

Title 9PUBLIC PEACE, MORALS AND WELFAREChapters:

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Chapter 9.04OFFENSES BY OR AGAINST PUBLIC OFFICERS
AND GOVERNMENTSections:

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9.04.010 Definitions. As used in this chapter:

"Emergency" means a crime or a situation which could result in a public official responding in an authorized emergency vehicle or which could jeopardize public safety and could result in the evacuation of any area, building, structure, vehicle or other place people may enter.

"Official detention" means arrest, detention in a facility for custody of persons under charge or conviction of crime or alleged or found to be delinquent, detention for extradition or deportation, or detention in any manner and in any place for law enforcement purposes. "Official detention" does not include supervision on probation or parole or constraint incidental to release on bail.

"Relative" means a grandparent, grandchild, mother, father, husband, wife, sister, brother or child.

"Render assistance" means to:

1. Harbor or conceal the person;
2. Warn the person of impending discovery or apprehension, excluding an official warning given in an effort to bring the person into compliance with the law;

3. Provide the person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;

4. By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of the person; or

5. Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of the person. (Prior code §15-70)

9.04.020 Interference with town employees. No person shall interfere in any way with any employee of the town in the performance of his work, nor displace any stakes or landmarks deposited or installed by any employee, nor in any way molest any tools, instruments or equipment of any employee, nor in any way molest any tools, instruments or equipment used by such employee in the duties assigned to him. (Prior code §15-73)

9.04.030 Interference with peace officer. A person commits a misdemeanor punishable by a fine of not more than seven hundred fifty dollars, if he knowingly obstructs, impedes or interferes with or resists arrest by a peace officer while engaged in the lawful performance of his official duties. (Ord. 123 §1(part), 1993; prior code §15-72)

9.04.040 False reporting to authorities. A person who knowingly reports falsely to a law enforcement agency or a fire department that:

A. A crime has been committed, is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars;

B. An emergency exists, is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars. (Ord. 123 §1(part), 1993; prior code §15-74)

9.04.050 Accessory after the fact. A person is an accessory after the fact if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, detention, conviction or punishment of another for the commission of a crime, he renders assistance to the person, and is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars. (Ord. 123 §1(part), 1993; prior code §15-71)

9.04.060 Refusal to appear or testify--Avoidance of service. A. A person is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if he:

1. Refuses or intentionally fails to obey a lawful subpoena or citation which has been served upon him;
 2. Secretes himself or leaves his residence to avoid being served with a subpoena; or
 3. Refuses to take an oath or affirmation or, being sworn or affirmed, refuses to answer a question required by the court or presiding officer.
- B. This section shall not prevent summary proceedings for contempt. (Ord. 123 §1(part), 1993; prior code §15-16)

Chapter 9.08

OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Sections:

- 9.08.010 Noise prohibited.
- 9.08.020 Permit for relief from noise levels.
- 9.08.030 Breach of peace.
- 9.08.040 Disorderly conduct.
- 9.08.050 Disturbing assemblages--Not allowed.
- 9.08.060 Firearms and fireworks.
- 9.08.070 Wearing or carrying concealed weapons--
Exceptions--Permits.
- 9.08.080 Fighting in public.
- 9.08.090 Assault and battery.
- 9.08.100 Alcohol not permitted at town events or in
town park.
- 9.08.110 Minors and alcohol.
- 9.08.120 Curfew for minors.
- 9.08.130 Nudity in public.
- 9.08.140 Obscenity defined.
- 9.08.150 Promoting and conducting obscenity.

9.08.010 Noise prohibited. A. The making and creating of an excessive or unusually loud noise, or a noise which is unreasonable and objectionable because it is impulsive, continuous, rhythmic, periodic or shrill within the town, is declared to be unlawful except when made under and in compliance with a permit issued pursuant to Section 9.08.020.

B. It is unlawful for any person to drive, ride or use a vehicle upon any property, street or highway within the town unless such vehicle is at all times equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of this chapter and no muffler exhaust system shall be equipped with a cutout, bypass or similar device.

C. The penalty and remedy provisions of Section 1.16.010 shall apply as to all violations of this section. (Prior code §15-88)

9.08.020 Permit for relief from noise levels. A. Applications for a permit for relief from noise levels as designated in Section 9.08.010 may be made to the town council. Any permit granted by the town council hereunder shall contain all conditions upon which such permits shall be granted and shall specify a reasonable time that the permit shall be effective. Relief shall be granted if the town council finds:

1. That additional time is necessary for the applicant to alter or modify activities or operations in order to comply with Section 9.08.010;

2. The activity, operation or noise will be of temporary duration, and cannot be done in a manner that would comply with Section 9.08.010;

3. That no other reasonable alternative is available to the applicant;

4. That failure to issue the permit would constitute an undue hardship.

B. The town council may prescribe any requirements deemed necessary to minimize adverse effects upon the community of the surrounding neighborhood, as a condition to the issuance of a permit.

C. The town council shall either issue or reject any application submitted in writing within five days after receipt thereof, and the applicant may appeal, in writing to the governing body any decision of the town council, within ten days after such decision is rendered. (Prior code §15-89)

9.08.030 Breach of peace. A. A person commits "breach of the peace" if he disturbs the peace of a community or its inhabitants by using threatening, abusive or obscene language or violent actions with knowledge or probable cause to believe he will disturb the peace.

B. Breach of the peace is a misdemeanor punishable by a fine of not more than seven hundred fifty dollars. (Ord. 123 §1(part), 1993; prior code §15-87)

9.08.040 Disorderly conduct. A. A person shall be deemed guilty of disorderly conduct if he wilfully:

1. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;

2. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;

3. Incites, attempts to incite, or is involved in attempting to incite a riot. For the purposes of this section the term "riot" means a tumultuous disturbance of the peace by persons assembled and acting with a common intent to the terror of the people of the town, either in executing a lawful enterprise in a violent or turbulent manner or in executing an unlawful enterprise in a violent or turbulent manner;

4. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the police or other lawful authority known to be such;

5. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition;

6. Fails to obey a lawful order to disperse by a police officer, when known to be such and official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened;

7. Resists or obstructs the performance of duties by police or any other authorized official of the town, when known to be such an official;

8. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his life, limb or health;

9. Interferes with another's pursuit of a lawful occupation by acts of violence;

10. Uses abusive, profane or obscene language in any public place.

B. A person guilty of disorderly conduct commits a misdemeanor punishable by a fine of not more than seven hundred fifty dollars. (Ord. 123 §1(part), 1993; prior code §15-80)

9.08.050 Disturbing assemblages--Not allowed. A. No person shall disturb any lawful assemblage of people by rude, boisterous or indecent behavior or otherwise.

B. No person shall annoy or disturb any congregation or assembly, gathered together for religious worship, by making a noise, by rude or indecent behavior or profane discourse, within the place wherein such congregation or assembly is gathered together or so near the same as to be heard by or tending to disturb the persons so engaged or assembled. (Prior code §15-83)

9.08.060 Firearms and fireworks. A. No person shall fire or discharge any cannon, gun, fowling piece, pistol, revolver or firearm of any description within the town limits.

B. No person shall sell, exhibit or have in possession with intent to give away or fire, explode or set off any squib, firecracker or other thing containing powder or other combustible material within the town limits. (Prior code §15-84)

9.08.070 Wearing or carrying concealed weapons--Exceptions--Permits. A person who wears or carries a concealed deadly weapon is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars unless:

- A. The person is a peace officer; or
- B. The person possesses a permit. (Ord. 123 §1 (part), 1993; prior code §15-85(a))

9.08.080 Fighting in public. A person commits a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if by agreement, he fights with one or more persons in public. (Ord. 123 §1(part), 1993; prior code §15-86)

9.08.090 Assault and battery. It is unlawful to touch another person in a rude, insolent or angry manner. (Prior code §15-1)

9.08.100 Alcohol not permitted at town events or in town park. A. No person shall have any alcoholic liquor or malt beverages in his or her possession while in a town park and in attendance of events which are sponsored by the town or its agents.

B. A person found guilty of this provision shall be fined twenty dollars for a first offense, forty dollars for a second offense and seven hundred fifty dollars for a third offense. (Ord. 139, 1993; Ord. dated 2/12/92 (part), Ord. dated 6/9/87; prior code §15-35)

9.08.110 Minors and alcohol. No person under the age of twenty-one years shall have any alcoholic liquor or malt beverages in his possession or shall be drunk or under the influence of alcoholic liquor or malt beverages on any street or highway or in any public place. This section shall not apply to possession by a person under the age of nineteen years making a delivery of such alcoholic liquor or malt beverages pursuant to his employment. (Ord. 138, 1993; Ord. dated 2/12/92 (part); prior code §15-10)

9.08.120 Curfew for minors. A. No person under the age of sixteen, or any other minor shall be or remain in or upon any of the streets, alleys or public places in the town at night after the hour of ten p.m., unless such person is accompanied by a parent, guardian or other person

having the legal custody of the minor or is in the performance of an errand or duty directed by the parent, guardian or other person having the care and custody of the minor or who is traveling to or from any school activity or whose employment makes it necessary to be upon the streets. The above excuses shall not apply when the minor plays or unnecessarily loiters in or upon any such streets, alleys or public places.

B. Any person violating the provisions of subsection A of this section shall, upon conviction, be fined not more than twenty-five dollars for each offense. No child or minor person arrested under subsection A of this section shall be placed in confinement until the parent or guardian of such minor person shall have been notified of such arrest and shall have refused to be held responsible for the observance of subsection A of this section by the minor.

C. It is unlawful for the parent, guardian or other person having legal care and custody of any minor person under the age of sixteen years or other minor, to allow or encourage such minor person to go on or be upon any street, alley or public places within the time prohibited by subsection A of this section, unless there exists a reasonable necessity therefor. (Ord. 140, 1993: prior code §15-86)

9.08.130 Nudity in public. It is unlawful for any person to appear in a state of nudity in any public place. For the purpose of this section the word "nudity" means the showing of the human male or female genitals or pubic area or female breasts with less than a fully opaque covering. (Prior code §15-63)

9.08.140 Obscenity defined. For the purposes of Section 9.08.150 the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Available to the public" means the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement or for a separate fee for each item or performance.

"Disseminate" means to transfer possession of, with or without consideration.

"Material" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machine.

"Nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, or the depiction of covered male genitals in a discernibly turgid state.

"Obscene" means to the average person applying contemporary community standards:

1. The predominant appeal of the matter taken as a whole, is to prurient interest; i.e., a shameful or morbid interest in sexual conduct, nudity or excretion; and

2. The matter depicts or describes in a patently offensive manner sexual conduct; and

3. The work, taken as a whole, lacks serious literary, artistic, political or scientific value.

"Performance" means any preview, play, show, skit, film, dance or other exhibition performed before an audience.

"Promote" means to cause, permit, procure, counsel or assist.

"Service to patron" means the provision of services to paying guests in establishments providing food and beverages, including but not limited to hostessing, hat checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertaining. (Ord. dated 2/12/92 (part); prior code §15-64)

9.08.150 Promoting and conducting obscenity. A.

Actual notice of the obscene nature of any material, performance or activity may be given to a person involved in or responsible for such from the town attorney on the basis of information lawfully gathered and supplied to him by the police or citizens.

1. Such notice shall be in writing and delivered by mail or in person to the alleged offender.

2. Such notice shall state that:

a. In the opinion of the town attorney the activity engaged in falls within the prohibitions of Section 9.08.140;

b. That if such activity is not ceased within eight hours, the town marshal shall be empowered to abate such activity subject to review of his action therefor by governing body and the town may take appropriate legal action;

c. That a declaratory judgment proceeding as described in Section 9.08.140(B) is available if a person engaged in the challenged activity wishes to initiate the legal determination of whether the activity is in fact obscene.

B. A person who promotes any obscene activity as prohibited in Section 9.08.140 in the course of his business is presumed to do so with knowledge of its content and character. (Prior code §15-65)

Chapter 9.12OFFENSES AGAINST PROPERTYSections:

- 9.12.010 Criminal entry.
- 9.12.020 Criminal trespass.
- 9.12.030 Trespassing on lawns or gardens.
- 9.12.040 Possession of land without authority.
- 9.12.050 Property destruction and defacement.
- 9.12.060 Vehicle tampering.
- 9.12.070 Littering.
- 9.12.080 Burning garbage.
- 9.12.090 Throwing burning substance from vehicle prohibited.
- 9.12.100 Negligently burning woods, prairie or grounds.
- 9.12.110 Erection of dangerous fences.
- 9.12.120 Interfering with fire hydrants and water mains.
- 9.12.130 Camping prohibited when.
- 9.12.140 Refrigerators, ice boxes and other airtight containers--Abandonment.

9.12.010 Criminal entry. A. A person is guilty of criminal entry if, without authority, he knowingly enters a building, occupied structure, vehicle or cargo portion of a truck or trailer, or a separately secured or occupied portion of those enclosures.

B. It is an affirmative defense to prosecution under this section that:

1. The entry was made because of a mistake of fact or to preserve life or property in an emergency;
2. The enclosure was abandoned;
3. The enclosure was at the time open to the public and the person complied with all lawful conditions imposed on access to or remaining in the enclosure; or
4. The person reasonably believed that the owner of the enclosure, or other person empowered to license access to the enclosure, would have authorized him to enter.

C. Criminal entry is a misdemeanor punishable by a fine of not more than seven hundred fifty dollars. (Ord. 123 §1(part), 1993; prior code §15-27)

9.12.020 Criminal trespass. A. A person is guilty of criminal trespass if he enters or remains on or in the land or premises of another person, knowing he is not au-

thorized to do so, or after being notified to depart or to not trespass. For purposes of this section, notice is given by:

1. Personal communication to the person by the owner or occupant, or his agent, or by a peace officer; or

2. Posting of signs reasonably likely to come to the attention of intruders.

B. Criminal trespass is a misdemeanor punishable by a fine of not more than seven hundred fifty dollars.

C. This section does not supersede W.S. 1-21-1003. (Ord. 123 §1(part), 1993; prior code §15-29)

9.12.030 Trespassing on lawns or gardens. No person shall walk, run, ride or in any other manner cross over or upon any lawn, garden or otherwise improved lot, whether enclosed or not, without permission of the owner or occupant thereof. (Ord. dated 2/12/92 (part); prior code §15-31)

9.12.040 Possession of land without authority. A person is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars, if he violently takes or keeps possession of land without authority of law. (Prior code §15-30)

9.12.050 Property destruction and defacement. A. A person is guilty of property destruction and defacement if he knowingly defaces, injures or destroys property of another without the owner's consent.

B. Property destruction and defacement is:

1. A misdemeanor punishable by a fine of not more than seven hundred fifty dollars, if the cost of restoring injured property or the value of the property if destroyed is less than five hundred dollars. (Ord. 123 §1(part), 1993; prior code §15-24)

9.12.060 Vehicle tampering. It is unlawful for any person not the owner or operator to tamper with, meddle with or interfere with any vehicle, or to start or attempt to start the machinery while it is standing still, or to puncture or otherwise mutilate the tires or to scratch or mark or otherwise deface the body or apparatus of the vehicle, or to take or remove from the vehicle any part or portion of the machinery, equipment or other portion thereof; or to throw, cast or hurl any stone, rock, snowball, glass or other missile at any vehicle or the occupants thereof. It is unlawful for any person to remove or tamper with, meddle or interfere with any traffic sign, or painted, drawn or established pedestrian line constructed or maintained under this chapter. (Prior code §15-28)

9.12.070 Littering. A. A person is guilty of littering if he places, throws, scatters or deposits garbage, debris, refuse or waste material, objects or substances, including abandoned or junked vehicles, upon the property of another or any other entity of this community. Operators of motor vehicles are responsible under this section for the disposition or ejection of garbage, debris or other material from the vehicle while the vehicle is being operated on the roads or highways or property of the town.

B. Littering is a misdemeanor punishable by a fine of not more than seven hundred fifty dollars. The court may suspend all or a part of a sentence imposed under this section and require the person convicted of littering to perform up to forty hours of labor in the form of cleaning litter debris from public roads, parks or other public areas or facilities. (Ord. 123 §1(part), 1993; Ord. dated 2/12/92 (part); Ord. dated 6/28/88 (part); prior code §15-26)

9.12.080 Burning garbage. In compliance with provisions set forth in Section 13 of the Wyoming Air Quality Standards and Regulations, no person shall dispose of refuse by open burning, or cause, suffer, allow or permit open burning of refuse. (Ord. dated 7/23/91: prior code §15-22)

9.12.090 Throwing burning substance from vehicle prohibited. A person who throws a burning substance from a vehicle is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars. (Ord. 123 §1(part), 1993; prior code §15-23)

9.12.100 Negligently burning woods, prairie or grounds. A person is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if he, without permission of the owner and acting with criminal negligence:

A. Sets fire to any woods, prairie or grounds or to anything on any woods, prairie or grounds which is the property of another; or

B. Allows a fire to pass from the owner's woods, prairie or grounds to the injury or destruction of any property of another. (Ord. 123 §1(part), 1993; prior code §15-21)

9.12.110 Erection of dangerous fences. It is unlawful for any person to erect or maintain upon residential property in the town, any barbed-wire fence, electric fence or fence of any other nature which is so constructed as to be potentially dangerous to human beings. (Prior code §15-36)

9.12.120 Interfering with fire hydrants and water mains. No person shall shut off or turn on or interfere in any way, with any fire hydrant, valve or water main in the town. (Prior code §15-75)

9.12.130 Camping prohibited when. No person shall camp within the town, other than at a regularly established and maintained area set aside for camping by the governing body. (Prior code §15-32)

9.12.140 Refrigerators, ice boxes and other airtight containers--Abandonment. 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, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snaplock or other locking device, which may be released from the inside, without first removing the door or lid, snaplock or other locking device from such ice box, refrigerator or container. (Prior code §15-34)

Chapter 9.16

THEFT AND RELATED OFFENSES

Sections:

- 9.16.010 Definitions.
- 9.16.020 Larceny.
- 9.16.030 Buying and receiving stolen property.
- 9.16.040 Shoplifting--Altering and defacing of price tags and markers.
- 9.16.050 Detention and interrogation of persons suspected of shoplifting or altering price tags.
- 9.16.060 Defrauding an innkeeper.
- 9.16.070 Obtaining property by false pretenses.
- 9.16.080 Theft of services.
- 9.16.090 Unlawful operation of coin machine.

9.16.010 Definitions. As used in this chapter:
 "Bailee" means a person other than the owner of property who rightfully possesses property.

"Deprive" means:

1. To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

2. To dispose of the property so as to make it unlikely that the owner will recover it. (Prior code §15-40)

9.16.020 Larceny. A. A person who steals, take and carries, leads or drives away property of another with intent to deprive the owner or lawful possessor is guilty of larceny.

B. A bailee, a public servant as defined by W.S. 6-5-10-1(a)(vi) or any person entrusted with the control, care or custody of any money or other property who, with intent to steal or to deprive the owner of the property, converts the property to his own or another's use is guilty of larceny.

C. Larceny is a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if the value of the property is less than five hundred dollars.

D. Conduct denoted larceny in this section constitutes a single offense embracing the separate crimes formerly known as larceny, larceny by bailee or embezzlement. (Ord. 123 §1(part), 1993; prior code §15-41)

9.16.030 Buying and receiving stolen property. A. A person who buys, receives, conceals or disposes of property which he knows, believes or has reasonable cause to believe was obtained in violation of law is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if the value of the property is less than five hundred dollars.

B. A person may be indicted under this section in the town where he received or possessed the property, notwithstanding the wrongful taking occurred in another jurisdiction. (Ord. 123 §1(part), 1993; prior code §15-42)

9.16.040 Shoplifting--Altering and defacing of price tags and markers. A. A person who wilfully conceals or takes possession of property offered for sale by a wholesale or retail store without the knowledge or consent of the owner and with intent to convert the property to his own use without paying the purchase price is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if the value of the property is less than five hundred dollars.

B. A person who alters, defaces, changes or removes a price tag or marker on or about property offered for sale by a wholesale or retail store with intent to obtain the property at less than the marked or listed price is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if the difference between the marked or listed price and the amount actually paid is less than five hundred dollars. (Ord. 123 §1(part), 1993; prior code §15-43)

9.16.050 Detention and interrogation of persons suspected of shoplifting or altering price tags. A. A peace officer, merchant or merchant's employee who has reasonable cause to believe a person is violating Section 9.16.040 may detain and interrogate the person in regard to the suspected violation in a reasonable manner and for a reasonable time.

B. In a civil or criminal action for slander, false arrest, false imprisonment, assault, battery or wrongful detention based upon a detention and interrogation pursuant to this section, it is a defense that the peace officer, merchant or merchant's employee had reasonable cause to believe the person was violating W.S. 6-3-404 and the detention and interrogation were conducted in a reasonable manner and for a reasonable time. (Prior code §15-44)

9.16.060 Defrauding an innkeeper. A. A person who, with intent to defraud, procures food, drink or accommodations at a public establishment without paying in accordance with his agreement with the public establishment is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if the value of the food, drink or accommodations is less than five hundred dollars.

B. As used in this section:

1. "Agreement with a public establishment" means a written or verbal agreement on the price charged for, and the acceptance of, food, beverages, service or accommodations, where the price charged is printed on a menu or schedule of rates shown to or made available by the public establishment to the patron. Acceptance of food, beverages, service or accommodations for which a reasonable charge is made is an agreement with a public establishment.

2. "Public establishment" means an establishment selling, or offering for sale, prepared food or beverages, or leasing or renting overnight sleeping accommodations to the public generally. "Public establishment" includes restaurants, cafes, dining rooms, lunch counters, coffee shops, boardinghouses, hotels, motor hotels, motels and roominghouses, unless the rental thereof is on a month-to-month basis or for a longer period of time. (Ord. 123 §1(part), 1993; prior code §15-45)

9.16.070 Obtaining property by false pretenses. A person who knowingly obtains property from another person by false pretenses with intent to defraud the person is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if the value of the property is less than five hundred dollars. (Ord. 123 §1(part), 1993; prior code §15-46)

9.16.080 Theft of services. A. A person who, with intent to defraud, obtains services which he knows are available only for compensation, without paying for the services is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if the value of the services is less than five hundred dollars.

B. A person who tampers or otherwise interferes with or connects to, by any means, whether mechanical, electrical, acoustical or otherwise, any cables, wires or other devices used for distribution of services for the purposes of committing a violation of subsection A of this section is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if the value of the services is less than five hundred dollars. (Ord. 123 §1 (part), 1993; prior code §15-47)

9.16.090 Unlawful operation of coin machine. A. A person is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if knowingly and without authorization, he:

1. Operates a coin machine by use of a slug;
2. Obtains property or services from a coin machine without depositing the amount of legal tender required by the owner of the coin machine for the property or service.

B. A person is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars if he manufactures or distributes slugs knowing or reasonably believing they will be used for fraudulent or unlawful purposes.

C. As used in this section, "slug" means an article or object which can be deposited in a coin machine as an improper substitute for a genuine coin, bill or token. (Ord. 123 §1(part), 1993; prior code §15-50)

Chapter 9.20

CONTROLLED SUBSTANCES

Sections:

- 9.20.010 Definitions.
- 9.20.020 Unlawful possession.
- 9.20.030 Person under the influence of a controlled substance.
- 9.20.040 Planting and cultivating marihuana, peyote or opium poppy.
- 9.20.050 Drug paraphernalia.

9.20.010 Definitions. As used in this chapter:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

1. A practitioner (or by his authorized agent); or
2. The patient or research subject at the direction of the practitioner.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

"Bureau" means the bureau of narcotics and dangerous drugs, United States Department of Justice, or its successor agency.

"Controlled substance" means a drug, substance, or immediate precursor as set out in W.S. Sections 35-7-1012 through 35-7-1022.

"Counterfeit substance" means a controlled substance which, on the container or labeling of which, without authorization, bears the trademark, tradename or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

"Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

"Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a practitioner who dispenses, or his authorized agent.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means:

1. Substances recognized as drugs in official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
2. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;
3. Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

4. Substances intended for use as a component of any article specified in subdivisions (1)--(3) of this subsection. It does not include devices or their components, parts or accessories.

"Immediate precursor" means a substance which the commissioner has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

"Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extractions and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging or labeling of a controlled substance:

1. By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

2. By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

"Marihuana" means all parts of the plant of the genus *Cannabis*, whether growing or not; the seed thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed or the plant which is incapable of germination.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

1. Opium and opiate, and any salt, compound, derivative or preparation of opium or opiate;

2. Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (1) of this subsection, but not including the isoquinoline alkaloids of opium;

3. Opium poppy and poppy straw;

4. Coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under W.S. Section 35-7-1011, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextro-morphoran). It does include is racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

"Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means:

1. A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state;

2. A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

"Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

"State" means the state of Wyoming.

"Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

"Law enforcement officer" means any sheriff, undersheriff or sheriff's deputy of any county of this state, any duly authorized municipal policeman of any city or town

of this state, any member of the Wyoming highway patrol, or any special agent employed by the commissioner under this act.

"Board" means the Wyoming state board of pharmacy.

"Commissioner" means the commissioner of drugs and substances control.

"Drug paraphernalia" means all equipment, products and materials of any kind which are used in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined by the Wyoming Controlled Substances Act of 1971. (Wyoming Statutes, 1977, Section 35-7-1001 to 35-7-1055, as amended), hereinafter referred to as the "act."

"Drug paraphernalia" includes, but is not limited to:

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
6. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;
7. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;
9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

11. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;

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

- a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls,
 - b. Water pipes,
 - c. Carburetion tubes and devices,
 - d. Smoking and carburetion masks,
 - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,
 - f. Miniature cocaine spoons and cocaine vials,
 - g. Chamber pipes,
 - h. Carburetor pipes,
 - i. Electric pipes,
 - j. Air driven pipes,
 - k. Chillums,
 - l. Bongs,
 - m. Ice pipes or chillers. (Ord. 178, 1997;
- Ord. dated 4/10/90 (part): prior code §10-20)

9.20.020 Unlawful possession. It is unlawful for any person knowingly or intentionally to possess a controlled substance as described in Wyoming State Statutes 35-7-1014, 35-7-1016, 35-7-1018, 35-7-1020 and 35-7-1022 unless the substance was obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars. (Ord. 123 §1(part), 1993; Ord. dated 2/12/92 (part): Ord. dated 4/10/90 (part): prior code §10-21)

9.20.030 Person under the influence of a controlled substance. Any person who knowingly or intentionally uses or is under the influence of a controlled substance listed in Schedules I, II, or III as described in Wyoming State Statutes 35-7-1014, 35-7-1016 and 35-7-1018 except when administered or prescribed by or under the direction of a licensed practitioner, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars. (Ord. 123 §1(part), 1993; Ord dated 2/12/92 (part): Ord. dated 4/10/90 (part): prior code §10-22)

9.20.040 Planting and cultivating marihuana, peyote or opium poppy. Any person who knowingly or intentionally plants, cultivates, harvests, dries or processes any marihuana, peyote or opium poppy except as otherwise provided by law shall be guilty of a misdemeanor and shall be punished by a fine not to exceed seven hundred fifty dollars. (Ord. 123 §1(part), 1993; Ord. dated 4/10/90 (part): prior code §10-23)

9.20.050 Drug paraphernalia. A. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner or of anyone in control of the object, under any state or federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of the act;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of the act. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the act shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

B. Possession. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia as defined in this section, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the act.

C. Manufacture or Delivery. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one should reasonably know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the act.

D. Advertisement. It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

E. Civil Forfeiture and Seizures--Property Subject to Forfeiture. The following are subject to forfeiture:

1. All drug paraphernalia as defined by this section.

F. Same--Seizure of Property Subject to Forfeiture. Property subject to forfeiture under subsection E of this section may be seized by any law enforcement officer of the state process issued by any court having jurisdiction over the property. Seizure without process may be made if:

1. The seizure is incident to an arrest or a search warrant;
2. The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceedings based upon the act.

G. Same--Prompt Institution of Proceedings. In the event of seizure pursuant to subsection F of this section, proceedings under subsection H of this section shall be instituted promptly.

H. Same--Seizure Property Not Repleviable; Sealing or Removal of Seized Property. Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the town, subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this section, the law enforcement officer may:

1. Place the property under seal;

2. Remove the property to a place designated by him; or
3. Remove it to an appropriate location for disposition in accordance with the law.

I. Same--Disposition of Forfeited Property. When property is forfeited under this section, the law enforcement officer may:

1. Retain it for official use, in which case it shall become the property of the town;
2. Sell any such property which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;
3. Remove it for disposition in accordance with law; or
4. Transfer ownership and control of the property to the state or any political subdivision of the state for its official use.

J. Severability. If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

K. Any person, convicted of any portion of this section, may be fined in accordance with the town of Baggs general penalty. (Chapter 1.16 of the Baggs Municipal Code.) (Ord. 179, 1997)