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CHAPTER 9.04

Definitions

9.04.010 Generally.

When used in this Title, the following terms set forth in this Chapter shall have the following meanings:

Bodily injury means physical pain, illness or any impairment of physical or mental condition; such as to be distinguished from *serious bodily injury* which means bodily injury involving a substantial risk of death, serious permanent disfigurement or protracted loss or impairment of the functions of any part or organ of the body.

Culpable mental state means *intentionally, with intent, knowingly, willfully or recklessly*:

Deadly weapon means any firearm, knife, bludgeon, bow and arrow, slingshot or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used, or intended to be used, is capable of producing death or serious bodily injury.

Destructive device means any material, substance or mechanism capable of being used, either by itself or in combination with any other substance, material or mechanism, to cause sudden and violent injury, damage, destruction or death.

Intentionally or with intent means a person acts intentionally or with intent when his or her conscious objective is to cause the specific result proscribed by the ordinance defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

Knowingly or willfully means a person acts knowingly or willfully with respect to conduct or to a circumstance described by the ordinance defining the offense when he or she is aware that his or her conduct is of such nature or that such circumstance exists. A person acts knowingly or willfully with respect to a result of his or her conduct when he or she is aware that his or her conduct is practically certain to cause the result.

Police officer means a police officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such police officer.

Premises means real property, buildings and other improvements thereon.

Recklessly means a person acts recklessly with respect to a result or to a circumstance described by an ordinance defining an offense when he or she consciously disregards a substantial and justifiable risk that the result will occur or that the circumstance exists. (Ord. 10 §1-1; Ord. 295 §2, 1980; Ord. 2 §1, 2003)

CHAPTER 9.08

General Provisions

9.08.010 Aiding and abetting offense prohibited.

It is unlawful and a criminal violation for any person, with intent to promote or facilitate the commission of an offense, to aid, abet or advise another person in planning or committing the offense. (Ord. 10 §1-2; Ord. 295 §2(part), 1980)

CHAPTER 9.12

Offenses Against Public Safety

9.12.010 Disorderly conduct; defense.

It is unlawful and a criminal violation to commit disorderly conduct. A person commits disorderly conduct if he or she knowingly or recklessly:

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

(2) Fights with another in a public place, except in an amateur or professional contest of athletic skill;

(3) Not being a police officer, discharges a firearm in a public place except when engaged in lawful target practice; or

(5) Not being a police officer, displays a deadly weapon, or an article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm. (Ord. 10 §2-1(A), (B); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.12.020 Harassment.

(a) It is unlawful and a criminal violation to commit harassment. A person commits harassment if, with intent to harass, annoy or alarm another person; he or she:

(1) Strikes, shoves, kicks or otherwise touches a person or subjects him or her to physical contact.

(2) In a public place, directs obscene language or makes an obscene gesture to or at another person. As used in this Section, *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.

(3) Follows a person in or about a public place.

(4) Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone which is obscene.

(5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation.

(6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property.

(7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

(b) Any act prohibited by Subdivision (a)(4) or (5) of this Section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received. (Ord. 10 §2-1(C)–(E); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.12.030 Disturbing the peace.

It is unlawful and a criminal violation for any person to knowingly, willfully, intentionally and without legitimate purpose disturb the peace and quiet of another by loud or unreasonable noise, or by fighting or other disruptive physical behavior or indecent conduct. (Ord. 10 §2-2; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.12.040 Assault.

It is unlawful and a criminal violation for any person to knowingly, by threat or physical action, place or attempt to place another person in fear of imminent bodily injury; provided, however, that if such threat or action involves a deadly weapon, this Section shall have no application. (Ord. 10 §2-3; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.12.050 Battery.

It is unlawful and a criminal violation for any person to knowingly or recklessly cause bodily injury to another person; provided, however, that this Section shall have no application where there is serious bodily injury or where a deadly weapon is used. (Ord. 10 §2-4; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.12.060 Unlawful assembly.

It is unlawful and a criminal violation for two (2) or more persons to assemble together for the purpose of disturbing the peace, or for the purpose of committing any crime. (Ord. 10 §2-5; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.12.070 Engaging in a riot.

It shall be unlawful and a criminal violation for any person to engage in a public disturbance involving an assemblage of five (5) or more persons which by tumultuous and violent conduct creates grave danger of injury to property or persons or substantially obstructs the performance of any

governmental functions, except that if such person employs a deadly weapon or destructive device, this Section shall have no application. (Ord. 10 §2-6; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

CHAPTER 9.14

Offenses Against the Public Peace

9.14.010 Amplified sounds on public property.

(a) No person shall play or permit to be played the amplified sounds from any loudspeaker or sound-amplifying equipment or any bells, chimes, or the amplified reproduction of the sounds from any bells or chimes, on any of the public streets, parks, ways or places, or allow the same to be projected onto any public streets, parks, ways or places within the Town without first obtaining a permit from the Town Clerk.

(1) Applications must be acted upon and approved by the Town Administrator.

(2) Applications for such permit shall be filed on forms provided by the Town and be accompanied by the appropriate fee as may be established from time to time by the Board of Selectmen. Forms shall be made available at the office of the Town Clerk.

(3) The following information shall be provided by the applicant for a permit to play such amplified sounds:

a. The address of the premises or location where such sound is to be played.

b. The name of the person having direct charge of the playing of such sounds.

c. The proposed hours during which such sounds are to be played.

d. A general description of the sound-amplifying equipment which is to be used.

e. The maximum sound-producing power of the sound-amplifying equipment which is to be used, including the wattage to be used; the volume and decibels of the sound which will be produced; and the approximate distance from the premises which that sound will be projected.

f. The names and addresses of the owners and occupants of property located within one hundred (100) feet from the location of the amplified sound source. The one hundred (100) feet shall be measured to a structure or improvement on the property, and if there is no structure or improvement within one hundred (100) feet of the amplified sound source, the names and addresses do not need to be submitted.

(4) The Town Administrator shall schedule a public hearing on the application. Notice of the public meeting shall be mailed, postage prepaid, regular mail, to all owners of property, as defined in Subsection (3)f above. The notice shall specify the time, date and location of the public hearing, the name of the applicant, the source and nature of the amplified sound, that the application is on file in the Town Administrator's office and may be reviewed during regular business hours and that the public may appear and be heard at the public hearing. Notice shall be mailed no less than fifteen (15) days prior to the public hearing.

(5) Following the public hearing, the Town Administrator may grant the application for a permit after consideration of objections and remonstrances made by property owners defined in Subsection (3)f above, or other interested persons and all other relevant information, and if he makes the following findings:

- a. That the permit is necessary for the community's cultural, historical, religious or social benefit;
- b. That the amplified sounds will not unreasonably disrupt the public peace and safety; and
- c. That there are no other amplified sound permits for locations within three hundred (300) feet of the source of the amplified sound for which the present permit is being requested.

The Town Administrator may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood including, but not limited to, specific times or functions for which the noise is being amplified, the location of the noise source, maximum decibels and the nature of the sound that may be amplified. Any permit granted by the Town Administrator under this Section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective.

(6) Subsequent to the issuance of a permit for a certain location, the Town shall issue no other permit for any location within three hundred (300) feet of said location that permits amplified sounds at the same time and for the same purpose, so long as the permit for said location is valid and in effect.

(b) An appeal of any action of the Town Administrator denying or granting the issuance of a permit to play amplified sounds may be filed with the Board of Selectmen within ten (10) days following such action. All appeals will be determined after a hearing at which the appellant may appear. Written notice of such hearing shall be provided to the appellant by regular mail sent not less than seven (7) days in advance thereof, or by telephone or hand-delivery provided not less than three (3) days in advance thereof. The Board may confirm, reverse or modify the actions of the Town Administrator. (Ord. 458 §1, 1993; Ord. 2 §1, 2003)

CHAPTER 9.16

Firearms

9.16.010 Firearms defined.

Wherever the term *firearms* is used in this Chapter, the term shall mean any instrument used in the propulsion of shot, slug, shell or bullets or other harmful objects or projectiles by the action of gunpowder exploded or burned within it, by the action of compressed air within it, or by the power or action of springs, and including what are commonly known as air rifles, air pistols and BB guns. (Ord. 10 §2-7(A); Ord. 295 §2(part), 1980)

9.16.020 Concealed weapons.

It is unlawful and a criminal violation for any person to carry concealed upon his or her person any brass knuckles, bludgeon, club, revolver, pistol, gun, rifle, firearms, knife with blade longer than four (4) inches, dagger, stiletto or other deadly weapon; provided, however, that this shall not apply to

police officers, or a person in his or her own dwelling or place of business or on property owned by him or her or under his or her control at the time of the act of carrying; or a person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his, her or another's person or property while traveling; or a person who, prior to the time of carrying a concealed weapon, has been issued a written permit to carry the weapon by the chief of police of a city or the sheriff of a county, which permit is effective in all areas of the State. (Ord. 10 §2-7(B); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.16.030 Discharge of firearms, deadly weapons and destructive devices.

It is unlawful and a criminal violation for any person to discharge firearms, deadly weapons or destructive devices of any kind or description within the limits of the Town; provided, however, that this shall not apply to law enforcement officers in the performance of their duties. (Ord. 10 §2-7(C); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.16.040 Shooting permits.

The Board of Selectmen may at any time, upon receipt of proper applications, grant permits to shooting galleries, gun clubs, rifle ranges and others for shooting in fixed localities and under specified rules. Such permits shall be in writing attested by the Town Clerk, conforming to such requirements as the Board of Selectmen shall demand, and the permit thus issued shall be subject to revocation at any time by action of the Board of Selectmen. (Ord. 10 §2-7(D); Ord. 295 §2(part), 1980)

9.16.050 Possession within licensed premises.

It shall be unlawful and a criminal violation for any person to possess, carry or display any firearm, whether concealed or not, while on the premises as a patron of an establishment where fermented malt beverages (3.2 beer) or alcoholic beverages are sold for consumption on the premises. (Ord. 328, 1982; Ord. 2 §1, 2003)

9.16.060 Selling firearms to intoxicated persons.

It shall be unlawful and a criminal violation for any person to sell, loan or furnish any firearm to any person while that person is intoxicated or under the influence of alcohol, any narcotic or dangerous drug, glue or other hallucinogenic inhalant. (Ord. 328, 1982; Ord. 2 §1, 2003)

9.16.070 Forfeiture.

Any firearm as defined by this Chapter which has been used, possessed, concealed or discharged in violation of Section 9.16.020, 9.16.030, 9.16.050 or 9.16.060 of this Chapter is hereby declared to be contraband and shall be forfeited to the Town upon a conviction resulting from such use or possession. (Ord. 328, 1982)

9.16.071 Disposition of confiscated weapons; penalty for weapons violations.

(a) It shall be the duty of every peace officer, upon making an arrest and taking a firearm or illegal or contraband substance from the person of the offender, to deliver or cause to be delivered the same to the Marshal, to be held in his or her custody until the final determination of the prosecution of said offense. The Marshal, or his or her authorized agent, shall dispose of weapons forfeited pursuant

to this Chapter by destruction, sale or retention for department use in accordance with procedures and regulations of the Police Department. Any proceeds received from such sale shall, after deducting costs of other expenses of sale, be paid into the General Fund or such other fund as directed by the Board of Selectmen.

(b) Any person violating any provisions of this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment. (Ord. 328, 1982; Ord. 2 §1, 2003)

CHAPTER 9.20

Offenses Against Property

9.20.010 Theft.

It is unlawful and a criminal violation to commit theft. A person commits theft when he or she knowingly obtains or exercises control over anything of value of another without authorization 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 a manner as to deprive the other person permanently of its use or benefits; 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 benefits; or

(4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person; and

(5) Where the value of the thing involved is less than five hundred dollars (\$500.00). (Ord. 10 §3-1; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.020 Shoplifting prohibited.

It is unlawful and a criminal violation to commit shoplifting. A person commits the crime of shoplifting when he or she knowingly takes possession of any unpurchased goods, wares or merchandise of a value of less than five hundred dollars (\$500.00) owned or held by and offered or displayed for sale by any store or mercantile establishment, with the intention of converting such goods, wares or merchandise to his or her own use, without paying the purchase price thereof. (Ord. 10 §3-2(A); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.030 Shoplifting; concealment prima facie evidence.

If any person willfully conceals unpurchased goods, wares or merchandise of a value of less than five hundred dollars (\$500.00) owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her 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 convert the same to his or her own use without paying the purchase price therefor within the meaning of Section 9.20.020. (Ord. 10 §3-2(B); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.040 Shoplifting; questioning of suspects.

If any person triggers an alarm or theft detection device, or conceals upon his or her person or otherwise carries away any unpurchased goods, wares or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any police officer, acting in good faith and upon probable cause based upon reasonable grounds, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of shoplifting. Such questioning of a person by a merchant, merchant's employee or police officer does not render the merchant, merchant's employee or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention. (Ord. 10 §3-2(C); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.050 Obtaining goods by false pretenses.

It is unlawful and a criminal violation for any person to obtain any food, drink, goods, wares or merchandise under false pretenses, or to enter any public place and call for refreshments or other articles and receive and refuse to pay for the same, or depart without paying for or satisfying the person from whom he or she received the food, goods, wares and merchandise. (Ord. 10 §3-3; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.060 Fraudulently avoiding payment of admission fees.

It is unlawful and a criminal violation for any person fraudulently to enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing contained in this Section shall be deemed to prohibit or restrict the admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement. (Ord. 10 §3-4; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.070 Criminal mischief on public property.

It is unlawful and a criminal violation for any person to knowingly or recklessly damage the real or personal property, or improvements thereto, belonging to the Town where the aggregate damage is less than five hundred dollars (\$500.00). (Ord. 10 §3-5(A); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.080 Criminal mischief on private property.

It is unlawful and a criminal violation for any person to knowingly or recklessly damage the real or personal property of one (1) or more persons where the aggregate damage is less than five hundred dollars (\$500.00). (Ord. 10 §3-5(B); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.090 Criminal mischief; restitution.

The Municipal Court is granted full power and authority to order payment of restitution to the damaged party by the person responsible for damage under Sections 9.20.070 and 9.20.080. (Ord. 10 §3-5(C); Ord. 295 §2(part), 1980)

9.20.100 Trespassing.

It is unlawful and a criminal violation for any person to enter or remain in or upon the premises of another without the consent of the owner, occupant or person in charge thereof. (Ord. 10 §3-6; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.20.110 Possession of cannabis.

(a) Any person who possesses, transfers, cultivates, grows, produces, processes or manufactures or knowingly allows to be cultivated, grown, produced, processed or manufactured on land or real property owned, occupied or controlled by him or her, not more than one (1) ounce of cannabis concentrate or derivative is guilty of the offense of possession of cannabis.

(b) The penalty for violation of this Section shall be by fine only, which shall not exceed one hundred dollars (\$100.00) for each offense. (Ord. 433, 1991)

CHAPTER 9.24

Offenses Against Public Morals

9.24.010 Public indecency.

It shall be unlawful for any person to urinate, defecate or spit in or on a public place, except in an enclosed sanitary facility intended for such use. (Ord. 10 §4-1(A); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

CHAPTER 9.28

Obstruction of Public Justice

9.28.010 Resisting arrest.

(a) It is unlawful and a criminal violation for any person to knowingly prevent or attempt to prevent any police officer acting under color of his or her official authority from effecting an arrest of the actor or another by:

(1) Using or threatening to use physical force or violence against the police officer or another;

(2) Using any other means which creates a substantial risk of causing physical injury to the police officer or another; or

(3) Running from, eluding or hiding from a police officer or officers attempting to effect an arrest.

(b) It is no defense to prosecution under this Section that the police officer was attempting to make an arrest which in fact was unlawful, if he or she was acting under color of his or her official authority, and was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts *under color of his or her official authority* when, in the regular course

of assigned duties, he or she is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her. (Ord. 10 §5-1; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.28.020 Escape.

It is unlawful and a criminal violation for any person confined for conviction of any offense or in lawful custody to knowingly escape or attempt to escape such custody or confinement. (Ord. 10 §5-2; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.28.030 Refusing to aid a police officer.

It is unlawful and a criminal violation for any person eighteen (18) years of age or older, upon command by a person known to him or her to be a police officer, to unreasonably refuse or fail to aid the police officer in effecting an arrest or preventing the commission by another of any offense. (Ord. 10 §5-4; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.28.040 Obstructing a police officer; giving false information.

(a) It is unlawful and a criminal violation for any person, by using or threatening to use violence, force or physical interference or obstacle, to knowingly obstruct, impair or hinder the enforcement of the penal law or the preservation of the peace by a police officer or any person duly empowered with police authority.

(b) It is unlawful for any person to provide a false name, address or date of birth to a police officer or any other person duly empowered with police authority who is engaged in the investigation of any violation of law, traffic accident, disaster or other event. (Ord. 10 §5-5; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.28.050 Impersonating a police officer.

It shall be unlawful and a criminal violation for any person to falsely represent himself or herself to be a police officer or attempt to impersonate any police officer or perform any official act on behalf of an officer without legal authority to do so. (Ord. 10 §5-6; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

CHAPTER 9.32

Offenses Involving Minors

9.32.010 False statement or card prohibited.

It shall be unlawful for any minor under the age of eighteen (18) years to make false statements or to furnish, present or exhibit any fictitious or false registration card, identification card or note or other document or documents issued to a person other than the one presenting the same, for the purpose of gaining admission to pool or billiard rooms or other prohibited places, or for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine, cigarettes and tobacco. (Ord. 10 §6-1; Ord. 295 §2(part), 1980)

9.32.020 Engaging others to procure prohibited articles prohibited.

It shall be unlawful for any minor under the age of eighteen (18) years to engage or utilize the services of any other person, whether for remuneration or not, to procure for such minor any article which the minor himself or herself is forbidden by law to purchase. (Ord. 10 §6-2; Ord. 295 §2(part), 1980)

9.32.030 Procuring prohibited articles prohibited.

It shall be unlawful and a criminal violation for any person, whether for remuneration or not, to procure for any minor under the age of eighteen (18) years any article which the minor himself or herself is forbidden by law to purchase. (Ord. 10 §6-3; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.32.040 Juvenile curfew.

(a) No person under sixteen (16) years of age shall be or remain upon any public street, sidewalk, alley or any public place or right-of-way between 12:00 a.m. (midnight) and 5:00 a.m., except as provided in Subsection (b) below.

(b) In the following exceptional cases, a minor may be or remain in a public place beyond the hours set forth in Subsection (a) of this Section:

(1) When accompanied by a parent or legal guardian, a person between eighteen (18) and twenty-one (21) years of age with written parental authorization, or a person twenty-one (21) years of age or older with parental authorization;

(2) For one-half (½) hour before or after employment hours when commuting directly to and from such employment and when carrying an employer's certification of time and place of employment;

(3) When conducting an errand directed by the parent or legal guardian;

(4) When returning home from events such as movies, theater or sporting events;

(5) Until 12:30 a.m. if the person is on the property or a sidewalk directly adjacent to a building in which such person resides or buildings immediately adjacent to the building in which such person resides; or

(6) When exercising First Amendment rights under the United States Constitution, such as the free exercise of religion, speech and assembly.

(c) A police officer who has probable cause to believe that a child is in violation of this Section shall take such child into custody and immediately contact the child's parent or guardian. If, after this contact, there is still probable cause to believe that the child was violating this Section, the child shall be turned over to the custody of the juvenile authorities until a parent or guardian can take custody of the child.

(d) No parent or guardian shall, with actual or constructive knowledge, permit or by ineffective control allow a violation of this Section by a child in such person's custody or control. (Ord. 405 §1, 1988)

CHAPTER 9.36

Fireworks

9.36.010 Fireworks defined.

Fireworks means and includes any articles, devices or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Day-Glo bombs, sparklers and torches, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive or combustible substance. *Fireworks* does not include toy caps which do not contain more than twenty-five hundredths (.25) of a grain of explosive compound per cap, highway flares, railway fuses, chip distress signals, smoke candles and other emergency signal devices. (Ord. 10 §7-1; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.36.020 Sale and use prohibited; exception.

It is unlawful in the Town for any person to offer for sale, sell, or have in his or her possession with intent to offer for sale use or explode any fireworks except as provided in Section 9.36.030. (Ord. 10 §7-2; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.36.030 Permits for display.

(a) The Town Administrator has the power to grant permits within the Town for supervised public displays of fireworks by the Town, fair associations, amusement companies and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits.

(b) Applications for a display permit shall be filed with the Town Clerk, together with a permit fee and a nonrefundable inspection fee as may be established from time to time by the Board of Selectmen. The application shall contain at least the following information:

- (1) The name and address of the person or organization sponsoring the display, together with the names and addresses of the persons who will actually be in charge of the display;
- (2) The date and time of day at which the display is to be held;
- (3) The address and detailed description of the exact location planned for the display, including a diagram of the location and surrounding area;
- (4) The names and addresses of the competent fireworks operators who are to supervise the discharge of the fireworks, and written evidence regarding their competency as fireworks operators;
- (5) The type and class of fireworks to be discharged;
- (6) The manner and place of storage of such fireworks prior to and during the display; and

(7) Proof that the applicant has public liability insurance with the limits and coverage as set forth in Section 9.36.040, protecting the Town and operator of the display from any liability or claims of damages arising out of, as a result of or related to the fireworks display.

(c) All applications for a permit shall be made in writing to the Town Clerk at least fifteen (15) days in advance of the date of the display. Every display shall be under the control and supervision of a competent operator, and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person.

(d) No permit shall be transferable or assignable.

(e) An appeal of any action of the Town Administrator denying or granting the issuance of a permit under this Chapter may be filed with the Board of Selectmen within ten (10) days following such action. All appeals will be determined after a hearing at which the appellant may appear. Written notice of such hearing shall be provided to the appellant by regular mail sent not less than seven (7) days in advance thereof, or by telephone or hand-delivery provided not less than three (3) days in advance thereof. The Board of Selectmen may confirm, reverse or modify the actions of the Town Administrator. (Ord. 10 §7-3; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.36.040 Display permit; bond and insurance.

(a) A permittee shall be required to provide a performance bond in a sum not less than one thousand dollars (\$1,000.00) conditioned upon compliance with the provisions of this Chapter, except that no public governmental body or municipality shall be required to file such bond.

(b) The Board of Selectmen shall require a certificate of insurance to protect persons and property from death or injury as a result of any fireworks display for which a permit is issued, in an amount not less than one hundred fifty thousand dollars (\$150,000.00) per person injured and six hundred thousand dollars (\$600,000.00) per incident. The insurance shall also name the Town as an additional or co-insured and cover any liability of the Town, or any employee or agent thereof, arising out of or connected with the permit and the fireworks display permitted thereunder. (Ord. 10 §7-4; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.36.050 Seizure of unauthorized fireworks required.

The Town Marshal or the Fire Chief shall seize, take and remove at the expense of the violator all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this Chapter. (Ord. 10 §7-5; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

CHAPTER 9.40

Alcoholic Beverages

9.40.010 Providing to minors prohibited.

It is unlawful for any person to sell, service, give away, dispose of, exchange, deliver or permit the sale, service, giving or procuring of any malt, vinous or spirituous liquor or fermented malt beverage (3.2 beer) to or for any person under the age of twenty-one (21) years. (Ord. 10 §8-1(A); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.40.020 Minors obtaining prohibited.

It is unlawful for any person under twenty-one (21) years of age to obtain or attempt to obtain malt, vinous or spirituous liquor, or fermented malt beverage (3.2 beer) by misrepresentation of age or by any other method in any place where malt, vinous or spirituous liquor or fermented malt beverages (3.2 beer) are sold. (Ord. 10 §8-1(B); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.40.030 Possession by minors prohibited.

It shall be unlawful for any person under twenty-one (21) years of age to have in his or her possession, or to consume, malt, vinous or spirituous liquor or fermented malt beverage (3.2 beer) in any stores, in any public place or inside of vehicles in any public place. (Ord. 10 §8-1(C); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.40.040 Parent permitting violation prohibited.

It is unlawful and a criminal violation for any parent or guardian, knowingly or under conditions an average parent or guardian should have knowledge of, to suffer or permit his or her minor child or ward over whom he or she has legal custody to violate the provisions of this Chapter. (Ord. 10 §8-1(D); Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.40.050 Possessing open containers prohibited.

(a) It is unlawful for any person to drink, possess or have under his or her control any alcoholic beverage in an open container or in a container, the seal of which is broken, in any public place within the Town or in any vehicle thereon.

(b) It is unlawful for any person, while operating a vehicle in any public place within the Town, to drink, allow or possess, have under his or her control any alcoholic beverage within the vehicle in an open container or in a container the seal of which is broken.

(c) Nothing in this Section shall prohibit drinking or having open containers of alcoholic beverages:

(1) In public areas where authorized by a properly issued liquor or beer license or special event permit.

(2) At private events on Town-owned property when authorized by the Board of Selectmen and no special event permit or liquor or beer license is otherwise required.

(3) On private business or commercial property when such property is not open to access by the public.

(d) Notwithstanding the provisions of Subsection (c) above, drinking alcoholic beverages in any vehicle is prohibited. (Ord. 10 §8-3; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

CHAPTER 9.44

Conduct Prohibited in Liquor and Beer Establishments and Amusement Centers

9.44.010 Definitions.

As used in this Section, the following words and phrases shall have the following meaning:

Lewd or indecent displays means performing acts which simulate:

- a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- b. The touching, caressing or fondling of the breast, buttocks, anus or genitals;
- c. The displaying of the pubic hair, anus, vulva or genitals;
- d. The displaying of the post-pubertal human female breast below a point immediately above the top of the areola, or the displaying of the post-pubertal human female breast where the nipple only or the nipple and areola only are covered.

Licensee means any person duly licensed by state and local licensing authorities to sell malt, vinous or spirituous liquors or fermented malt beverages or to operate a place of amusement or recreation within the Town, or any agent, servant or employee of such licensee.

Nudity means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

Premises means all or any part of the physical boundaries of any establishment duly licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages or any place of amusement or recreation in the Town. The term *premises* includes not only the building wherein the business is conducted, but also the parking lot adjacent thereto. (Ord. 10 §8-4 (A); Ord. 295 §2(part), 1980)

9.44.020 Permitting unlawful conduct prohibited.

It is unlawful for any licensee to permit any disturbance, unlawful or disorderly act or conduct to be committed by any person or group of persons upon any premises licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages, or any premises licensed as a place of amusement or recreation. (Ord. 10 §8-4(B)(1); Ord. 295 §2(part), 1980)

9.44.030 Encouraging or participating in unlawful conduct prohibited.

It is unlawful for a licensee, in any manner, to encourage or participate in any disturbance, unlawful or disorderly act or conduct upon premises selling malt, vinous or spirituous liquors or fermented malt beverages, or any premises licensed as a place of amusement or recreation; provided, however, that such licensee may use such lawful means as may be proper to protect his or her person or property from damage or injury. (Ord. 10 §8-4(B)(2); Ord. 295 §2(part), 1980)

9.44.040 Maintaining gambling devices prohibited.

No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine, apparatus or other thing contrary to this Code or to the laws of the State or which is kept or used for the purpose of gambling, either directly or indirectly. This Section shall not be construed to prohibit the use of bona fide amusement devices which do not and cannot be adjusted to pay anything of value and which may not be used for gambling, directly or indirectly, and for the scoring, achievement, use or operation of which no prize, reward or thing of value is offered or paid by any person. (Ord. 10 §8-4(B)(3); Ord. 295 §2(part), 1980)

9.44.050 Permitting offensive persons or conduct prohibited.

Each licensee shall conduct his or her establishment in a decent, orderly and respectable manner, and shall not permit within or upon the licensed premises any of the following:

- (1) The loitering of habitual drunkards or intoxicated persons;
- (2) Lewd or indecent displays;
- (3) Profanity, rowdiness or undue noise; or
- (4) Any disturbance or activity offensive to the senses of the average citizen or to the residents of the neighborhood in which the establishment is located. (Ord. 10 §8-4(B)(4); Ord. 295 §2(part), 1980)

9.44.060 Permitting consumption at prohibited times prohibited.

No licensee shall permit the consumption of malt, vinous or spirituous liquors or fermented malt beverages on the licensed premises at any time when the sale of such beverages is prohibited by law. (Ord. 10 §8-4(B)(5); Ord. 295 §2(part), 1980)

9.44.070 Employee soliciting drinks prohibited.

No licensee, manager or agent shall employ or permit upon any premises licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises any employee, waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg, procure or solicit the purchase or sale of drinks or beverages for the use or consumption by the one begging, procuring or soliciting or for the use or consumption by any other employee, waiter, waitress, entertainer, host or hostess. (Ord. 10 §8-4(B)(6); Ord. 295 §2(part), 1980)

9.44.080 Permitting begging drinks prohibited.

No licensee, manager or agent shall permit upon any premises licensed for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises anyone to loiter in or about said premises for the purpose of begging or soliciting any patron, customer or visitor on such premises to purchase any drinks or beverages of any nature whatsoever for the one soliciting or begging. (Ord. 10 §8-4(B)(7); Ord. 295 §2(part), 1980)

9.44.090 Permitting nudity prohibited.

No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall permit any person to appear in the state of nudity within or upon the premises. (Ord. 10 §8-4(B)(8); Ord. 295 §2(part), 1980)

9.44.100 Permitting visual reproductions of lewd displays prohibited.

No licensee for the sale of malt, vinous or spirituous liquors or fermented malt beverages for consumption on the premises shall permit the showing of film, still pictures, electronic reproductions or other visual reproductions depicting any lewd or indecent displays or persons in any state of nudity. (Ord. 10 §8-4(B)(9); Ord. 295 §2(part), 1980)

9.44.110 Reporting violations required; noncompliance prima facie evidence for license denial.

Any licensee shall immediately report to the Marshal's office any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with the requirements of this Chapter may be considered by the licensing authority in any action relating to revocation, suspension or renewal of a license. Repeated failure to comply with the requirements of this Chapter shall constitute prima facie grounds for the suspension, revocation or denial of renewal of a license. (Ord. 10 §8-4(C); Ord. 295 §2(part), 1980)

9.44.120 Warning sign to be displayed.

Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the Town Clerk's office, which shall be in the following form:

WARNING: Town of Georgetown Police must be notified of all disturbances in this establishment and on the grounds and parking lot which are a part of this establishment.

(Ord. 10 §8-4(D); Ord. 295 §2(part), 1980)

9.44.130 Absence of licensee not a defense.

It shall not be a defense to a prosecution under this Chapter that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be responsible under this Chapter when absent from the premises and not on duty. (Ord. 10 §8-4(E); Ord. 295 §2(part), 1980)

CHAPTER 9.48

Hazardous Structures

9.48.010 Removing abandoned refrigerator door required.

It is unlawful for any person to 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 or her control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator

or other appliance or container which has a door, lid, snap lock or other locking device which may not be released from the inside, without first removing said door, lid, snap lock or other locking device. (Ord. 10 §9-1; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

9.48.020 Required exits from walk-in freezers.

It is unlawful for any person to keep, maintain or operate a walk-in freezer or refrigerator or cold storage locker on any premises where the temperature is maintained by means of refrigeration below forty (40) degrees unless said premises is equipped with at least one (1) exit therefrom, which can be opened at all hours from within said refrigerated areas without the use of a key or any special knowledge or effort. Such exit shall not be equipped with any outside latch or lock preventing opening of such exit from the inside. (Ord. 10 §9-2; Ord. 295 §2(part), 1980)

9.48.030 Excavation protection required.

It is declared that any permanent or temporary excavations exceeding five (5) feet in depth, cisterns and wells or any excavation used for the storage of water are public nuisances unless the same are adequately covered with a locked lid or other covering weighing at least sixty (60) pounds, or are securely barricaded or fenced to a height of at least five (5) feet; and it shall be unlawful for any person to permit such nuisance to remain on premises owned or occupied by him or her. (Ord. 10 §9-3; Ord. 295 §2(part), 1980; Ord. 2 §1, 2003)

CHAPTER 9.52

Offenses Against Public Property

9.52.010 Injuring or destroying public property prohibited.

It is unlawful and a criminal violation for any person to willfully, maliciously, wantonly, negligently or in any other manner injure or destroy real property, improvements or movable or personal property belonging to the Town. (Ord. 244 §1, 1973; Ord. 2 §1, 2003)

9.52.020 Destroying access-limiting structures prohibited.

It is unlawful and a criminal violation for any person to take down any fence, let down any bars or open any gate in or on public property in the Town when the Town, by lock, sign, ordinance or regulation, has determined that access be limited to specified authorized personnel. (Ord. 244 §2, 1973; Ord. 2 §1, 2003)

9.52.030 Injuring or destroying traffic control devices and street signs prohibited.

It is unlawful and a criminal violation for any person without proper authorization to remove, deface, injure or destroy any traffic control device or street sign, or sign erected or placed in or adjacent to any street indicating the name of such street. (Ord. 244 §3, 1973; Ord. 2 §1, 2003)

9.52.040 Tearing down lawfully posted advertisement prohibited.

It is unlawful for any person to willfully, maliciously, wantonly, negligently or in any other manner tear down, deface or cover up any posted advertisement or bill of any person, when the same is posted

consistent with the provisions of this Chapter and the ordinances of the Town. (Ord. 244 §4, 1973; Ord. 2 §1, 2003)

9.52.050 Depositing offal on or in streets and sewers prohibited; polluting water prohibited.

It is unlawful to throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance or both, or any dead animal, excrement, garbage, litter, grease, solvent, paint, gasoline or other petroleum product or by-product, or other offensive matter whatever, in or upon any street, avenue, alley, sidewalk, sewer or public grounds. No person shall in this Town throw or deposit or cause or permit to be thrown or deposited, anything specified in any foregoing part of this Section, or any other substance that would tend to have a polluting effect, into the water of any stream, ditch, pond, well, cistern, trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water. (Ord. 244 §5, 1973; Ord. 2 §1, 2003)

9.52.060 Depositing litter prohibited.

(a) It is unlawful to throw or deposit in any street, alley, sidewalk or public grounds in this Town any paper, old clothes, cloth of any kind, boots, shoes, hats, leather, hair, grass, junk cars, straw or hay, trash or any other thing on public streets or alleys, except in public receptacles and authorized private receptacles.

(b) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the Town or upon private property. (Ord. 244 §6, 1973)

9.52.070 Truckload restrictions.

(a) No person shall drive or move any truck or other vehicle within the Town unless such vehicle is constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place; nor shall any person drive or move any vehicle or truck within the Town, the wheels or tires of which carry onto or deposit in any street, or other public place, excessive amounts of mud, dirt, sticky substance, litter or foreign matter of any kind.

(b) Every cart or vehicle used to transport manure, garbage, gravel, dirt, swill or offal on any street, alley or highway in this Town shall be fitted with a substantial tight box thereon, or have its load covered, so that no portion of such load will be scattered onto such street, alley or highway. (Ord. 244 §7, 1973; Ord. 2 §1, 2003)

9.52.080 Littering by advertising matter prohibited.

It is unlawful for any person to throw any posters, dodgers, circulars, bills, letters, envelopes, samples or devices upon any of the streets, alleys, parks or public grounds of the Town. (Ord. 244 §8, 1973; Ord. 306 §1(part), 1980)