphernalia by an underage person is a strict liability offense.

D. Any violation of this Section 9.15.080 shall constitute a municipal offense.

E. Upon conviction of a first offense under this Section, the Court shall sentence the underage person to a fine of not more than one hundred dollars (\$100.00), or the Court shall order that the underage person complete a substance abuse education program approved by the Court, or both.

F. Upon conviction of a second offense under this Section, the Court shall sentence the underage person to a fine of not more than one hundred dollars, (\$100.00) and the Court shall order the underage person to:

1. Complete a substance abuse education program approved by the Court;
2. If determined necessary and appropriate, submit to a substance abuse assessment approved by the court and complete any treatment recommended by the assessment; and
3. Perform up to twenty-four (24) hours of useful public service.

G. Upon conviction of a third or subsequent offense under this Section, the Court shall sentence the defendant to a fine of up to two hundred fifty dollars (\$250.00), and the Court shall order the underage person to:

1. Submit to a substance abuse assessment approved by court and complete any treatment recommended by the assessment; and
2. Perform up to thirty-six (36) hours of useful public service.

H. Nothing in this section prohibits the Town Attorney from entering into a deferred judgment agreement with any underage person for any offense under this Section, and the Town Attorney is encouraged to enter into those agreements when they are consistent with this Section and in the interests of justice.

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

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

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

3. The person is a student who:

(a) Tastes but does not imbibe an alcohol beverage only while under the direct supervision of an instructor who is at least twenty-one (21) years of age and employed by a post-secondary school;

(b) Is enrolled in a university or a post-secondary school accredited or certified by an agency recognized by The United States Department Of Education, a nationally recognized accrediting agency or association, or the "Private Occupational Education Act of 1981", Article 59 of Title 12, C.R.S.;

(c) Is participating in a culinary arts, food service, or restaurant management degree program; and

(d) Tastes but does not imbibe the alcohol beverage for instructional purposes as a part of a required course in which the alcohol beverage, except the portion the student tastes, remains under the control of the instructor.

J. The possession or consumption of ethyl alcohol or marijuana 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.

K. An underage person shall be immune from criminal prosecution under this Section if he or she establishes the following:

(a) The underage person called 911 and reported in good faith that another underage person was in need of medical assistance due to alcohol or marijuana consumption;

(b) The underage person who called 911 provided his or her name to the 911 operator;

(c) The underage person was the first person to make the 911 report; and

(d) The underage person who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance or law enforcement personnel on the scene.

L. Prima facie evidence of a violation of subsections (A), (B) or (C) of this Section shall consist of:

1. Evidence that the defendant was under twenty-one (21) years of age and possessed or consumed ethyl alcohol or marijuana or possessed marijuana paraphernalia anywhere in the Town of Eagle ; or

2. Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment or marijuana impairment while present anywhere in the Town of Eagle.

M. During any trial for a violation of subsection (A) 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 or marijuana. 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" or "whisky", "gin", "vodka", "tequila", "schnapps", "brandy", "cognac", "liqueur", "cordial", "alcohol", or "liquor" shall constitute prima facie evidence that the contents of the bottle, can, or other container was composed in whole or in part of ethyl alcohol.

N. A parent or legal guardian of a person under twenty-one (21) 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 twenty-one (21) years of age under the conditions described in subsection (I)(1) of this Section. This subsection (N) shall not be construed to permit any establishment which is licensed 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 (21) years of age.

O. Nothing in this Section shall be construed to limit or preclude prosecution for any offense pursuant to Articles 46, 47, or 48 of Title 12, C.R.S., except as provided in such Articles.

P. Sealing of Record.

1. Upon dismissal of a case pursuant to this Section after completion of a deferred judgment or any other action resulting in dismissal of the case or upon completion of the court-ordered substance abuse education and payment of any fine for a first conviction of subsections (a), (B), or (C) of this Section, the Court shall immediately order the case sealed and provide to the underage person and the Town Attorney a copy of the order sealing the case for distribution by the appropriate party to all law enforcement agencies in the case.

2. Upon the expiration of one (1) year from the date of a second or subsequent conviction for a violation of subsections (A), (B), or (C) of this Section, the underage person convicted of such violation may petition the Municipal Court for an order sealing the record of the conviction. The petitioner shall submit a verified copy of his or her criminal history, current through at least the twentieth (20th) day prior to the date of the filing of the petition, along with the petition at the time of filing, but in no event later than the tenth (10th) day after the petition is filed. The petitioner shall be responsible for obtaining and paying for his or her criminal history record. The court shall grant the petition if the petitioner has not been arrested for, charged with, or convicted of any felony, misdemeanor, petty offense, or municipal offense during the period of one (1) year following the date of the petitioner's conviction for a violation of subsections (A), (B), or (C) of this Section.

Q. The qualitative result of an alcohol or marijuana test or tests shall be admissible at the trial of any person charged with a violation of subsections (A) or (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 or marijuana by the Executive Director of the Department of Public Health and Environment.

R. Official records of the Colorado Department of Public Health And Environment relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions, and certification of laboratories shall be official records of the State. Copies of such records, attested by the Executive Director of the Department of Public Health and Environment or his or her designee and accompanied by a certificate bearing the official seal for said Department, which state that the Executive Director of the Department has custody of such records, shall be admissible in the Municipal Court and shall constitute prima facie evidence of the information contained in such records. The official seal of the Department described in this subsection (R) may consist of a watermark of the State seal within the document.

S. In any proceeding in the Municipal Court concerning a charge under subsection (A) or (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 or marijuana and of the design and operation of devices certified by the Department of Public Health and Environment for testing a person's blood, breath, saliva, or urine for the presence of alcohol or marijuana. This subsection (S) 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 (S) shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

T. A law enforcement officer may not enter upon any private property to investigate any violation of this Section without probable cause.

(Ord. 17 §3, 2013, Amended Ord. 27 §6, 2014)

9.15.090 Possession Of More Than One (1) Ounce Of Marijuana By A Person Twenty-One (21) Years Of Age And Over – Prohibited.

A. It is unlawful for any person twenty-one (21) years of age and over to knowingly possess more than one (1) ounce of marijuana. A person who possesses not more than two (2) ounces of marijuana commits a non-criminal municipal offense and shall be punished by a fine of up to \$500.00. A person who possesses more than two (2) ounces of marijuana but not more than six (6) ounces of marijuana commits a Class B municipal offense.

B. During any trial for a violation of subsection (A) of this Section, any container with labeling indicating the contents of the container is admissible into evidence, and the information contained on the label on the container is admissible into evidence and is not hearsay. A jury or a judge, whichever is appropriate, may consider the information upon the label in determining whether the contents of the container were composed in whole or in part of marijuana.

C. Nothing in this Section shall be construed to limit or preclude prosecution for any offense pursuant to the Colorado Medical Marijuana Code, Article 43.3 of title 12, C.R.S., or the Colorado Retail Marijuana Code, Article 43.4 of title 12, C.R.S., except as provided in such Articles.

D. The qualitative result of a drug test or tests performed by or on behalf of a law enforcement agency with relevant jurisdiction shall be admissible at the trial of any person charged with a violation of subsection (A) 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 drugs by the Executive Director of the Colorado Department of Public Health and Environment.

9.15.100 Open And Public Use Of Marijuana – Prohibited.

A. Except as described in Section 18-1-711, C.R.S., concerning immunity for persons who suffer or report and emergency drug or alcohol overdose, a person who openly and publicly displays, consumes, or uses two (2) ounces or less of marijuana, commits a non-criminal municipal offense and upon conviction thereof, shall be punished by a fine of up to \$500.00 and up to twenty-

four (24) hours of useful public service. The open and public display, consumption, or use of more than two (2) ounces of marijuana or any amount of marijuana concentrate shall be deemed possession thereof and a violation shall be punished as provided for in this Chapter or in the Colorado Revised Statutes.

B. As used in this Section, “open and public” means a place open to the general public which includes a place to which the public or a substantial number of the public has access without restriction including but not limited to streets, highways, public sidewalks, transportation facilities including rest areas, recreation areas, golf courses, places of amusement, parks, playgrounds, Town owned property including open space, bicycle and pedestrian trails, common open space owned by owners’ associations, common areas of public buildings and facilities that are generally open or accessible to members of the public without restriction, parking lots and areas, and shopping centers or shopping areas.

C. As used in this Section, “openly” means not protected from unaided observation lawfully made from outside the perimeter of the subject building or property not involving physical intrusion.

D. As used in this Section, “publicly” means an area that is open to general access with or without some restrictions and includes marijuana social clubs.

9.15.110 Transfer Of Marijuana Prohibited.

Any person who knowingly transfers or dispenses more than one (1) ounce, but not more than two (2) ounces of marijuana, from one person to another for no consideration commits a non-criminal municipal offense and shall not be deemed dispensing or the sale thereof which shall be punishable by a fine of up to \$500.00.

9.15.120 Consumption Of Marijuana And Open Marijuana Containers In Motor Vehicles Prohibited.

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

1. "Open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and:

a. That is open or has a broken seal;

b. The contents of which are partially removed; and

c. There is evidence that marijuana has been consumed within the motor vehicle. (Ord. 27 §7, 2014)

2. “Passenger area” means the area designed to seat the driver and passengers

including seating behind the driver, while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

- B.
1. Except as otherwise permitted in subsection (2) of this subsection (B), a person while in the passenger area of a motor vehicle that is on a public street, highway or the right-of-way of a public street or highway within the Town of Eagle shall not knowingly:
 - a. Use or consume marijuana; or
 - b. Have in his or her possession an open marijuana container.
 2. The provisions of this subsection (B) shall not apply to:
 - a. Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;
 - b. The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, camper, motor home, as defined in Section 42-1-102(57), C.R.S., or trailer coach, as defined in Section 42-1-102(106)(a), C.R.S.;
 - c. Possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or
 - d. The possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.
 3. Any person who violates the provisions of this subsection (B) commits a non-criminal municipal offense and shall be punished by a fine of up to \$500.00.

9.15.130 Possession Of Drug Paraphernalia Prohibited.

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

1. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances under circumstances in violation of the laws of this State;
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 screen, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetor tubes and devices;
 - d. Smoking and carburetor 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 and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;

- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums
- l. Bongs; or
- m. Ice pipes or chillers.

B. Drug paraphernalia does not include any marijuana accessories as defined in Section 16(2)(g) of Article XVIII of the Colorado Constitution, if possessed or used by a person age twenty-one (21) years or older.

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

- 1. Statements by an owner or by anyone in control of the object concerning its use;
- 2. The proximity of the object to controlled substances;
- 3. The existence of any residue of controlled substances;
- 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 this Section or other applicable law;
- 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 to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;
- 10. The existence and scope of legal uses for the object in the community; and

11. Expert testimony concerning its use.

D. 1. Except as described in Section 18-1-711 C.R.S., concerning immunity for persons who suffer or report an emergency drug or alcohol overdose, a person commits the offense of possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of this State or the Town of Eagle.

2. Any person who commits possession of drug paraphernalia commits a non-criminal municipal offense and upon conviction thereof, shall be punished by a fine of up to \$500.00.

9.15.140 Marijuana Clubs – Prohibited.

It shall be unlawful for any person to knowingly own, operate or maintain a Marijuana Club within the Town of Eagle. Any person who violates this Section commits a Class A municipal offense. Each and every day a violation of the provisions of this Section is committed, exists or continues shall be deemed a separate and distinct offense.

9.15.150 Marijuana Enterprises – Prohibited.

It shall be unlawful for any person to own, operate or maintain a Marijuana Enterprise within the Town of Eagle unless duly licensed pursuant to the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S. and permitted pursuant to the Town's Land Use and Development Code and Title 4 of the Eagle Municipal Code. Any person who violates this Section commits a Class A municipal offense. Each and every day a violation of the provisions of this Section is committed, exists or continues shall be deemed a separate and distinct offense.

9.15.160 Abusing 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 subsection (A), nor shall any person knowingly aid any other person to use any such substance for the purposes described in this subsection (A). This subsection (A) shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

B. Any person who knowingly violates the provisions of subsection (B) of this Section commits the Class B municipal offense of abusing toxic vapors; except that no person shall receive a sentence to confinement in jail for being convicted of a first offense pursuant to this subsection (B). Any person convicted of a second (2) or subsequent offense pursuant to this subsection (B) and may receive a sentence to confinement in jail.

C. For the purposes of this Section, the term “toxic vapors” means the following substances or products containing such substances:

1. Alcohols, including methyl, isopropyl, propyl, or butyl;
2. Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
3. Acetone;
4. Benzene;
5. Carbon tetrachloride;
6. Cyclohexane;
7. Freons, including Freon 11 and Freon 12;
8. Hexane;
9. Methyl ethyl ketone;
10. Methyl isobutyl ketone;
11. Naphtha;
12. Perchlorethylene;
13. Toluene;
14. Trichloroethane; or
15. Xylene.

D. In a prosecution for a violation of this Section, evidence that a container lists one or more of the substances described in subsection (C) of this Section as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof.

(Ord. 17 §3, 2013)

Chapter 9.16

OFFENSES RELATING TO MORALS

Sections:

- 9.16.010 Prostitution Prohibited.
- 9.16.020 Soliciting for Prostitution.
- 9.16.030 Pandering.
- 9.16.040 Keeping a Place of Prostitution.
- 9.16.050 Patronizing a Prostitute.
- 9.16.060 Prostitute Making Display.
- 9.16.070 Public Indecency.
- 9.16.075 Indecent Exposure.
- 9.16.080 Sale of Sexually Explicit Materials Harmful to Children - Prohibited.
- 9.16.090 Sexually Explicit Materials Harmful to Children - Definitions.
- 9.16.100 Sexually Explicit Materials Harmful to Children - Applicability.

9.16.010 Prostitution Prohibited.

A. Any person who knowingly performs or offers or agrees to perform any act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse with any person not his spouse in exchange for money or other things of value commits the Class A municipal offense of prostitution. (Amended Ord. 10-2001 §88, 2001).

B. 1. “Fellatio”, as used in this Section, means any act of oral stimulation of the penis.

2. “Cunnilingus”, as used in this Section, means any act of oral stimulation of the vulva or clitoris.

3. “Masturbation”, as used in this Section, means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

4. “Anal intercourse”, as used in this Section, means contact between human beings of the genital organs of one and the anus of another.

9.16.020 Soliciting for Prostitution. A person commits the Class A municipal offense of soliciting for prostitution if he knowingly:

A. Solicits another for the purpose of prostitution; or

B. Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or

C. Directs another to a place knowing such direction is for the purpose of prostitution.

(Amended Ord. 10-2001 §89, 2001).

9.16.030 Pandering. Any person who knowingly arranges or offers to arrange a situation in which a person may practice prostitution commits the Class A municipal offense of pandering. (Amended Ord. 10-2001 §90, 2001).

9.16.040 Keeping a Place of Prostitution. Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits the Class A municipal offense of keeping a place of prostitution if he:

A. Knowingly grants or permits the use of such place for the purpose of prostitution; or

B. Knowingly permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

(Amended Ord. 10-2001 §91, 2001).

9.16.050 Patronizing a Prostitute. Any person who performs any of the following with a person not his spouse commits the Class A municipal offense of patronizing a prostitute:

A. Knowingly engages in an act of sexual intercourse or of deviate sexual conduct with a prostitute; or

B. Knowingly enters or remains in a place of prostitution with intent to engage in an act of sexual intercourse or deviate sexual conduct.

(Amended Ord. 10-2001 §92, 2001).

9.16.060 Prostitute Making a Display. Any person who knowingly by word, gesture, or action endeavors to further the practice of prostitution in any public place or within public view commits a Class A municipal offense. (Amended Ord. 10-2001 §93, 2001).

9.16.070 Public Indecency. Any person who knowingly performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits the Class A municipal offense of public indecency:

A. An act of sexual intercourse; or

B. An act of deviate sexual intercourse; or

C. A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or

D. A lewd fondling or caress of the body of another person.

(Amended Ord. 10-2001 §94, 2001).

9.16.075 Indecent Exposure. A person commits the Class A municipal offense of indecent exposure if he knowingly exposes his genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person. (Amended Ord. 10-2001 §95, 2001).

9.16.080 Sale of Sexually Explicit Materials Harmful to Children - Prohibited.

A. It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a child:

1. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to children; or

2. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1) of this subsection (A), or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to children.

B. It shall be unlawful for any person knowingly to sell to a child an admission ticket or pass, or knowingly to admit a child to premises whereon there is exhibited a motion picture, show, or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is harmful to children or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by children not admitted to any such premises.

C. It shall be unlawful for any child to knowingly and falsely represent to any person mentioned in Subsection (A) or (B) of this Section, or to his agent, that he is eighteen (18) years of age or older, with the intent to procure any material set forth in subsection (A) of this Section, or with the intent to procure his admission to any motion picture, show, or other presentation, as set forth in subsection (B) of this Section.

D. It shall be unlawful for any person knowingly to make a false representation to any person mentioned in subsection (A) or (B) of this Section, or to his agent, that he is the parent or guardian of any juvenile, or that any child is eighteen (18) years of age or older, with the intent to procure any material set forth in subsection (A) of this Section, or with the intent to procure any

child's admission to any motion picture, show, or other presentation, as set forth in Subsection (B) of this Section.

E. It shall be unlawful for any person knowingly to exhibit, expose, or display in public at newsstands or any other business or commercial establishment frequented by children or where children are or may be invited as part of the general public:

1. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is harmful to children; or

2. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1) of this subsection (E), or explicit verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to children.

F. Any person, firm or corporation who violates any of the provisions of this Section commits a Class A municipal offense. Each day during which the violation occurs shall constitute a separate offense. (Amended Ord. 10-2001 §96, 2001).

9.16.090 Sexually Explicit Materials Harmful to Children - Definitions. As used in Section 9.16.080 unless the context otherwise requires:

A. "Child" means a person under the age of eighteen (18) years.

B. "Harmful to children" means that quality of any description or representation, in whatever form, of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

1. Taken as a whole, predominantly appeals to the prurient interest in sex of children; and

2. Taken as a whole, is patently offensive to prevailing standards in the adult community within the Town of Eagle with respect to what is suitable material for children; and

3. Is, when taken as a whole, lacking in serious literary, artistic, political and scientific value for children.

C. "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry, or both, of:

1. The character and content of any material described herein which is reasonably susceptible of examination; and

2. The age of the child; however, an honest mistake shall constitute an excuse from liability hereunder if a reasonable bona fide attempt is made to ascertain the true age of such child.

D. “Sadomasochistic abuse” means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

E. “Sexual conduct” means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse, sodomy, or physical contact in an act of apparent sexual stimulation or gratification with a person’s clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.

F. “Sexual excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

G. “Sexually explicit nudity” means a state of undress so as to expose the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

9.16.100 Sexually Explicit Materials Harmful to Children - Applicability. Nothing contained within Sections 9.16.080 or 9.16.090 shall be construed to apply to:

A. The purchase, distribution, exhibition, or loan of any work of art, book, magazine, or other printed or manuscript material by any accredited museum, library, school, or institution of higher education;

B. The exhibition or performance of any play, drama, tableau, or motion picture by any theater, museum, school, or institution of higher education, either supported by public appropriation or which is an accredited institution supported by private funds.

Chapter 9.18

OFFENSES RELATING TO GAMBLING

Sections:

- 9.18.010 Legislative Declaration - Construction.
- 9.18.020 Definitions.
- 9.18.030 Gambling - Professional Gambling - Offenses.
- 9.18.040 Gambling Devices - Gambling Records - Gambling Proceeds.
- 9.18.050 Possession of a Gambling Device or Record.
- 9.18.060 Gambling Information.
- 9.18.070 Gambling Premises.

9.18.010 Legislative Declaration - Construction.

A. Pursuant to Section 31-15-401(G), C.R.S., as amended, it is declared to be the policy of the Board of Trustees, recognizing the close relationship between professional gambling and other organized crime, to restrain all persons from seeking profit from gambling activities in this Town; to restrain all persons from patronizing such activities when conducted for the profit of any person; to safeguard the public against the evils induced by common gamblers and common gambling houses; and at the same time to preserve the freedom of the press and to avoid restricting participation by individuals in sport and social pastimes which are not for profit, do not affect the public, and do not breach the peace.

B. All the provisions of this Chapter shall be liberally construed to achieve these ends and administered and enforced with a view to carrying out the declaration of policy stated in subsection (A) of this Section.

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

A. "Gain" means the direct realization of winnings; "profit" means any other realized or unrealized benefit, direct or indirect, including without limitation benefits from proprietorship, management, or unequal advantage in a series of transactions.

B. "Gambling" means risking any money, credit, deposit, or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device, or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but does not include:

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

2. Bona fide business transactions which are valid under the law of contracts; or
3. Other acts or transactions now or hereafter expressly authorized by law; or
4. Any game, wager, or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in professional gambling.

5. Gambling conducted by an organization pursuant to the provisions of Section 12-47-128(5)(n), C.R.S., or participation in the Colorado Lottery, as authorized by law.

C. “Gambling device” means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine.

D. “Gambling information” means a communication with respect to any wager made in the course of, and any information intended to be used for, professional gambling. In the application of this definition the following shall be presumed to be intended for use in professional gambling: Information as to wagers, betting odds, or changes in betting odds. Legitimate news reporting of an event for public dissemination is not gambling information within the meaning of this Chapter.

E. “Gambling premises” means any building, room, enclosure, vehicle, vessel, or other place, whether open or enclosed, used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found is presumed to be intended to be used for professional gambling.

F. “Gambling proceeds” means all money or other things of value at stake or displayed in or in connection with professional gambling.

G. “Gambling record” means any record, receipt, ticket, certificate, token, slip, or notation given, made, used, or intended to be used in connection with professional gambling.

H. “Professional gambling” means:

1. Aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom; or
2. Participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one or more of the other participants.

9.18.030 Gambling - Professional Gambling - Offenses.

A. Any person who knowingly engages in gambling or professional gambling, except as

may be authorized by the laws of the State of Colorado, commits a Class A municipal offense. (Amended Ord. 10-2001 §97(part), 2001).

B. Any person who knowingly engages in gambling, including any wager or game which is incidental to a bonafide social relationship, within any licensed liquor establishment or any licensed fermented malt beverage establishment commits a Class A municipal offense. (Amended Ord. 10-2001 §97(part), 2001).

9.18.040 Gambling Devices - Gambling Records - Gambling Proceeds.

A. Except as provided in subsection (B) of this Section, all gambling devices, gambling records, and gambling proceeds are subject to seizure by any peace officer and may be confiscated and destroyed by order of a court. Gambling proceeds shall be forfeited to the Town and shall be transmitted by court order to the general fund of the Town.

B. If a gambling device is an antique gambling device and is not operated for gambling purposes for profit or for business purposes, it shall not be confiscated or destroyed pursuant to subsection (A) of this Section. If a gambling device is confiscated and the owner shows that such gambling device is an antique gambling device and is not used for gambling purposes, the court shall order such gambling device returned to the person from whom it was confiscated. For the purpose of this Section, a gambling device shall be conclusively presumed to be an antique gambling device if it was manufactured prior to 1950.

9.18.050 Possession of a Gambling Device or a Record. A person who owns, manufactures, sells, transports, possesses, or engages in any transaction designated to affect the ownership, custody, or use of a gambling device, except as may be authorized by the laws of the State of Colorado, commits the Class A municipal offense of possession of a gambling device or record. (Amended Ord. 10-2001 §98, 2001).

9.18.060 Gambling Information.

A. Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, or other means or knowingly installs or maintains equipment for the transmission or receipt of gambling information, except as may be authorized by the laws of the State of Colorado, commits a Class A municipal offense. (Amended Ord. 10-2001 §99, 2001).

B. Facilities and equipment furnished by a public utility in the regular course of business, and which remain the property of the utility while so furnished, shall not be seized except in connection with an alleged violation of this Chapter by the public utility and shall be forfeited only upon conviction of the public utility therefor.

9.18.070 Gambling Premises. Whoever as owner, lessee, agent, employee, operator, or occupant knowingly maintains, aids, or permits the maintaining of gambling premises for professional gambling commits the Class A municipal offense of maintaining gambling premises.

(Amended Ord. 10-2001 §100, 2001).

Chapter 9.20

OFFENSES RELATING TO GOVERNMENTAL OPERATIONS

Sections:

- 9.20.010 Obstructing Government Operations.
- 9.20.020 Resisting or Interfering With a Peace Officer.
- 9.20.030 Obstructing a Peace Officer or Fireman.
- 9.20.040 Accessory to Crime.
- 9.20.050 Refusal to Permit Inspection.
- 9.20.060 Refusing to Aid a Peace Officer.
- 9.20.070 Compounding.
- 9.20.080 False Reporting to Authorities.
- 9.20.100 Impersonating a Public Servant.
- 9.20.110 Aiding Escape.
- 9.20.120 Escapes.
- 9.20.130 Attempt to Escape.
- 9.20.140 Failure to Appear in Court.

9.20.010 Obstructing Government Operations.

A. A person commits the Class A municipal offense of obstructing governmental 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. "Public servant" as used herein, means any officer or employee of the Town of Eagle, whether elected or appointed, or otherwise performing a governmental function of the Town, but does not include peace officers or witnesses.
(Amended Ord. 10-2001 §101, 2001).

B. It shall be an affirmative defense that:

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

9.20.020 Resisting or Interfering With a Peace Officer. It is unlawful to resist arrest or interfere with a peace officer.

A. Resisting arrest. A person resists arrest if he knowingly prevents or attempts to prevent a peace officer, acting under color of his official authority, from effecting the actor's arrest

by:

1. Using or threatening to use physical force or violence against the peace officer; or
2. Using any other means which creates a risk of physical injury to the peace officer or another.

B. Interfering with a Peace Officer. A person interferes with a peace officer if he knowingly prevents or attempts to prevent a peace officer, acting under color of his official authority, from effecting an arrest or pursuing an investigation, by:

1. Using or threatening to use physical force or violence against the peace officer or another; or
2. Refusing or disobeying a request by the peace officer to withdraw from the immediate area of the peace officer to a reasonable distance from the officer to allow the peace officer to effect the arrest or pursue the investigation; or
3. Using any other means which create a risk of physical injury to the peace officer or another; or
4. Disobeying an order or directive of a peace officer to remain in a particular location reasonably communicated to such person, when the peace officer has a reasonable, articulable suspicion of possible criminal activity; or
5. Fleeing from or hiding from a peace officer, following an order or directive reasonably communicated to such person by the peace officer to stop or come out of hiding, when the peace officer has a reasonable, articulable suspicion of possible criminal activity; or
6. Disobeying any lawful order or directive by a peace officer reasonably communicated to such person by the peace officer.
(Ord. 48-2003 §2, 2003)

C. It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest or pursue an investigation which in fact was unlawful, if he was acting under color of his official authority. A peace officer acts under the color of his official authority when, in the regular course of his 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 or investigation should be made by him.

D. The term “peace officer,” as used in this Section, means the Chief of Police or any

police officer in uniform or if out of uniform, one who has identified himself by exhibiting his credentials as the Eagle Chief of Police or a police officer to the actor, or one whom the actor knew was a Town peace officer at the time of the alleged offense.

E. Any violation of this Section shall constitute a Class A municipal offense.
(Amended Ord. 10-2001 §102, 2001).

9.20.030 Obstructing a Peace Officer or Fireman.

A. A person commits the Class A municipal offense of obstructing a peace 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 peace officer, acting under color of his official authority, or knowingly obstructs, impairs, or hinders the prevention, control, or abatement of fire by a firefighter, acting under color of his official authority.

(Amended Ord. 10-2001 §103, 2001).

B. It is no defense to a prosecution under this Section that the peace officer was acting in an illegal manner, if he was acting under color of his official authority, as defined in the previous Section.

C. This Section does not apply to the interference with a peace officer making an arrest or pursuing an investigation.

9.20.035 Obedience to Fire Alarms.

A. Upon the sounding of an audible fire alarm within any commercial, lodging or multi-family residential building within the Town, it shall be the duty of every person in such a building to evacuate such building as soon as reasonably possible with due regard for the safety of such person and other persons in the vicinity, unless otherwise directed by police or Fire Department personnel. Upon evacuating a building where a fire alarm has sounded, a person shall not re-enter such building until police or Fire Department personnel have directed that it is safe to do so.

B. The first or second violation of this Section by any person within twelve (12) consecutive months shall constitute a non-criminal municipal offense. Any third or subsequent violation of this Section by a person within twelve (12) consecutive months shall constitute a Class B municipal offense.

C. The offense created under this Section shall be deemed one of “strict liability.”

(Ord. 14-2003 §1, 2003).

9.20.040 Accessory to Crime.

A. A person is an accessory to crime if, with intent to hinder, delay, or prevent the discovery, detection, apprehension, prosecution, conviction, or punishment of another for the

commission of a crime under the Eagle Municipal Code, he renders assistance to such person.

B. “Render assistance” means to:

1. Harbor or conceal the other, or
2. Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law; or
3. Provide such person with money, transportation, weapon, disguise, or other thing to be used in avoiding discovery or apprehension; or
4. By force, intimidation, or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of such person; or
5. Conceal, destroy, or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of such person.

C. Any violation of this Section shall constitute a Class B municipal offense. (Amended Ord. 10-2001 §104, 2001).

9.20.050 Refusal to Permit Inspection.

A. A person commits a Class B municipal offense if, knowing that a public servant, as defined in Section 9.20.010, is legally authorized to inspect property:

1. He refuses to produce or make available the property for inspection at a reasonable hour; or
2. If the property is available for inspection he refuses to permit the inspection at a reasonable hour. (Amended Ord. 10-2001 §105, 2001).

B. For the purposes of this Section, “property” means any real or personal property, including books, records, and documents which 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 business or occupation, that is authorized by an Eagle Town ordinance or lawful regulatory provision.

9.20.060 Refusing to Aid a Peace Officer. A person, eighteen (18) years of age or older, commits a Class A municipal offense when, upon command by a person known to him to be

a peace officer, he unreasonably refuses or fails to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense.

(Amended Ord. 10-2001 §106, 2001).

9.20.070 Compounding.

A. A person commits the Class A municipal offense of compounding if he accepts or agrees to accept any pecuniary benefit as consideration for:

1. Refraining from seeking prosecution of an offender; or
2. Refraining from reporting to law enforcement authorities the commission or suspected commission of any municipal offense or information relating to a municipal offense.

(Amended Ord. 10-2001 §107, 2001).

B. It is an affirmative defense to prosecution under this Section that the benefit received by the defendant did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the offense.

9.20.080 False Reporting to Authorities. A person commits the Class A municipal offense of false reporting to authorities, if:

A. 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 government agency which deals with emergencies involving danger to life or property; or

B. He knowingly 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

C. He knowingly 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.

(Amended Ord. 10-2001 §108, 2001).

9.20.100 Impersonating a Public Servant.

A. A person commits the Class A municipal offense of impersonating a public servant if he knowingly and falsely pretends to be a public servant, as defined in Section 9.20.010, other than a peace officer, and performs any act in that pretended capacity. (Amended Ord. 10-2001

§110, 2001).

B. It is no defense to a prosecution under this Section that the office the actor pretended to hold did not in fact exist.

9.20.110 Aiding Escape.

A. Any person who knowingly aids, abets, or assists another person in custody or confinement and charged with, held for, or convicted of a municipal offense, to escape or attempt to escape from custody or confinement commits the Class A municipal offense of aiding escape. (Amended Ord. 10-2001 §111, 2001).

B. “Escape” is deemed to be a continuing activity commencing with the conception of the design to escape and continuing until the escapee is returned to custody or the attempt to escape is thwarted or abandoned.

C. “Assist” includes any activity characterized as “rendering assistance” in Section 9.20.040.

9.20.120 Escapes.

A. A person commits a Class A municipal offense if, while being in custody or confinement and held for or charged with a municipal offense, or while being in custody or confinement under a sentence following conviction of a municipal offense, he knowingly escapes from said place of custody or confinement. (Amended Ord. 10-2001 §112, 2001).

B. Upon conviction of the offense of escape, said person shall be punished by imprisonment in the county jail for not less than one (1) month nor more than three (3) months. Any sentence imposed following conviction of this offense shall run consecutively and not concurrently with any sentence which the offender was serving at the time of the escape.

9.20.130 Attempt to Escape. If a person, while in custody or confinement and held for or charged with a municipal offense, or while in custody or confinement following conviction of a municipal offense, knowingly attempts to escape from said custody or confinement, he is guilty of a Class A municipal offense, and, upon conviction thereof, shall be punished by imprisonment for not less than one (1) month. Any sentence imposed pursuant to this Section shall run consecutively with any other sentences being served by the offender. (Amended Ord. 10-2001 §113, 2001).

9.20.140 Failure to Appear in Court.

A. It is unlawful for any person to knowingly fail to appear in the Eagle Municipal Court to answer any offense pursuant to a summons and complaint or penalty assessment notice issued to said person at the time and place specified in such summons and complaint or penalty

assessment notice, unless said person has paid the penalty assessment as permitted by law; and it is unlawful for such person to knowingly fail to appear for any subsequent proceedings in such case.

B. A person who is released on bail bond of whatever kind, and either before, during, or after release is accused by a complaint of any offense contained in this Code arising from the conduct for which he was arrested, commits a criminal offense if he knowingly fails to appear for trial or other proceedings in the Eagle Municipal Court in the case in which the bail bond was filed.

C. Any person who violates this Section commits a Class A municipal offense. Any such sentence shall be served consecutively to any sentence for the offense on which the person failed to appear or was on bail. (Amended Ord. 10-2001 §114, 2001).

Chapter 9.22

OFFENSES RELATING TO JUVENILES

Sections:

- 9.22.010 Curfew for Minors.
- 9.22.020 Responsibility of Parents or Guardians.
- 9.22.030 Aiding or Abetting.

9.22.010 Curfew for Minors.

A. It is unlawful for any child under the age of eighteen (18) years to knowingly wander, loiter, idle, or play in or upon any public street, highway, road, alley, or other public ground, public place, or public building, vacant lot, or other unsupervised place subsequent to the hour of 11:00 p.m. or prior to the hour of 5:00 a.m. except for lawful employment, an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the child, or unless such child is accompanied by the parent, guardian, or other person of the age of twenty-one (21) years, having express permission of the parent or guardian to have temporary custody and care of such child.

B. Violation of this Section shall constitute a non-criminal municipal offense. Each violation of the provisions of this Section shall constitute a separate offense. (Amended Ord. 10-2001 §115, 2001).

9.22.020 Responsibility of Parents or Guardians.

A. It is unlawful for a parent, guardian, or other person having care or custody of any child under the age of eighteen years to intentionally, knowingly, or recklessly allow or permit any such child to loiter, wander, idle or play in or upon a public street, highway, road, alley, or other public ground, public place, or public building, vacant lot, or other unsupervised place in violation of the provisions of Section 9.22.010 of this Chapter.

B. The fact that the child is upon the street, highway, road, alley, or other public ground, public place, public building, vacant lot, or other unsupervised place contrary to the provisions of Section 9.22.010 of this Chapter shall be prima facie evidence that the parent, guardian, or other person having custody of the child, is guilty of violating this Title.

C. Any violation of this Section shall constitute a Class B municipal offense. (Amended Ord. 10-2001 §116, 2001).

9.22.030 Aiding or Abetting. Any person who knowingly permits any minor child or

children to aid, abet, or encourage in; or to approve, encourage, allow, permit, tolerate or consent to the violation by any minor child or children of any provisions of this Title or any other ordinances of the Town; commits a Class B municipal offense. (Amended Ord. 10-2001 §117, 2001).

Chapter 9.24

PUBLIC NUISANCES

Sections:

9.24.010	Definitions – General.
9.24.020	Public Nuisances – Policy.
9.24.030	Public Nuisances – Defined.
9.24.040	Author of Nuisance – Defined.
9.24.050	Jurisdiction – Parties – Process.
9.24.060	Temporary Restraining Order – Preliminary Injunction – When to Issue.
9.24.070	Judgment – Relief.
9.24.080	Redelivery of Seized Premises.
9.24.090	Violation of Injunction.
9.24.100	Fees – Costs and Fines – Liens and Collection.

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

A. "Action to abate a public nuisance" means any action authorized by this Chapter to restrain, remove, terminate, prevent, abate, or perpetually enjoin a public nuisance.

B. "Building" means any house, office building, store, warehouse, or structure of any kind, whether or not such building is permanently affixed to the ground upon which it is situate, and includes any trailer, semi-trailer, trailer coach, mobile home, manufactured home, or other vehicle designed or used for occupancy by persons for any purposes.

9.24.020 Public Nuisances - Policy. It is the policy of the Town of Eagle pursuant to Section 31-15-401(c), C.R.S., as amended, that every public nuisance shall be restrained, prevented, abated, and perpetually enjoined. It is the duty of the Town Attorney to bring and maintain an action, pursuant to the provisions of this Chapter, to restrain, prevent, abate, and perpetually enjoin any such public nuisance. Nothing contained in this Chapter shall be construed as an amendment or repeal of any of the other criminal offenses of this Town, or the repeal of any of the criminal laws of this State, but the provisions of this Chapter, insofar as they relate to those laws, shall be considered a cumulative right of the people in the enforcement of such laws.

9.24.030 Public Nuisances-Defined. The following are deemed to be a public nuisance:

A. Any place where people congregate, which encourages the disturbance of the peace, or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, or the residents in the vicinity, or the passerby on the public streets or highways; or

B. Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquor to minors, furnishing or selling fermented malt beverages to persons under the age of eighteen (18), solicitation for prostitution, or trafficking in stolen property; or

C. Any offensive or unwholesome business or establishment, or any business or establishment carried on in a manner dangerous to the public health, safety, or welfare within the Town or within one (1) mile beyond the outer limits of the Town; or

D. Any building, fence, structure, or land within the Town, the condition of which presents a substantial danger or hazard to public health or safety; or

E. Any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire hazard or subjects adjoining property to danger of damage by storm, soil erosion, or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter; or

F. Any unlawful pollution or contamination of any surface or subsurface waters in this Town or of the air, or any water, substance or material intended for human consumption, but no action shall be brought under this subsection if the State Department of Health or any other agency of the State of Colorado charged by and acting pursuant to statute or duly adopted regulation has assumed jurisdiction by the institution of proceedings on that pollution or contamination; or

G. Any cellar, vault, sewer, drain, place, property, or premises within the Town which is damp, unwholesome, nauseous, offensive, or filthy, or which is covered for any portion of the year with stagnant or impure water, or which is in such condition so as to produce unwholesome or offensive odors, or which is injurious to the public health, or;

H. Permitting any garbage container to remain on a premises when it has become unclean, offensive, or which is injurious to the public health; or

I. Allowing vegetable or animal waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard, or area except when it is temporarily deposited for immediate removal; or

J. Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard, or in any other building or area in which any animals are kept; or

K. Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place

or building wherein any animals are slaughtered, kept, fed, or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed; or

L. Discharging or placing any offensive water, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so; or

M. Keeping or collecting any stale or putrid grease or other offensive matter; or

N. Having or permitting upon any premises any fly- or mosquito- producing condition;
or

O. Keeping any drinking vessel for public use without providing a method of decontamination between uses; or

P. Any toilet or sanitary sewer facilities not constructed and maintained in accordance with the ordinances of the Town; or

Q. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults, septic tanks and cesspools or other individual waste water disposal systems within twenty (20) days after notice from any enforcement officer or official of the Town; or

R. Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the Town; or

S. The maintenance of any drainage system, canal, ditch, conduit or other water course of any kind or nature, natural or artificial, in a manner so as to become so obstructed so as to cause the water to backup and overflow therefrom, or to become unsanitary; or

T. Any use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, or scattering over the premises, lumber, junk, trash, debris, or abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers; or

U. Unsheltered storage of old, unused, stripped and junked machinery, implements, or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the Town; or

V. Any building, land, premises, or business, occupation or activity, operation, or condition which, after being ordered abated, corrected, or discontinued by lawful order of the Town or any officer thereof, continues to be conducted or continues to exist in violation of; or

1. Any ordinance of this Town;
2. Any regulation enacted pursuant to the authority of an ordinance of this Town; or

W. Those offenses which are known to the common law of the land and the statutes of Colorado as nuisances when the same exist within the Town limits or within a mile thereof.

9.24.040 Author of Nuisance- Defined. Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the owner or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be authors thereof and shall be jointly and equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereof conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

9.24.050 Jurisdiction - Parties - Process.

- A. An action to abate a public nuisance shall be brought in Municipal Court.
- B. Except as otherwise may be provided in this Chapter, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado Rules of Civil Procedure.
- C. An action to abate a public nuisance may be brought by the Town Attorney in the name of the People of the State of Colorado and the Town of Eagle.
- D. An action to abate a public nuisance, and any action in which a temporary restraining order, temporary writ of injunction, or preliminary injunction is requested, shall be commenced by the filing of a complaint, which shall be verified or supported by affidavit. A summons shall be issued and served as in civil cases.

9.24.060 Temporary Restraining Order - Preliminary Injunction - When to Issue.

- A. If the existence of a public nuisance is shown in such action to the satisfaction of the Municipal Court or Judge thereof, either by verified complaint or affidavit, the Court or Judge may issue a temporary restraining order to abate and prevent the continuance or reoccurrence of the nuisance. Such temporary restraining order may direct the Chief of Police or any police officer

to seize and close the public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. While the temporary restraining order remains in effect, the building or place seized and closed shall remain in the custody of the Court. Within ten (10) days following the filing of a motion of any person adversely affected by a temporary restraining order, the Court shall conduct a hearing and determine whether the temporary restraining order shall be continued pending final determination of the action.

B. The Court may, as part of a preliminary injunction, direct the Chief of Police or any police officer to seize and close such public nuisance and to keep the same effectually closed against its use for any purpose, until further order of the Court. While the preliminary injunction remains in effect, the building or place seized and closed shall be subject to the orders of the Court. Preliminary injunctions may issue as provided by the Colorado Rules of Civil Procedure. No bond or security shall be required of the Town Attorney or the People of the State or the Town in any action to abate a public nuisance.

9.24.070 Judgment - Relief.

A. The judgment in an action to abate a public nuisance may include a permanent injunction to restrain, abate, and prevent the continuance or reoccurrence of the nuisance. The Court may grant declaratory relief, mandatory orders, or any other relief deemed necessary to accomplish the purposes of the injunction and enforce the same, and the Court may retain jurisdiction of the case for the purpose of enforcing its order.

B. The judgment in an action to abate a public nuisance may include an order directing the Chief of Police or any police officer to seize and close the public nuisance, and to keep the same effectually closed until further order of the Court, not to exceed one year.

C. The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to other injunctive relief, an order requiring the removal, correction, or other abatement of a public nuisance, in whole or in part, by the Chief of Police or any police officer at the expense of the owner or operator of the public nuisance.

D. The judgment in an action to abate a public nuisance may include, in addition to or in the alternative to any other relief authorized by the provisions of this Chapter, the imposition of a fine of not more than three hundred dollars (\$300.00), conditioned upon failure or refusal of compliance with the orders of the Court within any time limits therein fixed.

9.24.080 Redelivery of Seized Premises. If the owner or operator of a building or place seized and closed as a public nuisance has not been guilty of any contempt of Court in the proceedings, and demonstrates by evidence satisfactory to the Court that the public nuisance has been abated and will not reoccur, the Court may order the premises delivered to the owner or operator. As a condition of such order, the Court may require the posting of bond, in an amount

fixed by the order by the Court, for the faithful performance of the obligation of the owner or operator thereunder to prevent recurrence or continuance of the public nuisance.

9.24.090 Violation of Injunction. Any violation or disobedience of any injunction or order issued by the Municipal Court in an action to abate a public nuisance shall constitute a Class A municipal offense. The Court may treat each day on which the violation or disobedience of an injunction or order continues or recurs as a separate offense. (Amended Ord. 10-2001 §119, 2001).

9.24.100 Fees - Costs and Fines - Liens and Collection. A. For seizing and closing any building or premises as provided in this Chapter, or for performing other duties pursuant to the direction of the Court pursuant to the provisions of this Chapter, the Town shall be entitled to a reasonable sum fixed by the Court, in addition to the actual costs incurred or expended.

B. All fees and costs allowed by the provisions of this Section, the costs of a Court action to abate any public nuisance, and all fines levied by the Court in contempt proceedings incident to any action to abate a public nuisance shall be a first and prior lien upon any real property seized or closed under the provisions of this Chapter, and the same shall be enforceable and collectible by execution issued by Order of the Court, from the property of any person liable therefore.

C. Nothing in this Chapter shall be construed in such a manner as to destroy the validity of a bona fide lien upon real or personal property appearing of record prior to recording of Court orders involving real estate as authorized under this Chapter.

Chapter 9.26

PUBLIC PARKS, RECREATION AND OPEN SPACE AREAS

Sections:

- 9.26.010 Definitions, Applicability and Scope.
- 9.26.020 Sanitation.
- 9.26.030 Public Behavior and Preservation of Public Property and Resources.
- 9.26.040 Occupancy of Parks, Recreation and Open Space Areas.
- 9.26.050 Regulation of Vehicles.
- 9.26.055 Seizure of Vehicles.
- 9.26.060 Daily or Seasonal Use Restrictions.
- 9.26.070 Promulgation of Rules and Regulations; Effect.
- 9.26.080 Fees and Charges.

9.26.010 Definitions, Applicability and Scope.

A. The provisions of this Chapter shall apply to any park, recreation area or open space area owned, leased or operated, or hereafter owned, leased or operated by the Town, whether within or without the Town limits. This Chapter applies to all persons entering, using, or visiting any such park, recreation area or open space area. (Amended Ord. 48-2003 §4, 2003).

B. The term "camping equipment," as the same appears in this Chapter, includes not only a tent or vehicle used to accommodate the camper, but also the vehicles used for transport, and any associated camping paraphernalia.

9.26.020 Sanitation. The following acts are prohibited in any park, recreation area, open space area:

A. Failing to dispose of all garbage, including paper, cans, bottles, waste materials and rubbish, by removal from the site or area, or disposal at places provided by the Town for rubbish removal;

B. Draining or dumping refuse or waste from any trailer or other vehicle except in places or receptacles provided for such uses;

C. Cleaning fish or food, or washing clothes or articles of household use at any water faucets, restrooms or water hydrants;

D. Polluting or contaminating water supplies or water used for human consumption, or any creeks or rivers;

E. Depositing, except into receptacles provided for that purpose, any body waste in or

on any portion of any rest room facility or any other public structure, or depositing any bottles, cans, cloths, rags, metal, wood, stone, or any other damaging substance in any of the fixtures in such stations or structures;

F. Using refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought as such from private property.

G. Violation of subsections (A), (B), (C), (E), and (F) of this Section shall constitute a non-criminal municipal offense. Violation of subsection (D) of this Section shall constitute a Class A municipal offense. (Amended Ord. 10-2001 §120, 2001; Amended Ord. 48 §5, 2003).

9.26.030 Public Behavior and Preservation of Public Property and Resources. The following acts are prohibited within any park, recreation area or open space area:

- A. Any act forbidden by any other section of Title 9 of this Code;
- B. Inciting or participating in riots, or indulging in boisterous or abusive, threatening, or indecent conduct;
- C. Destroying, defacing, or removing any natural feature or plant;
- D. Destroying, injuring, defacing, removing, or disturbing in any manner any public building, sign, equipment, marker, or other structure or property;
- E. Selling or offering for sale any merchandise without the prior written consent of the Town Administrator;
- F. Distributing any handbills or circulars or posting, placing or erecting any bills, notices, paper, or advertising devices or matter of any kind without the prior written permission of the Town Administrator;
- G. Discharging firearms, firecrackers, rockets, or any other fireworks;
- H. Operating or using any audio devices, including radios, televisions or musical instruments, or any other noise-producing devices such as an electrical generating plant in such a manner and at such times so as to disturb other persons using the recreation area or park;
- I. Operating or using public address systems, whether fixed or portable, except with the prior written permission of the Town Administrator;
- J. Installing any other arterial or special radio or telephone or television equipment unless previously approved by the Town Administrator in writing.

K. Violation of subsections (E), (F), (H), (I), and (J) of this Section shall constitute a non-criminal municipal offense. Violation of subsection (B) of this Section shall constitute a Class B municipal offense. Violation of subsections (D) and (G) of this Section shall constitute a Class A municipal offense. (Amended Ord. 10-2001 §121, 2001; Amended Ord. 48-2003 §6, 2003).

9.26.040 Occupancy of Parks, Recreation and Open Space Areas. The following acts are prohibited within any park, recreation area, or open space area:

- A. Occupying a recreation site for other than primarily recreational purposes;
- B. Entering or using a recreation site, recreation area or open space area, or a portion of a recreation site, recreation area or open space area, which is closed to public use, as established by notices which shall be posted in such locations as will reasonably bring them to the attention of the public; (Amended Ord. 48-2003 §8, 2003).
- C. Occupying a site with camping equipment which is prohibited by the Town Administrator. Notices establishing limitation on the kind or type of camping equipment shall be posted in such locations as will reasonably bring them to the attention of the public;
- D. Building a fire outside of stoves, grills, fireplaces, or outside of fire rings provided for such purposes, or leaving unattended any fire, or failing to extinguish a fire when leaving the park;
- E. Camping overnight in places restricted to day use only;
- F. Failing to remove camping equipment, or to clean rubbish and trash before departure;
- G. Pitching tents or parking trailers or other camping equipment except in places specifically provided for such purposes;
- H. Camping overnight within a campground for a longer period than fourteen (14) days in any thirty (30) day period;
- I. Leaving a camping unit unoccupied during the first night after camping equipment has been set up, or leaving unattended camping equipment for more than twenty-four (24) hours, without written permission of the Town Administrator. Unattended camping equipment which is not removed within the prescribed time limit is subject to impoundment and removal by Town authorities;
- J. Failing to maintain quiet in campgrounds between the hours of 10:00 p.m. and

6:00 a.m.;

K. Entering or remaining in campgrounds during darkness, except for those persons who occupy the campground for camping purposes or other person visiting those campers;

L. Bringing a dog into any recreation area or site or park located within the Town limits, except into an area specifically set apart and designated by signs for dog runs.

M. Hiking within an open space area, or part thereof, which is closed for such specific use, as established by notices which shall be posted in such locations as will reasonably bring the closure to the attention of the public. (Amended Ord. 48-2003 §9, 2003).

N. Violation of subsections (A), (B), (C), (E), (F), (G), (H), (I), (J), (K), (L), and (M) of this Section shall constitute a non-criminal municipal offense. Violation of subsection (D) of this Section shall constitute a Class B municipal offense. (Amended Ord. 10-2001 §122, 2001; Amended Ord. 48-2003 §10, 2003).

9.26.050 Regulation of Vehicles. The provisions of the Model Traffic Code, as adopted by reference by the Town of Eagle, shall apply within the limits of any park, recreation area or open space area. In addition, the following acts shall be prohibited within any park, recreation area or open space area:

A. Driving motor vehicles in excess of twenty (20) miles per hour;

B. Driving or parking any vehicle or trailer except in places developed for that purpose;

C. Operating motor vehicles, bicycles, motor bikes, motorcycles, or other off-highway vehicles (OHV) off of established roadways or onto trails, unless such trails have been specifically marked for off-road vehicle use;

D. Operating any motor vehicle or snowmobile in such a manner as will annoy or disturb other users of the park, recreation area or open space area;

E. Operating any motor vehicle, bicycle, motor bike, motorcycle, snowmobile or other off-highway vehicle (OHV) in any park or recreation area when the same has been closed to traffic. The Town Administrator or Police Chief, shall have the authority to close any park, recreation area or open space area for health or safety reasons or for the protection of wildlife at any time, and such closing shall become effective when signs giving notice thereof are erected at prominent locations within the park, recreation area or open space area.

F. Operating any bicycle, motor vehicle, motor bike, motorcycle, snowmobile or other off-highway vehicle (OHV) in any open space area unless such area has been specifically

signed and/or designated for such specific uses.

G. Operating or parking any motor vehicle, off-highway vehicle (OHV) or snowmobile in any public park, recreation area or open space area that does not have a current vehicle registration displayed. The registration shall either be in the form of license plates issued by a state department of motor vehicles or an off-highway vehicle (OHV) registration from an appropriate state agency. All motor vehicles shall be operated under State of Colorado rules and regulations.

H. Violation of subsections (A), (B), (D) and (G) of this Section shall constitute a non-criminal municipal offense. The first violation of subsections (C), (E), and (F) within twelve (12) consecutive months shall also constitute a non-criminal municipal offense. The second or subsequent violation of subsections (C), (E) and (F) of this Section within twelve (12) consecutive months shall constitute a Class A municipal offense.

(Amended Ord. 10-2001 §123, 2001; Amended Ord. 48-2003 §11, 2003).

9.26.055 Seizure of Vehicles. In the event a person is issued a summons and complaint alleging a Class A municipal offense under Section 9.26.050, the officer issuing said summons and complaint may seize and impound the vehicle involved in the alleged violation which shall be held as evidence pending trial or other disposition of the charges. In the even such person is found guilty of a Class A municipal offense pursuant to Section 9.26.050, the defendant shall be assessed the Town's costs for towing or otherwise removing such vehicle, together with applicable charges for storage. No vehicle seized or impounded pursuant to this Section shall be released to the owner until such charges have been paid. (Ord. 48-2003 §12, 2003).

9.26.060 Daily or Seasonal Use Restrictions. The Town Administrator is hereby authorized to designate certain parks, recreation areas or open space areas, or parts thereof, which are subject to daily or seasonal use restrictions or closures. Any such daily or seasonal use restrictions or closures shall be posted in such locations as will reasonably bring them to the attention of the public. The first violation of such daily or seasonal use restrictions or closures within twelve (12) consecutive months shall constitute a non-criminal municipal offense. The second or subsequent violation of such daily or seasonal use restrictions or closures within twelve (12) consecutive months shall constitute a Class A municipal offense. (Ord. 48-2003 §13, 2003).

9.26.070 Promulgation of Rules and Regulations; Effect. The Town Administrator is hereby authorized to promulgate the rules and regulations governing conduct and activities within all public recreation areas, recreation sites and parks which are subject to the jurisdiction of the Town, pursuant to Section 9.26.010. Such regulations shall be designed or the purpose of ensuring the public health, safety and welfare, by providing for proper recreational use by all users of the Town's public recreation sites and parks, and minimizing the ecological damage to such sites and parks and annoyance to other park and recreation site users. Such regulations may include, but shall not be limited to, restrictions on use of various areas for specific recreational purposes; restrictions on the use of wheeled or motorized vehicles; restrictions on the number and

location of overnight camping facilities; restrictions on the hours of use, and other similar regulations. The Town Administrator shall promulgate such regulations by submitting them in written form to the Board of Trustees. If the Board approves the regulations, they shall become effective when signs are in place within the public park, reasonably calculated to give notice to the public of such regulations. Any violation of any regulation duly promulgated and posted as required by this Chapter shall constitute a non-criminal municipal offense. (Amended Ord. 10-2001 §124, 2001; Amended Ord. 48-2003 §14, 2003).

9.26.080 Fees and Charges. The Town may assess fees or user charges for the use of any public recreation facility, as defined in this Chapter. The amount of such fees shall be proposed by the Town Administrator, and submitted by him to the Board of Trustees. They shall become effective when approved by resolution of the Board. All fees and charges imposed by the authority granted within this Section shall be paid to the Town Treasurer, in such manner as he shall prescribe. (Amended Ord. 48-2003 §15, 2003).

Chapter 9.28

MISCELLANEOUS PROVISIONS

Sections:

9.28.010	Ditches – Construction – Supervision.
9.28.020	Ditches - Obstruction Prohibited.
9.28.030	Ditches – Littering.
9.28.040	Weeds – Accumulation – Abatement.
9.28.050	Duty to Keep Sidewalks Safe and Clean.
9.28.055	Removal of Snow.
9.28.060	Encroachments Prohibited.
9.28.070	Notice and Removal of Encroachments and Debris.
9.28.080	Penalties.

9.28.010 Ditches – Construction - Supervision. Any person who constructs any ditch or flume or waterway along or across any public street or alley of the Town, except under the direction and supervision of the Public Works Director, commits a Class A municipal offense. It shall be the duty of the Public Works Director upon reasonable request to direct and supervise the construction of such waterway wherever it is necessary to convey water for irrigation or domestic purposes. (Amended Ord. 10-2001 §126, 2001).

9.28.020 Ditches - Obstruction Prohibited. Any person who places any obstruction in any ditch or waterway or cuts or digs the bank thereof in such a manner as to cause the water to flow into any public street or alley of the Town, without receiving a permit therefor, commits a Class B municipal offense. (Amended Ord. 10-2001 §127, 2001).

9.28.030 Ditches - Littering. Any person who throws or deposits or causes to be conducted into any ditch or watercourse within the Town any litter, filth or harmful substance commits a Class A municipal offense. (Amended Ord. 10-2001 §128, 2001).

9.28.040 Weeds - Accumulation- Abatement.

A. Growth and Accumulation on Premises and Adjoining Sidewalks and Alleys Prohibited. No owner of any lot, block or parcel of ground within the Town, nor any tenant or agent in charge thereof, shall allow or permit weeds to grow, or remain when grown, on such lot, block or parcel of ground, or on or along any sidewalk adjoining the same, or in the alley behind the same, but such weeds shall be cut close to the ground and kept so cut.

B. Abatement by Town. If any owner, tenant or agent in charge shall fail to cut weeds, as required by this Section, within five (5) days after being notified to do so by the Town Clerk, by

registered or certified mail, the Board may direct that the weeds be cut by an employee of the Town and charge the cost thereof to such owner, tenant or agent in charge, together with five percent (5%) additional for inspection and other incidentals.

C. Collection Costs of Abatement by Town. In the event the weeds on any lot, block or parcel of ground, or along the sidewalk adjoining the same or the alley behind the same, are cut by order of the Board, the whole cost of cutting such weeds, together with five percent (5%) for inspection and other incidentals, shall be paid to the Town Clerk within thirty(30) days after mailing by the Town Clerk to the owner of such lot, block or parcel of ground, by registered or certified mail, notice of the assessment of such cost.

Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time, after such failure to so pay the same, within thirty (30) days, by the Town Clerk to the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with ten percent (10%) penalty to defray the cost of collection.

9.28.050 Duty to Keep Sidewalks Safe and Clean. The owner, occupant, or agent of the owner of any real property, including buildings or vacant lots, within the Town of Eagle is required to keep and maintain, at its sole cost and expense, the sidewalks, gutters, curbs and curb walks on or adjacent to such real property in a clean and safe condition free and clear of mud, dirt, rubbish, filth and other debris and obstructions. Any person who violates this Section commits a non-criminal municipal offense. Any offense under this Section shall be one of strict liability. (Amended Ord. 4-2009 §1' 2009)

9.28.055 Removal of Snow.

A. Shoveling of Public Sidewalks Required. It shall be unlawful for any owner or occupant of any lot, block or parcel of real property within the Town of Eagle, or for any agent in charge of such property, to allow any snow or ice to accumulate or remain upon the entire width of any sidewalk in the public right of way abutting such property longer than twenty-four (24) hours from the time of the last accumulation of such snow or ice.

B. Depositing Snow in Right of Way Prohibited. It shall be unlawful for any person to remove snow or ice from any private property or public sidewalks and deposit such snow or ice upon any public street, sidewalk, alley or other public property within the Town of Eagle.

C. Obstructing and Endangering Public Right of Way Prohibited. It shall be unlawful for any person to plow, shovel, blow or otherwise move snow or ice in or upon any public street, sidewalk, alley or other public property within the Town of Eagle in a manner which:

1. Obstructs vehicular or pedestrian traffic upon the public right of way;
2. Increases hazards to vehicles and pedestrians traveling upon the public right of way;
3. Interferes with the maintenance of the public right of way by the Town; or
4. Obstructs clear vision at intersections.

D. Exception for Public Crews. Nothing contained in this Section shall be construed to prohibit or regulate the manner in which persons working for or on behalf of the Town clear or remove snow or ice from the public streets or other public places within the Town.

E. Penalties. Any offense under this Section shall be deemed one of strict liability. Upon the first or second violation of this Section within a consecutive twelve (12) month period, the owner, occupant or agent shall be deemed to have committed a non-criminal municipal offense. Upon the third or subsequent violation of this Section within twelve (12) consecutive months, the occupant, owner or agent shall be deemed to have committed a Class B municipal offense. (Amended Ord. 4-2009 §2, 2009)

9.28.060 Encroachments Prohibited. No encroachment, obstruction or unsafe condition, other than permitted by law, authorized by the Town Board, or by Town ordinance or resolution, shall be made, placed or suffered to any street, alley, sidewalk, curb, gutter, curbside or other public place or way within the Town.

9.28.070 Notice and Removal of Encroachments and Debris. Whenever any encroachment, obstruction or unsafe condition, including snow, ice, mud, dirt, debris, rubbish or filth is made, placed, permitted or maintained contrary to the ordinance codified in this Chapter, the Town Administrator or municipal law enforcement officers shall give notice to the party responsible for the unsafe condition, and/or to the owner or party in control of the real property involved, directing such person to remove or alleviate such encroachment, obstruction or unsafe condition within a time which is reasonable in light of the time required to effect the action, and the safety of persons and property. In the event such direction is not complied with, or if the party to whom notice is due cannot be given such notice, then the Town may effect such action, and the cost thereof may be assessed against the responsible party. Any such assessment may be made a lien on the real property involved, by recording a statement to that effect in the records of the Eagle County Clerk and Recorder and by mailing or delivering a copy of such statement to the owner and the party in control of such real property.

9.28.080 Penalties. Unless otherwise provided herein, any violation of this Chapter shall constitute a non-criminal municipal offense. Each day upon which a violation of this Chapter occurs shall be deemed to be a separate offense. (Amended Ord. 10-2001 §129, 2001).

