

CHAPTER 16. PUBLIC PEACE, MORALS AND WELFARE.

ARTICLE 1. OFFENSES AGAINST PUBLIC PEACE.

Sections:

- 16-1 Disturbing the public peace.
- 16-2 Unlawful assembly.
- 16-3 Disturbing religious assembly.
- 16-4 Disturbing lawful assembly.
- 16-5 Loitering - Police order to disperse.
- 16-6 Schools, loitering about, disturbing, annoying or molesting students.
- 16-7 False impersonation of an officer.
- 16-8 Resisting and obstructing police officers.
- 16-9 Assisting prisoners to escape.
- 16-10 Quarreling and fighting.
- 16-11 Noises - Scope of prohibition.
- 16-12 Exceptions from provisions.
- 16-13 Throwing stones.
- 16-14 Participating in or inciting a riot or disturbance.

ARTICLE 2. OFFENSES AGAINST PROPERTY.¹

- 16-15 Injuring, defacing or destroying publicly-owned property.
- 16-16 Injuring, defacing or destroying private property.
- 16-16.1 Graffiti
- 16-17 Trespassing upon publicly or privately owned property.
- 16-18 Loitering about railroad yards; exception.
- 16-19 Peddlers going upon premises uninvited.
- 16-20 Abatement of nuisance by police.
- 16-21 Possession of license no bar to prosecution.

ARTICLE 3. OFFENSES AGAINST PUBLIC SAFETY.

- 16-22 Carrying concealed weapons.
- 16-23 Discharging firearms.
- 16-24 False fire alarm.

¹

Chapter 16, Article 2, Section 16-16 is amended by the addition of subsections 1 through 5. (Ord. 1756, eff., 7-16-04)

ARTICLE 4. OFFENSES INVOLVING MINORS.

- 16-25 Loitering defined.
- 16-26 Loitering after curfew.

- 16-27 Responsibility of parents; penalty for violation.
- 16-28 Furnishing tobacco to minor under age 16.
- 16-29 Abandoned refrigerators; removal of locks.

ARTICLE 5. OFFENSES AGAINST MORALS.

- 16-30 Common gambler defined.
- 16-31 Permitting gambling in premises.
- 16-32 Playing games for money.
- 16-33 Gambling with intoxicated persons or minors.
- 16-34 Indecent exposure.
- 16-35 Urinating in public.
- 16-36 Allowing prostitution on premises.
- 16-37 Prostitution - Plying vocation.
- 16-38 Prostitution prohibited; cohabitation with prostitute.
- 16-39 Enticing to house of ill repute.
- 16-40 Keeping of disorderly house.

ARTICLE 6. OFFENSES AGAINST PUBLIC HEALTH.

DIVISION 1. GENERAL PROVISIONS.

- 16-41 Poison to be labeled.
- 16-42 Tainted provisions not to be sold.
- 16-43 Unwholesome provisions not to be sold.
- 16-44 Cleaning of cesspools, grease traps and privy vaults; when required.
- 16-45 Discontinuance of cesspools, grease traps and privy vaults; filling.
- 16-46 Removal of contents of cesspools, grease traps and privy vaults.
- 16-47 Substances of abuse.

DIVISION 2. SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT.

- 16-48 Legislative intent.
- 16-49 Definitions.
- 16-50 Smoking prohibited; penalties.
- 16-51 Public buildings; designated smoking areas.
- 16-52 Places of public accommodation; designated smoking areas.

- 16-53 Places of employment.
- 16-54 Areas where smoking permitted.
- 16-55 Signs.

ARTICLE 7. NUISANCES.

- 16-56 Discharging foul substances into street.
- 16-57 Accumulating offensive substances.
- 16-58 Offensive cellars; sewers.
- 16-59 Accumulation of junk.
- 16-60 Exclusion from provisions.
- 16-61 Barbed wire and other obstructions into thoroughfares.
- 16-62 Placing obstructions on public right-of-way.
- 16-63 Dangerous or hazardous conditions.
- 16-63.5 Broken windows²
- 16-64 Notice to abate nuisance.
- 16-65 Assessment of costs and collection of assessments.
- 16-66 General notice to clean up.
- 16-67 Summary abatement of nuisances.

ARTICLE 8. PENALTIES³

- 16-68 Penalty for violations by minors.

² Chapter 16 is amended by the addition of Section 16-63.5. (Ord. 1602, eff., 3-13-99)

³ Chapter 16 is amended by the addition of Article 8 and Section 16-68. (Ord. 1674, eff., 10-26-01)

CHAPTER 16. PUBLIC PEACE MORALS AND WELFARE.

ARTICLE 1. OFFENSES AGAINST PUBLIC PEACE.

Section 16-1. Disturbing the public peace.

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

(1) Make unreasonable noise in a public place or near a private residence that he/she has no right to occupy; or

(2) Repeatedly insult, taunt or challenge another person in a manner likely to provoke a violent or disorderly response; or

(3) Not being a peace officer, display a deadly weapon in a public place in a manner calculated to alarm; or

(4) In a public place, threaten to assault in any manner another person; or

(5) Strike, shove, kick or otherwise subject any person to unwanted physical contact.

Section 16-2. Unlawful assembly.

It shall be unlawful for any two (2) or more persons to assemble together with an intent to do any unlawful act, or being so assembled, to mutually agree to do any unlawful act with force or violence against the property of the City, or the person or property of another, or against the peace or to the terror of others; or make any movement or preparation therefor; and every person present at such an assembly who shall not endeavor to prevent the commission or perpetration of such unlawful act, shall be deemed guilty of a misdemeanor. (Code 1958, Sec. 17-53.)

Section 16-3. Disturbing religious assembly.

It shall be unlawful for any person to disturb or disquiet any congregation or assembly of persons met for or engaged in religious worship by making any unreasonable loud and unnecessary noise, or by rude or indecent behavior, or discourse within their place of worship or so near it as to disturb the order and solemnity of the meeting. (Code 1958, Sec. 17-20.)

Section 16-4. Disturbing lawful assembly.

It shall be unlawful for any person to obstruct or interfere significantly with any lawful meeting, assembly, procession or gathering by physical action, verbal utterance or any other means, with the intent to prevent or disrupt said meeting, assembly, procession or gathering.

Section 16-5. Loitering - Police order to disperse.

(1) It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone or in consort with others in a public place in such manner so as to:

(a) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tend to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

(b) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon and thereto.

(2) Any person who causes or commits any of the conditions enumerated in Subsection (1) herein and who fails or refuses to stop causing or committing such conditions and to move on or disperse as directed by a police officer or any other lawful authority shall be guilty of a violation of this Section.

Section 16-6. Schools, loitering about; disturbing, annoying or molesting students.

It shall be unlawful for any person, at any time, to loiter, idle, wander, stroll or play in or about any public, private or parochial school, college or seminary grounds or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout or in connection with such school or the employees thereof, or for any person to:

(1) Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school; or

(2) Annoy, disturb, assault or molest any student or employee of any such

school or college while in any such school building, school grounds; or

(3) Conduct himself/herself in a lewd, wanton or lascivious manner in speech or behavior in or about any such school building or school grounds; or

(4) Park or move a vehicle at any time in the immediate vicinity of or on the grounds of any such school, college or seminary for the purpose of annoying or molesting the students or employees thereof or in an effort to induce, entice or invite students into such vehicles for immoral purposes. (Code 1958, Sec.17-46.1.)

Section 16-7. False impersonation of an officer.

It shall be unlawful for any person to impersonate a policeman or any City, County, State or Federal officer by wearing a badge or star, or by any acts or words which may lead others to believe that he/she is such officer when in fact he/she is not such officer. (Code 1958, Sec. 17-24.)

State law references: As to penalty under State law, 1973, Sec. 29-5-102.

Section 16-8. Resisting and obstructing a police officer.

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

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

(c) The term "police officer" as used in this section means a police officer, in uniform or, if out of uniform, one who has identified

himself/herself by exhibiting his/her credentials as such police officer to the person whose arrest is attempted.

(2) (a) It is unlawful for a person to obstruct a police officer. A person commits the crime of obstructing a police officer, when, by using or threatening violence, force or physical interference, or an obstacle, he/she knowingly obstructs, impairs or hinders the enforcement of the penal law or the preservation of the peace by a police officer acting under color of his/her official authority.

(b) It is no defense to a prosecution under this section that the police officer was acting in an illegal manner, if he/she was acting under color of his/her official authority as defined in subsection (1)(b).

Section 16-9. Assisting prisoners to escape.

It shall be unlawful for any person to aid or assist any person in custody of a police officer, to escape from such custody or such confinement.

Section 16-10. Quarreling and fighting.

It shall be unlawful for any person to fight with another upon public property or upon private property which is open to view from any other place within the City or in the presence of persons not engaged in said fight. It shall not be unlawful to engage in a fight which is a contest of amateur or professional athletic skill.

Section 16-11. Noises - Scope of prohibition.

(1) Subject to the provisions of this Section, the creation of any unreasonably loud, disturbing and unnecessary noises at any time is prohibited. Noises of such character and of such intensity and duration as to be detrimental to the public health and welfare is prohibited. Noises during the hours of 11:00 p.m. to 6:00 a.m. which unreasonably interfere with the sleep, comfort and repose of any individual are prohibited.

(2) The following acts are declared to be a violation of this Section; the enumeration shall not be deemed to be exclusive or in any way limited by the generality of Subsection (1):

(a) The keeping in any building or upon any premises of any animal or bird which by frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.

(b) The use of any automobile, motorcycle, streetcar or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(c) The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time.

(d) The playing of any radio, phonograph or any musical instrument in any place in a residential or apartment-hotel district at any time between 11:00 p.m. and 6:00 a.m. in such manner or with such volume as to annoy or disturb any person thereby.

(e) The creation of any excessive noise on any street adjacent to any public or parochial school, college, or institution of learning while it is in session, which unreasonably interferes with the work of pupils or instructors; provided, conspicuous signs are displayed on such street indicating, in substance, that it is a school street and that quiet is required.

(f) The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(g) The playing of any game not for public exhibition, which results in the creation of any noise or disturbance that in any manner unreasonably interferes with the health, comfort or repose of any inhabitants of the City. (Code 1958, Sec. 16-13.)

Section 16-12. Exceptions from provisions.

(1) Nothing contained in Section 16-11 shall be construed to prevent the production of music with any military, civic, or authorized parade, funeral procession or religious ceremony, or any musical performance conducted with the consent of municipal authority, or to prevent public exhibitions of sports or other events.

(2) The provisions of Section 16-11 shall not apply to police officers or firemen in the discharge of their official duties. (Code 1958, Sec. 16-14.)

Section 16-13. Throwing stones.

It shall be unlawful for any person to throw any stone or other missile at or upon any building, tree or other public or private property, or at any person. (Code 1958, Sec. 17- 50.)

Section 16-14. Participating in or inciting a riot or disturbance.

It is unlawful for any person who collects or assembles in crowds and bodies to become involved in or incite or attempt to incite a riot or public disturbance.

ARTICLE 2. OFFENSES AGAINST PROPERTY.

Division 1. General Provisions.

Section 16-15. Injuring, defacing, or destroying publicly-owned property.

It is unlawful for any person to knowingly injure, deface or destroy any real property or improvements thereon, or movable or personal property owned by the City or any other public entity. (Ord. 1499, 3/3/95.)

Section 16-16. Injuring, defacing or destroying private property.

It is unlawful for any person to knowingly injure, deface or destroy the real or personal property belonging to any person or other private entity. (Ord. 1499, 3/3/95.)

Section 16-16.1 GRAFFITI

(1) Definitions: for purposes of Sections 16-16.1.: (Ord. 1756, eff., 7-16-04)

(a) “*Graffiti*” means the defacing of public or private property without the consent of the property owner by means of any method of defacement, including but not limited to painting, drawing, writing, etching, carving or otherwise marring the surface of the property by use of paint, spray paint, ink or any other substance or object. (Ord. 1756, eff., 7-16-04)

(b) “*Prohibited graffiti material*” means and includes spray paint, spray paint nozzles, glass cutting tools and glass etching tools or instruments. (Ord. 1756, eff., 7-16-04)

(c) “*Spray paint*” means any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property. (Ord. 1756, eff., 7-16-04)

(d) “*Spray paint nozzle*” means a nozzle designed to deliver a spray of paint of a particular width or flow from a can of spray paint. (Ord. 1756, eff., 7-16-04)

(2) Application of Graffiti. (Ord. 1756, eff., 7-16-04)

(a) It is unlawful for any person to deface public or private property with

graffiti. (Ord. 1756, eff., 7-16-04)

(b) The City may order the occupant or owner of any property on which graffiti is found to remove the graffiti, at the occupant or owner's sole expense, within twenty-four (24) hours, or such additional time as determined by the City. It is unlawful for any occupant or owner of property on which graffiti is found to fail to remove or cause to be removed graffiti as directed by the City. (Ord. 1756, eff., 7-16-04)

(c) Upon conviction of a violation of this Section, in addition to any other penalty allowed by law, the Municipal Court may order the defendant to personally make repairs to the damaged property, or may enter an order authorizing the City to enter upon the property and remove the graffiti, assessing the cost of removal against the defendant. (Ord. 1756, eff., 7-16-04)

16-04)

(3) Sale and Possession of prohibited graffiti materials. (Ord. 1756, eff., 7-

(a) Possession. It is unlawful for any minor, except under the direct supervision of such minor's parent, legal guardian, school teacher, tutor, counselor, art instructor or a law enforcement officer, to purchase, obtain, possess or attempt to purchase, obtain or possess any prohibited graffiti materials. (Ord. 1756, eff., 7-16-04)

(b) Contributing to unlawful possession. It is unlawful for any person, except a law enforcement officer in the performance of official duty, to knowingly allow a minor to possess prohibited graffiti materials upon any real property unaccompanied by such minor's parent, legal guardian, school teacher, tutor, counselor, art instructor or law enforcement officer. (Ord. 1756, eff., 7-16-04)

(c) It is unlawful for any person, other than a parent or legal guardian, school teacher, tutor, counselor, art instructor or law enforcement officer, to sell, exchange, give, deliver, loan or otherwise furnish or cause or permit to be sold, exchanged, delivered, loaned or otherwise furnished any prohibited graffiti material to any minor unless the minor is accompanied by his or her parent, legal guardian, school teacher, tutor, counselor, art instructor or a law enforcement officer. (Ord. 1756, eff., 7-16-04)

(4) Signs Required. It is unlawful for any person who sells or offers for sale any prohibited graffiti material to fail to display a warning sign in a prominent place in the building at all times. Such warning sign shall have a minimum height of fourteen inches and a minimum width of eleven inches, shall use capital lettering of at least one-half of one inch in height, and shall read as follows: (Ord. 1756, eff., 7-16-04)

WARNING: IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO PURCHASE OR POSSESS ANY SPRAY PAINT, SPRAY PAINT NOZZLE, GLASS CUTTING TOOL OR GLASS ETCHING TOOL OR INSTRUMENT, UNLESS ACCOMPANIED BY HIS OR HER PARENT, LEGAL GUARDIAN, SCHOOL TEACHER, TUTOR, COUNSELOR, ART INSTRUCTOR OR A LAW ENFORCEMENT OFFICER, AND UPON CONVICTION, A FINE OF UP TO \$300.00 MAY BE IMPOSED. (Ord. 1756, eff., 7-16-04)

(5) Affirmative Defenses. (Ord. 1756, eff., 7-16-04)

It shall be an affirmative defense to an alleged violation of Subsections 3(A) or (B) hereof that the minor possessing the prohibited graffiti materials was: (Ord. 1756, eff., 7-16-04)

- (a) Within his or her residence; (Ord. 1756, eff., 7-16-04)
- (b) At his or her place of employment; or (Ord. 1756, eff., 7-16-04)
- (c) Upon real property with permission from the owner, occupant or person having lawful control of such property to possess such materials. (Ord. 1756, eff., 7-16-04)

It shall be an affirmative defense to an alleged violation of Section 3(C) hereof that the person charged in an employer and; (Ord. 1756, eff., 7-16-04)

- (a) Has adopted and enforces a written policy against selling prohibited graffiti materials to minors; (Ord. 1756, eff., 7-16-04)
- (b) Requires employees to verify the age of purchasers of prohibited graffiti materials by way of photo identification; and (Ord. 1756, eff., 7-16-04)
- (c) Has established and imposes sanctions for noncompliance. (Ord. 1756, eff., 7-16-04)

Any person convicted of a violation of this Section shall be punished by a fine

not to exceed three hundred dollars. (Ord. 1756, eff., 7-16-04)

Section 16-17. Trespassing upon publicly or privately owned property.

(1) It shall be unlawful for any person to knowingly use, occupy, or remain on or in any publicly owned property, except during those times in which such property is open to the public, unless permission has been granted by a person properly authorized to do so.

(2) It shall be unlawful for any person to knowingly use, occupy, or remain on or in any privately owned property, real or personal, without the permission of the owner or person entitled to possession thereof.

(3) Any person who violates this Section shall be subject to a fine not exceeding Three Hundred Dollars (\$300.00).

Section 16-18. Loitering about railroad yards; exception.

It shall be unlawful for any person not an employee of the railroad to loiter about cars, car yards, transfer grounds, or to enter in or upon any car, depot or freight house or to move any car door or sleep in any car, or disturb any car or other property belonging to the railroad company doing business in the City; provided, this Section shall not apply to persons doing business with any such railroad. (Code 1958, Sec. 17-36.)

Section 16-19. Peddlers going upon premises uninvited.

It shall be unlawful and a nuisance for any solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise, not having been requested or invited to do so by the owner or occupant of a private residence to enter upon such private residence for the purpose of soliciting orders for the sale of goods, wares or merchandise or for the purpose of or peddling or hawking the same. (Code 1958, Sec. 17-40.)

Section 16-20. Abatement of nuisance by police.

The Chief of Police and all police officers are required and directed to suppress and abate any such nuisance as is described in Section 16-19. (Code 1958, Sec. 17-41.)

Section 16-21. Possession of license no bar to prosecution.

The possession of a license issued by the City Clerk under the provisions of any ordinance of the City shall constitute no bar to the prosecution authorized by Sections 16-19. (Code 1958, Sec. 17-42.)

ARTICLE 3. OFFENSES AGAINST PUBLIC SAFETY.

Section 16-22. Carrying concealed weapons.

(1) It shall be unlawful for any person to carry concealed upon or about his/her person any pistol, revolver, bowie-knife, dirk, razor, slung shot, sand-bag, brass-knuckles or other deadly weapon.

(2) This Section shall not apply to any sheriff, deputy sheriff, constable, policeman or other peace officer within his/her own territory and while on duty provided such officer shall have and produce on demand a certificate from the proper authority showing he/she is an officer within this exception; or, in default thereof, may be punished to the same extent as in the same manner of other violators. This Section shall also not apply to any person who has been issued a valid Concealed Weapon Permit anywhere in the State.

State law reference: As to provisions pertaining to carrying on concealed weapons, see C.R.S. Sec. 18-12-105.

Section 16-23. Discharging firearms.

It shall be unlawful for any person to discharge any cannon, gun, fowling piece, pistol or firearm of any description or other thing containing gun powder or other combustible or explosive material. (Code 1958, Sec. 17-25.)

Section 16-24. False fire alarm.

(1) It shall be unlawful for any person willfully and intentionally to give or cause to be given a false alarm of fire.

(2) Any person who shall give or cause to be given a public alarm of fire unless he/she can show that he/she had good and sufficient reason for believing that there was, at the time of giving such alarm, a fire in progress threatening the destruction of property in the City, shall be deemed guilty of giving a false fire alarm. (Code 1958, Sec. 17-23.)

ARTICLE 4. OFFENSES INVOLVING MINORS.

Section 16-25. Loitering defined.

Loitering or *loiter* shall mean remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include but not be limited to standing around, hanging out, sitting, kneeling, sauntering or prowling.

Section 16-26. Loitering after curfew.

(1) It shall be unlawful for any person under the age of 18 years to loiter on or about any street, sidewalk, curb, gutter, parking lot, alley, vacant lot, playground, yard, public building, or place of amusement or entertainment, whether public or private, without the consent or permission of the owner or occupant thereof, during the hours between 10:30 p.m. and 5:00 a.m., except that for the period beginning with Friday evening and ending Sunday morning, the hours in which this restriction applies shall be between 12:00 midnight and 5:00 a.m., unless accompanied by a parent, guardian or other adult person having care and custody of the minor.

(2) Any person who violates this Section shall be subject to a fine not exceeding Three Hundred Dollars (\$300.00).

Section 16-27. Responsibility of parents; penalty for violation.

(1) It shall be unlawful for any parent, guardian or other adult person having the care and custody of a minor to knowingly permit such minor to violate the provisions of Section 16-26.

(2) Any person who violates this Section shall be subject to a fine of not less than Ten Dollars (\$10.00) or more than Three Hundred Dollars (\$300.00) and/or a jail sentence of not less than ten (10) days or more than thirty (30) days at the discretion of the Municipal Judge.

Section 16-28. Furnishing tobacco to minor under age 16.

It shall be unlawful for any person to sell, give or furnish any tobacco or article made in whole or part of tobacco, to any child under sixteen (16) years of age, without the written order of the father, mother or guardian of such child. (Code 1958, Sec. 17-65.)

Section 16-29. Abandoned refrigerators; removal of locks.

It shall be unlawful for any person to leave outside of any building, dwelling or any other place accessible to children any abandoned, unattended, unused or discarded icebox, refrigerator or any other container of any kind which has an airtight door, snap or other device which may not be released from the inside of such icebox, refrigerator or container, without first removing therefrom such door, lock or device. (Code 1958, Sec. 17-1 and 17-2.)

ARTICLE 5. OFFENSES AGAINST MORALS.

Section 16-30. Common gambler defined.

As used herein, *a common gambler* shall mean a person who keeps or exhibits any gambling table, device or apparatus to win or gain money or other property, or aids, assists or permits others to do the same, or engages in gambling for a livelihood. (Code 1958, Sec. 17-26.)

Section 16-31. Permitting gambling on premises.

(1) It shall be unlawful for any person to keep or as owner to rent any room, building, arbor, booth, shed or tenement of any description to be used or occupied for gambling or knowingly permit the same to be used or occupied for gambling.

(2) If the owner of the premises stipulated in Subsection (1) herein has knowledge that any gambling table, apparatus or device is kept or used in such premises he/she shall forthwith cause complaint to be made against the person so keeping or using such premises; if he/she shall fail to do so he/she shall be taken, held and considered to have knowingly permitted the same to be used and occupied for gambling. (Code 1958, Sec. 17-27.)

Section 16-32. Gambling Unlawful.

It shall be unlawful for any person to engage in gambling, as that term is defined in C.R.S. 18-10-102(2).

Section 16-33. Gambling with intoxicated persons or minors.

It shall be unlawful for any person, by any device or pretense, to entice, or prevail upon, or cause any minor or intoxicated person to engage in any game whatsoever, for any sum of money or property of value, or make any bet or wager with such minor or intoxicated person. (Code 1958, Sec. 17-29.)

Section 16-34. Indecent exposure.

It shall be unlawful for any person to appear in any public place in a state of nudity, or make an indecent exposure of his/her person, or be guilty of any lewd or indecent act or behavior. (Code 1958, Sec. 17-32.)

Section 16-35. Urinating in public.

It is unlawful for any person to urinate in any public way, or place which is

public in nature, or any place within the City open to public view.

Section 16-36. Allowing prostitution on premises.

It shall be unlawful for any person owning or in charge of any building or premises to permit the same to be used for purposes of prostitution. (Code 1958, Sec. 17-16.)

Section 16-37. Prostitution - Plying vocation.

It shall be unlawful for any prostitute, courtesan or lewd woman, by word, gesture or action to ply or attempt to ply her vocation upon the streets, highways or thoroughfares, or from the door or window of any house, or in any public place. (Code 1958, Sec. 17-44.)

State law reference: As to regulations pertaining to prostitution, see C.R.S., Sec. 18-7-201 et seq.

Section 16-38. Prostitution prohibited; cohabitation with prostitute.

It shall be unlawful for any female person to solicit or receive visits as a prostitute, or to occupy any house, room or apartment, and use the same for purposes of prostitution, or for any male person to cohabit with any female prostitute. (Code 1958, Sec. 17-45.)

Section 16-39. Enticing to house of ill repute.

It shall be unlawful for any person to entice any male or female of good repute to any house of ill fame, or to any assignation house, or to any other house of bad repute. (Code 1958, Sec. 17-62.)

Section 16-40. Keeping of disorderly house.

(1) It shall be unlawful for any person to keep a bawdy house, house of ill fame, house of assignation or disorderly house, within the limits of the City or within three (3) miles beyond such limits, or be an inmate of or in any way connected with or contribute to the support of any such house or permit any building in his/her possession or under his/her control situated within the City or within three (3) miles beyond the limits of the City or to be used for any such purpose; or within the City or within three (3) miles beyond the limits thereof, suffer any drunkenness, quarreling, fighting, unlawful gaming or any disorderly conduct whatever on his/her premises.

(2) The license of any business operated in the premises described in (1) shall be subject to revocation.

ARTICLE 6. OFFENSES AGAINST PUBLIC HEALTH.

DIVISION 1. GENERAL PROVISIONS.

Section 16-41. Poison to be labeled.

It shall be unlawful for any person to sell, give or deliver any deadly poison, knowing it to be such, without marking it in legible letters "Poison". (Code 1958, Sec. 16- 18.)

State law reference: As to State requirements, see C.R.S. 1973, Sec. 12-22-119.

Section 16-42. Tainted provisions not to be sold.

It shall be unlawful for any person to sell or offer for sale any diseased, tainted or putrid meat, poultry, fish, game or provisions of any kind or any decayed fruits or vegetables. (Code 1958, Sec. 16-20.)

Section 16-43. Unwholesome provisions not to be sold.

It shall be unlawful for any person to sell or offer for sale in any market or elsewhere within the City, any emaciated, tainted or putrid meat, provisions or vegetables, which may be deemed unwholesome. (Code 1958, Sec. 16-21.)

Section 16-44. Cleaning of cesspools, grease traps and privy vaults; when required.

All grease traps and privy vaults shall be cleaned once a year or oftener if ordered to do so by the Health Department, and all cesspools shall be cleaned when their contents are up to the inlet and the condition created by the failure to clean shall constitute a nuisance. (Code 1958, Sec. 16-3.)

Section 16-45. Discontinuance of cesspools, grease traps and privy vaults; filling.

Whenever any grease trap, privy vault or cesspool is discontinued, it shall be cleaned to the bottom and filled up with earth or other suitable material and such work shall be done under the supervision of the Health Department. (Code 1958, Sec. 16-4.)

Section 16-46. Removal of contents of cesspools, grease traps and privy vaults.

The contents of privy vaults, grease traps, cesspools or accumulation of garbage, within the limits of the City, shall not be removed or be transported through any street, alley or public place except in the most sanitary manner, through or by means of airtight suction

tanks, if soft and mixed with water, and if solid or dry, in sheet steel tight tanks in such manner as shall prevent the escape of any noxious or offensive odors and preserve such contents from sight or exposure during transportation. All tools, appliances, and vehicles used in such removal shall be kept and maintained in a good sanitary condition, subject to the inspection of the Health Department at all times. (Code 1958, Sec. 16-5.)

Section 16-47. Substances of abuse.

(1) As used in this Ordinance, the term "Substance of Abuse" shall mean any toxic, noxious, or volatile chemical, compound or substance containing toluene, acetone, or other solvent or chemical having the property of releasing toxic vapors.

(2) No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell, inhale or ingest the fumes from any substance of abuse, provided, however, that this Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

(3) No person shall, for the purpose of violating or aiding another to violate any provision of this Ordinance, intentionally possess, buy, sell, transfer possession, or receive possession of any substance of abuse.

(4) Any person, other than a minor, violating any provision of this Ordinance shall, upon conviction, be fined not more than Three Hundred Dollars (\$300.00) or be imprisoned for a period not to exceed ninety (90) days or by both such fine and imprisonment. Any minor violating any of the provisions of this Ordinance shall be dealt with in accordance with the Children's Code as adopted by the State of Colorado.

(5) This section shall have no application to any alcoholic or fermented malt beverage, nor to any drug, compound, or substance regulated under Title 12 or Title 18 of the Colorado Revised Statutes as amended.

DIVISION 2. SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT.

Section 16-48. Legislative intent.

In order to serve the public health, safety and general welfare, it is the declared purpose of this Article to prohibit smoking in areas which are used or open to the public unless such areas are designated as smoking areas pursuant to this Article.

Section 16-49. Definitions.

As used herein, the following terms shall be defined as follows:

(1) *Tobacco* shall mean any part or portion of any plant belonging to the genus *Nicotiana* including but not limited to *N. tobacum*, and including all processed forms of such plant and products derived therefrom.

(2) *Smoking* and *smoke* shall mean the act of smoking tobacco or possessing tobacco which is currently undergoing combustion.

(3) *Smoking product* shall mean any cigar, cigarette, pipe or other smoking device containing tobacco.

(4) *Public building* shall mean any building or enclosed structure providing shelter which is owned, leased or controlled by any local, state or federal public entity. Any place of public accommodation which is operated by or for a public entity within a public building shall be subject to the requirements of this Chapter applicable to public buildings rather than the requirements applicable to public accommodation.

(5) *Places of public accommodation* shall mean all buildings generally open to the use of the public without special invitation including but not limited to the public areas of schools, institutions of higher education, churches, restaurants, retail stores, theaters, elevators, public conveyances, recreational facilities, hospitals, nursing homes, auditoriums, ice arenas, roller rinks, grocery stores, showrooms and jails.

(6) *Designated employer* shall mean any employer who has elected to prohibit smoking in his/her place or places of employment and any other employer who has received a petition in writing signed by more than 50% of his/her current employees requesting that smoking be prohibited in the place or places of employment.

(7) *Tavern* shall mean an establishment licensed to sell malt, spirituous or

vinous liquors or fermented malt beverages for consumption on the premises under the laws of the State of Colorado except the term shall not include those establishments selling such liquors or beverages under a "hotel-restaurant license" or merely ancillary to a restaurant business.

(8) *Designated smoking area* shall mean an area of any public building, place of public accommodation or place of employment of a designated employer which the public or private owner, lessee or employer has designated as an area in which smoking is allowed.

(9) *Public meeting* shall mean all meetings open to the public with or without special invitation and conducted by governmental entities or by civic organizations for public or civic purposes.

Section 16-50. Smoking prohibited; penalties.

(1) No person shall, except in a designated smoking area, smoke or carry a lighted smoking instrument in any public building or place of public accommodation or at any public meeting.

(2) Any person who smokes or possesses a lighted smoking instrument within any area where prohibited or posted as a "No Smoking" areas pursuant to or under the authority of this Chapter commits a municipal violation and upon conviction thereof shall be punished by a fine of not more than \$100.00.

Section 16-51. Public buildings; designated smoking areas.

(1) A public entity may designate areas in public buildings where smoking is permitted. Such areas shall not be designated in common areas shared with non-smokers, such as lobbies and hallways, unless such common areas exceed 5,000 square feet. In such event, the designated smoking area of a lobby, hallway or other common area shall not exceed 25% of the total area of such lobby, hallway or other common area. In no event shall a designated area be located in elevators or restrooms, nor any location where smoking is otherwise prohibited by applicable fire, building or safety codes or regulations.

(2) A public entity may also designate as smoking areas employee offices in work places, lounges, conference rooms and cafeterias in a public building which are occupied by employees provided such offices are not generally open to the public.

Section 16-52. Places of public accommodation; designated smoking areas.

(1) Smoking areas may be designated in places of public accommodation except in retail stores, grocery stores, public conveyances, theaters, auditoriums, restrooms, elevators, libraries, museums or galleries and where prohibited by applicable fire, building or

safety codes or regulations. The owner or proprietor of all places of public accommodation in which smoking areas may be designated shall nevertheless provide a "No Smoking" area of sufficient size to accommodate patrons who request to be seated or served in a no smoking area.

(2) Whenever possible, designated smoking areas shall be located in connection with physical barriers and ventilation systems so as to minimize migration of smoke into no smoking areas. In the case of places of public accommodation which consist of a single room an owner or proprietor shall be considered to be in compliance with this section if one side of the room is established as a no smoking area.

(3) Notwithstanding anything in this Chapter, an owner or proprietor may prohibit smoking in the entire place of public accommodation.

Section 16-53. Places of employment.

(1) An employer who has become a designated employer by virtue of having received a petition signed by more than 50% of his/her full time employees requesting a non-smoking area shall designate within the place of employment the areas where smoking is prohibited and such designated smoking areas as the employer determines are appropriate. In making such area designations, designated employers shall make reasonable efforts to provide a smoke free work area for all employees who request same, and shall make reasonable efforts to separate smoking and non-smoking areas so as to reduce smoke migration into non-smoking areas, consistent with the employer's needs, requirements and the physical limitations of the place of employment. An employer who in good faith develops and promulgates a policy regarding smoking and no smoking areas in the place of employment shall be deemed to be in compliance with this section.

(2) Notwithstanding anything in this Chapter, an employer may elect to prohibit smoking in the entire place of employment.

Section 16-54. Areas where smoking permitted.

Unless otherwise posted by the owner or proprietor or unless otherwise prohibited by other applicable fire or safety codes or regulations, smoking shall be permitted in the following places or areas:

- (1) Tavern and night clubs;
- (2) Hotels, restaurants, cafes, and eateries with seating capacity for less than twenty (20) patrons;
- (3) Tobacco shops and retail establishments which derive more than 50% of

their gross revenue from the sale of tobacco products, smoking instruments and accessories related thereto;

(4) Rooms or halls being used by a person or group for a social or business function where the seating arrangements are under the control of the sponsor of the function;

(5) Private homes, clubs and other places not generally open to the public;
and

(6) Areas designated pursuant to the Chapter as smoking areas in public buildings, places of public accommodation and places of employment of designated employers.

Section 16-55. Signs.

Signs advising of areas where smoking is prohibited and of areas where it is permitted or designated smoking areas exist shall be posted as follows:

(1) In public buildings and places of public accommodation where the owner, proprietor or person in charge prohibits smoking in the entire establishment, a sign using the words "No Smoking" and/or the international no smoking symbol shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the establishment.

(2) In public buildings and places of public accommodation where certain areas are designed as smoking areas pursuant to this Chapter, the statement "No Smoking Except in Designated Areas" shall be conspicuously posted on all public entrances or in a position clearly visible on entry into the establishment.

(3) In places of public accommodation where smoking is permitted in the entire establishment, a sign using the words "Smoking Permitted" and/or the international smoking symbol shall be conspicuously posted either on all public entrances or in a position clearly visible on entry into the establishment.

ARTICLE 7. NUISANCES.

Section 16-56. Discharging foul substances into street.

It shall be unlawful and a nuisance for any person to allow to be discharged or permit to flow from any still house, workshop, manufacture or other house or place owned or kept by him/her, foul or nauseous liquor or substance of any kind, upon any street or alley or other public place, so as to be a threat to the health or safety of any person, or offensive to persons living in the vicinity.

Section 16-57. Accumulating offensive substances.

It shall be unlawful and a nuisance for any person to permit or cause any grease traps, cesspool matter, animal or human excrement, garbage, refuse or filth to be deposited, buried, or allowed to accumulate in or upon any premises owned or kept by him/her or to deposit, bury or allow to accumulate such offensive substances on any sidewalk, alley, premises, vacant lot or other place within the City.

Section 16-58. Offensive cellars; sewers.

It shall be unlawful and a nuisance for any person to permit any cellar, vault, private drain, pool, privies, sewer or grounds upon any premises belonging to, or occupied by him/her to become nauseous, foul or injurious to the public health.

Section 16-59. Accumulation of junk.

It shall be unlawful and a nuisance for any person to permit old rope, old iron, brass, copper, tin, lead, old lumber, construction material or debris, bricks, building remnants, rags, empty bottles, broken glass, paper, bagging or other similar junk to be deposited, stored or allowed to accumulate in or on any vacant lot, or in or on any other premises within the City. Any person who shall create, cause to be created, maintain, continue, increase or permit any nuisance specified in this Section, shall be deemed guilty of a nuisance.

Section 16-60. Exclusion from provisions.

The provisions of Section 16-59 shall not apply to the conduct, operation or establishment of a junk shop or junk yard business duly licensed as such by the City.

Section 16-61. Barbed wire and other projections into thoroughfares.

It shall be unlawful and a nuisance for any person to put upon, keep or

maintain any barb, barbed wire, sharpened nails or sharpened thing of metallic substance upon any fence, cellar guard or window guard, railing or bannister, that may front upon or that may be erected or constructed upon any street, avenue, lane, alley, building or sidewalk so that it shall project or extend beyond the surface of the wood or other material of which such fence, cellar guard or window guard, railing or bannister may be constructed.

Section 16-62. Placing obstructions on public right-of-way.

It shall be unlawful and a nuisance for any person to place or assist in placing or cause to be placed in or upon any street, alley, highway, or in or upon the track or right-of-way of any railway company, any construction material, building, fence, rubbish or other obstruction of any kind or description without obtaining the prior consent of the City Manager, and no such consent shall authorize the obstruction of more than one-half (½) the width of any street.

Section 16-63. Dangerous or hazardous conditions.

It shall be unlawful and a nuisance for any person to permit any building, structure or land owned or occupied by him/her which is accessible to the public, to become or remain in such a condition as to present a substantial danger or hazard to the public health or safety.

Section 16-63.5 Broken windows.

It is unlawful and a nuisance for any person to permit any windows on the ground level story of any building or structure within the City to remain broken or removed, or otherwise in a state of disrepair. A window shall be considered broken or in a state of disrepair if glass is actually missing from the window area. A cracked window shall not constitute a nuisance. Any person who shall create, cause to be created, maintain, continue, increase, or permit any such nuisance, shall be deemed guilty of a nuisance. No such nuisance shall be considered abated unless and until such broken or removed window has been replaced by glass or other translucent material. (Ord. 1602, eff., 3/1/99)

Section 16-64. Notice to abate nuisance.¹

Any person who violates either of sections 16-57, 16-58, 16-59, 16-61, 16-62, 16-63, or 16-63.5 of this Code shall be notified in writing by the City Manager or his/her designee of such violation. Such written notice shall identify the nuisance and order the person in violation to abate or remedy such nuisance within a reasonable period of time from the date the notice is issued, to be determined by the City Manager or his/her designee. The violator shall

¹ Chapter 16, Section 16-64 is repealed and reenacted. (Ord. 1602, eff., 3/13/99)

be served with such written notice by either first class mail, certified mail, or personal service. A failure to comply with such notice shall subject such person in violation to punishment as provided in Section 1-8 of this Code for each day he/she neglects or refuses to abate such nuisance beyond the period of time he/she is given to abate the nuisance. In addition, if the nuisance is not abated within the time specified in the notice, the City Manger may then proceed to have the nuisance abated. (Ord. 1602, eff., 3/13/99)

Section 16-65. Assessment of costs and collection of assessments.

(1) Upon abatement of a nuisance by City forces or by independent contractors employed by the City for such purpose, a charge shall be made against the owner of the property or any other person who created or permitted the creation of such nuisance. The charge shall be actual costs for labor, equipment and materials, or the contract price of an independent contractor, together with ten percent (10%) thereon for administrative supervision, and inspection.

(2) The City Clerk, as soon as practicable after such charge has accrued, shall send by first class mail, addressed to the owner of such property and/or any other person who has created or permitted the creation of such nuisance, at the last known address of such person or persons, a notice of such charge, which notice shall contain a description of the lots or tracts of land, the name of the owner or owners and the amount of the assessment.

(3) It shall be the duty of the owner or any other person who has created or permitted the creation of such nuisance, to pay such charge within twenty (20) days after the mailing of such notice, and upon his/her failure to do so, provided the notice has been mailed to the owner, such charge shall be certified to the officer having custody of the tax list, in the same manner as the City taxes are certified to such officer, to be collected according to the laws of the State of Colorado for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof.

(4) Provided such notice has been mailed to the property owner, such charge shall become a lien upon the respective lots or tracts of land at the time the City Clerk certifies such charge to the officer having custody of the tax list.

(5) The City may also proceed to collect such charge by obtaining a judgment in the County or District Court against the property owner or any other person who has created or permitted the creation of such nuisance, and enforcing such judgment through such means as are provided by law.

Section 16-66. General notice to clean up.

Whenever the Mayor deems it necessary to give a general notice to all the

inhabitants and the property owners to clean up and remove from their premises all filth, garbage, excrement, rubbish and refuse matter of every kind, a formal notice issued by the City and published in a newspaper of general circulation in the City shall be deemed sufficient and legal notice; and any person failing to comply with the requirements of such notice shall be liable to the penalties prescribed in this Code for maintaining a nuisance. (Code 1958, Sec. 16-26.)

Section 16-67. Summary abatement of nuisances.

The City Manager, if he/she should determine that the existence of a nuisance is an immediate threat to the public health, safety or welfare, shall have the power to proceed to have the nuisance abated, without prior notice to the property owner or other person who created or permitted the creation of the nuisance.

ARTICLE 8. PENALTIES

Section 16-68. Penalty for violations by minors.

Whenever, in this Chapter of this Code, any act or failure to do a required act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, the violation of any such provision by a person under the age of eighteen (18) years shall be punished by a fine not exceeding three hundred dollars (\$300.00), notwithstanding any other penalty for such offense which may be provided elsewhere in this Code. (Ord. 1674, 3 eff., 10-26-01)