

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

9.04 Miscellaneous Offenses

Chapter 9.04

MISCELLANEOUS OFFENSES

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9.04.010 Applicability. All provisions of this Chapter shall apply within the Delta city limits and upon any property owned or under the control of the City outside of the City. (Ord. 4, §1(part), 1986)

9.04.020 Complicity. A person is legally accountable as principal for the behavior of another constituting a violation of any provision of any City ordinance, if, with intent to promote or facilitate the commission of the offense, such person aids, abets or advises the other person in planning or committing the offense. (Ord. 4, §1(part), 1986)

9.04.030 Criminal liability of a corporation. A corporation is guilty of an offense if the conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance impose on the corporation by ordinance; or the conduct constituting the offense is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors, or by a high managerial agent, acting within the scope of employment or in behalf of the corporation. (Ord. 4, §1(part), 1986)

9.04.040 Criminal liability of an individual for corporate conduct. A person is criminally liable for conduct constituting an offense which such person performs or causes to occur in the name of or on behalf to a corporation to the same extent as if that conduct were performed or caused by them on their behalf. (Ord. 4, §1(part), 1986)

9.04.050 Criminal attempt.

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

B. A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish their complicity under Section 9.04.020 were the offense committed by the other person, even if the

other person is not guilty of committing or attempting the offense.

C. It is an affirmative defense to a charge under this subsection that the defendant abandoned their effort to commit the offense or otherwise prevented its commission under circumstances manifesting the complete and voluntary renunciation of their criminal intent. (Ord. 4, §1(part), 1986)

9.04.060 Accessory to an offense.

A. A person is an accessory to an offense if, with an intent to hinder, delay, or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of a violation of a City ordinance, he renders assistance to such person.

B. "Renders assistance" means to:

1. Harbor or conceal the other; or
2. Warn such person of impending discovery or apprehension; or
3. Provide such person with money for transportation, weapon, disguise or other things to be used in avoiding discovery or apprehension; or
4. By force, intimidation, or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person. (Ord. 4, §1(part), 1986)

9.04.070 Destruction of property.

A. It shall be unlawful for any person to willfully deface, destroy or damage real or personal property belonging to another.

B. This Section shall not apply where, in a single criminal episode, the aggregate damage to personal and real property exceeds three hundred dollars (\$300.00). (Ord. 4, §1(part), 1986)

9.04.080 Posting of handbills.

A. It shall be unlawful to post or attach any handbill, placard, poster, or printed material, or to paint, write, or mark upon any building, fence, utility pole, vehicle or other structure without permission of the owner or party in lawful possession of the such structure or vehicle.

B. Anything posted or attached in violation of this Section is hereby declared to be a nuisance which may abated pursuant to law. (Ord. 4, §1(part), 1986)

9.04.090 Trespass.

A. It shall be unlawful for any person to enter upon the premises of another which are enclosed in a manner designed to exclude intruders, or are fenced, when they are not licensed, invited or otherwise privileged to do so.

For purposes of this subsection only, "premises" shall mean real property, excluding a dwelling or a motor vehicle.

B. It shall be unlawful for any person to remain on the premises of another if they have been advised that their permission, license or privilege to be there has been revoked by the owner or the premises or other authorized person.

C. It shall be unlawful for any person to enter onto or remain upon public or private property of another without license, right or privilege to do so when signs are posted prohibiting such activity. (Ord. 4, §1(part), 1986)

9.04.100 Discharge of guns prohibited.

A. It is unlawful for any person, other than a law enforcement officer, to discharge a firearm, spring gun, air gun, pellet gun, BB gun or any other gun within the City, except upon a range totally enclosed within a building adequately constructed so that no noise or odor is observable and no projectiles travel off the range premises.

B. 1. This Section shall not apply to the lawful use of a gun in protection of persons or property, including one's animals and pets.

2. This Section shall not apply to the lawful use of a gun to destroy one's own animals or pets within the A-1 and R-R Zoning Districts.

C. This Section shall not apply when a permit has been granted by the City Council for a special event. No permit shall be granted unless the Council determines that no nuisance, unreasonable noise or safety hazard will be created.

D. This Section shall not apply to the lawful use of a shotgun no larger than a twelve gauge in the A-1 zoning district on tracts of land five acres or greater in area, except City-owned property for the hunting of birds in accordance with the laws and regulations of the State of Colorado so long as none of the shot travels off of said premises. (Ord. 4, §1(part), 1986; Ord. 22, §1, 1998; Ord. 2, §2, 2002)

9.04.110 Interference with an officer. It shall be unlawful for any person to interfere with, or by using or threatening to use violence, force or physical interference or obstacle, to obstruct, impair or hinder the enforcement of the law or preservation of the peace by a peace officer acting under color of their official authority, or the performance of a

governmental function by an officer, employee or agent of the City acting in the lawful performance of their duties. (Ord. 4, §1(part), 1986)

9.04.120 Resisting arrest.

A. It shall be unlawful to prevent or attempt to prevent a peace officer acting under color of their official authority from effecting an arrest of the actor or another person by using or threatening to use physical force or violence against the peace officer or another, or by using any other means which creates a substantial risk of causing physical injury to the peace officer or another.

B. It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if they were acting under the color of their official authority, and in attempting to make the arrest they were was not resorting to unreasonable or excessive force giving rise to the right of self-defense. (Ord. 4, §1(part), 1986)

9.04.130 Public Urination.

A. It shall be unlawful for any person to urinate or defecate unless such voiding is made into sanitary facilities constructed for that purpose and connected to an authorized sewage collection system or authorized onsite wastewater treatment system or into an authorized portable structure containing a toilet, such as a port-o-potty, provided for temporary use at an outdoor site or event, and which are enclosed from the view of the general public. (Ord. 4, §1(part), 1986; Ord. 7, 2022)

9.04.140 Disorderly conduct. It is unlawful for any person to intentionally, knowingly or recklessly:

A. Make a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to incite the immediate breach of peace; or

B. Fight with another person in a public place, except in an amateur or professional contest of athletic skill; or

C. Not being a peace officer, display a deadly weapon in a public place in a manner calculated to alarm; or

D. Make unreasonable noise in a public place or near a private residence that such person has no right to occupy; or

E. Abuse or threaten a person in a public place in an obviously offensive manner; or

F. Strike, shove, kick or otherwise touch a person or subject them to physical contact with intent to harass, annoy or alarm. (Ord. 4, §1(part), 1986)

9.04.150 Impersonating an officer. It shall be unlawful for any person to impersonate a peace officer or other City officer, agent or employee and perform any act in that pretended capacity. (Ord. 4, §1(part), 1986)

9.04.160 Petty theft.

A. It is unlawful for any person to knowingly obtain or exercise control over anything of value, having a value of less than three hundred dollars (\$300.00), of another without authorization or by threat of deception, or knowing said thing of value to have been stolen; and

1. Intend to deprive the other person permanently of the use or benefit of the thing of value; or

2. Knowingly use, conceal or abandon the thing of value in such a manner as to deprive the other person permanently of its use or benefit; or

3. Use, conceal or abandon the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use and benefit; or

4. Demand any consideration to which they are not legally entitled as a condition of restoring the thing of value to the other person.

B. If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or any other mercantile establishment, whether such concealment is on their own person or otherwise, and whether on or off the premises of such store or mercantile establishment, such concealment shall constitute prima facie evidence that such person intended to commit the offense of petty theft.

C. The offense of petty theft shall not include theft from the person of another. (Ord. 4, §1(part), 1986)

9.04.170 Shoplifting.

A. It shall be unlawful for any person to willfully take possession of any goods, wares or merchandise, having a value of less than one thousand dollars (\$1,000), and 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 their own use without paying the purchase price.

B. If any person wilfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or any other mercantile establishment, such concealment shall constitute prima facie evidence that such

person intended to commit the offense of shoplifting. (Ord. 4, §1(part), 1986; Ord. 4, 2022)

9.04.200 Window peeping. It shall be unlawful for any person to enter or remain upon the property of another with the intent to peer or peep into any window of a dwelling of another. (Ord. 4, §1(part), 1986)

9.04.210 Tampering with public utilities. It shall be unlawful for any person to interfere with, tamper with, damage, destroy, or operate any part of any utility system, including City Water, sewer or electric lines, mains, meters or facilities, power, gas, telephone, CATV systems, or to connect to such systems, or utilize service from such systems without lawful authorization to do so. (Ord. 4, §1(part), 1986; Ord. 4, 2022)

9.04.220 False fire alarms. It is unlawful for any person to turn in a false alarm, or in any manner to deceive or attempt to deceive the fire department or any officer or employee thereof with reference to any fire alarm or reported fire, or to cause the fire department or its officers or employees to make a useless run. (Ord. 4, §1(part), 1986)

9.04.230 Removal of barricades. It is unlawful for any person except by proper authority to remove any barricade, warning light, or obstruction placed by authority of the City to keep traffic off any pavement, street, curb, sidewalk, or other area, or otherwise to warn or direct traffic. (Ord. 4, §1(part), 1986)

9.04.240 Tampering with CATV.

A. It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the CATV system within this City for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the operator of said system.

B. It shall be unlawful for any person, without the consent of the owner, to wilfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

C. It shall be unlawful to use or operate any apparatus or device which creates unreasonable interference with the reception of radio or television signals by another. Such interference is hereby declared to be a nuisance which may be

abated in accordance with law. (Ord. 10, §2, 1993; Ord. 4, 2022)

9.04.250 Juvenile Curfew.

A. No juvenile under eighteen years of age shall be or remain upon any public street, sidewalk, or any other public place or right of way within the City of Delta between midnight and 5 a.m., except as provided in Subsection (C) of this section.

B. It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a juvenile under the age of eighteen years to knowingly permit or allow such juvenile to remain upon any public street, sidewalk or public place in violation of Subsection (A) of this section, except as provided in Subsection (C) of this section. The term knowingly includes knowledge which a parent should be reasonably expected to have concerning the whereabouts of a juvenile in that parent or guardian's custody.

C. In the following exceptional cases, a juvenile 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.
2. When traveling directly from a recognized community event (e.g. school function, movie theatre).
3. For one-half 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.
4. The juvenile received authorization from a parent or legal guardian.

D. A police officer who has probable cause to believe that a juvenile is in violation of this section shall take such juvenile into protective custody and immediately contact the juvenile's parent or guardian. If, after this contact, there is probable cause to believe that the juvenile was violating this section, the juvenile sixteen years of age or under shall be turned over to the custody of the Delta County Health and Human Services until a parent or guardian can take custody of the juvenile.

E. Any juvenile and/or parent, or legal guardian served with a citation under this section shall appear in Municipal Court.

F. There is no defense that a parent or guardian, or other person having the care and custody of the juvenile was indifferent to the activities, conduct or whereabouts of such juvenile. (Ord. 11, §1, 1995; Ord. 2 §2, 2015)

9.04.260 Keeping disorderly premises.

A. It shall be unlawful for any person owning or controlling any premises to knowingly, intentionally, or recklessly permit, allow, occasion, encourage, suffer, or cause upon such premises any drunkenness, quarreling, fighting, or riotous or disorderly conduct, which unreasonably disturbs the quiet enjoyment of any other property.

B. Keeping a disorderly premises is hereby declared to be a nuisance which may be abated in any lawful manner. (Ord. 31, §1, 2001)

9.04.280 Fraudulent Identification Documents.

A. It shall be unlawful for any person in the City of Delta, Colorado to either: (1) possess an identification document that is forged, counterfeited or possessed for the purpose of committing an act in violation of law, or (2) possess an identification document that was validly issued but subsequently altered by someone other than the issuing agency, or (3) possess any identification document belonging to another person with the intent to use it as having been issued to the person in possession of the document, or (4) display or present an identification document of another person in a manner that falsely suggests that it was issued to the person displaying or presenting it, or (5) loan or provide a valid identification document to another person when the provider knows, or reasonably should know, that the document will be deceptively used by the person to whom it is provided for identification purposes and as having been properly issued to such user.

B. For purposes of this section, "identification documents" mean documents that were issued to a particular person for the purpose of establishing the proper identity of that person to others. Such documents include those issued by national, state and local governments and governmental agencies that contain personal identification data such as, but without limitation (1) licenses and registrations for driving motor vehicles, conducting occupations or professions etc. (2) birth certificates, (3) social security cards, and (4) other official identification cards. An identification document is of another

person if it was validly issued for a person other than the possessor of the document.

C. A liquor licensee in the City of Delta, or an employee of such a liquor licensee, may cease and hold for evidence any identification document, if acting in good faith and upon reasonable belief that the identification document is possessed, displayed or presented in violation of this section. (Ord. 3, §1, 2009)

9.04.290 Licenses required.

A. It shall be unlawful for any persons to perform electrical or plumbing work for which a State license is required without such license. (Ord. 4, 2022)

9.04.300 Unauthorized camping on public or private property.

A. It shall be unlawful for any person to camp upon any public property within the City, except in any location where camping has been expressly authorized by the City.

B. It shall be unlawful for any person to camp upon any private property within the City without the express consent of the property owner or the owner's agent or if such camping otherwise violates a provision of this Code.

C. No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this Section against any person unless:

1. The officer verbally requests or orders the person to move from the unauthorized camp and take their property with them and, if the person fails to comply after receiving the verbal request or order, the officer tenders a written request or order to the person warning that if the person fails to comply, the person may be cited or arrested for a violation of this Section; and
2. The officer informs the person that camping is available at the City's public campsite or other nearby facilities. If the person refuses to leave the unauthorized camp and take their belongings with them after the warnings and information required herein, the officer may proceed to cite

or arrest the person for a violation of this Section.

D. For purposes of this Section:

1. "Camp" or "camping" means the use of property for the purpose of overnight or longer occupancy or to reside or dwell temporarily on public property with shelter. The term "shelter" as used in this definition includes, without limitation, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. The term "reside or dwell" includes, without limitation, conducting such activities as eating, sleeping, or the storage of personal possessions. Evidence of unauthorized camps includes, but is not limited to, sleeping, or making preparations to sleep by laying out personal belongings, bedding, bedroll(s), blanket(s), sleeping pad(s), sleeping bag(s), erecting or occupying a tent, makeshift shelter, lean-to, tarpaulin, enclosure, or other structure used for overnight living purposes, or any form of cover or protection from the elements other than clothing, or making preparations for a fire or making a fire (except for fires at sites specifically designated or authorized for a fire by the City), setting up or using a camp stove, cooking device, or other type of heating source (except for grills and personal grills permitted in designated areas by the City). Camping prohibited by this Section may include using a vehicle for overnight occupancy where overnight occupancy or overnight camping violates this Section or is not otherwise authorized by the City. Camping does not include resting or napping during the day or picnicking. Camping may be permitted as part of an event either sponsored or expressly permitted, in writing, by the City through the event permit process and in areas owned by the City with designated camping spaces.

2. "Public property" means, by way of illustration, any highway, highway median, street, road, alley, sidewalk, pedestrian or transit mall, bike path, greenway, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, or other City-owned or operated recreation facility; or any other grounds, buildings, or other facilities owned or leased by the

City, regardless of whether such public property is vacant or occupied and actively used for any public purpose. (rd. 7, 2022)

9.04.310 Obstruction of public streets, places, or buildings.

A. Subject to the exceptions set forth in subsection C of this Section, it shall be unlawful for any person, without legal privilege, to intentionally, knowingly, or recklessly:

1. Obstruct a highway, street, median, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway, or hallway to which the public or a substantial group of the public has access or any other place used for the passage of persons, vehicles, or conveyances, whether the obstruction arises from the person's acts alone or from the person's acts and the acts of others; or

2. Disobey a reasonable request or order to move issued by an individual the person knows, or reasonably should know, to be a law enforcement officer, a firefighter, or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard.

B. For purposes of this Section, "obstruct" means to render impassable or to render passage unreasonably inconvenient or hazardous.

C. It shall not be a violation of this Section that a person:

1. Is in the public right-of-way due to a medical emergency.

2. Is operating or patronizing a sidewalk sale or farmer's market in the public right-of-way pursuant to a permit or license issued by the City.

3. Is operating or patronizing a commercial establishment located in the public right-of-way pursuant to any permit or license issued by the City.

4. Is attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted in the public right-of-way pursuant to any permit or license issued by the City.

5. Sits or stands upon a public sidewalk at a transit stop while waiting for public transportation.

D. No law enforcement officer shall issue a citation or otherwise enforce this Section against any person until the officer first seeks voluntary compliance and unless the person continues to engage in conduct that is prohibited by this Section after having been notified by the officer that the conduct violates the provisions of this Section. (Ord. 7, 2022)

9.04.320 Unlawful conduct on public property.

A. It shall be unlawful for any person to enter or remain in any public building or on any public property or to conduct themselves in or on the same in violation of any order, rule, or regulation concerning any matter prescribed in this subsection A, limiting or prohibiting the use or activities or conduct in such public building or on such public property, issued by any officer or agency having the power or control, management, or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules, or regulations as are reasonably necessary for the administration, protection, and maintenance of such public buildings and property, specifically, orders rules, and regulations upon the following matters:

1. Preservation of property, vegetation, wildlife, signs, markers, statues, buildings and grounds, and other structures, and any object of scientific, historical, or scenic interest;
2. Restriction or limitation of the use of such public buildings or property as to time, manner, or permitted activities;
3. Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance or which may interfere with, impair, or disrupt a funeral or funeral procession;

4. Necessary sanitation, health, and safety measures, consistent with C.R.S. § 25-13-113;
5. Camping and picnicking, public meetings and assemblages, and other individual or group usages, including the place, time, and manner in which such activities may be permitted;
6. Use of all vehicles as to place, time, and manner of use;
7. Control and limitation of fires, including but not limited to the prohibition, restriction, or ban on fires or other regulation of fires to avert the start of or lessen the likelihood of wildfire, and the designation of places where fires are permitted, restricted, prohibited, or banned.

B. No conviction may be obtained under this Section unless notice of such limitations or prohibitions is prominently posted at all public entrances to such building or property or unless such notice is actually first given the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this Section. (Ord. 7, 2022)