

Title 9

Public Peace, Morals, and Welfare

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Title 9

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Chapter 9.04 - General Provisions

9.04.010 State Provisions Adopted. Except those sections defining crimes and penalties therefor over which the Pleasant View Justice of the Peace does not have jurisdiction, the Criminal Code, Title 76 of the UCA, 1953 as amended from time to time, is adopted and incorporated by reference. (Ord. 87-1.03 §1, 1987)

9.04.020 Jurisdiction.

A. A person is subject to prosecution in the city for an offense which he/she commits, while either within or outside the city, by his/her own conduct or that of another for which he/she is legally accountable, if:

1. The offense is committed either wholly or partly within the city;

or

2. The conduct outside the city constitutes an attempt to commit an offense within the city; or

3. The conduct outside the city constitutes a conspiracy to commit an offense within the city and an act in furtherance of the conspiracy occurs in the city; or

4. The conduct within the city constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under the laws of both the city and such other jurisdiction.

B. An offense is committed partly within the city if either the conduct which is an element of the offense, or result which is such an element, occurs within the city.

C. An offense which is based on an omission to perform a duty imposed by the law of the city is committed with the city regardless of the location of the offender at the time of the omission. (Ord. 87-2 (CC §1.03), 1987)

9.04.030 Prosecution Limits.

A. Prosecutions under this code are subject to the following periods of limitation:

1. A prosecution for a misdemeanor must be commenced within two years after it is committed;

2. A prosecution for any infraction must be commenced within one year after it is committed.

B. A prosecution is commenced upon the filing of a complaint. (Ord. 87-2 (CC §1.04), 1987)

9.04.040 Out of State Prosecution Limits. The period of limitation does not run against any defendant during any period of time he/she is out of the state following the commission of an offense. (Ord. 87-2 (CC §1.05), 1987)

Chapter 9.08 - Criminal Responsibility

9.08.010 Definitions-Generally. As used in this chapter:

A. "Agent" means any director, officer, employee or other person authorized to act in behalf of a corporation or association.

B. "Corporation" means all organizations required by the laws of the state or any other state to obtain a certificate of authority, a certificate of incorporation, or other form of registration to transact business as a corporation within the state or any other state and shall include domestic, foreign, profit and nonprofit corporations, but shall not include a corporation sole, as such term is used in Chapter 7, Title 16, UCA 1953. Lack of an appropriate certificate of authority, incorporation, or other form of registration shall be no defense when such organization conducted its business in a manner as to appear to have lawful corporate existence.

C. "High managerial agent" means:

1. A partner in a partnership;
2. An officer of a corporation or association;
3. An agent of a corporation or association who has duties of such responsibility that his/her conduct reasonably may be assumed to represent the policy of the corporation or association. (Ord. 87-2 (CC §2.03), 1987)

9.08.020 Definitions-Conduct. A person engages in conduct:

A. Intentionally, or with intent or wilfully with respect to the nature of his/her conduct or to a result of his/her conduct, when it is his/her conscious objective or desire to engage in the conduct or cause the result;

B. Knowingly, or with knowledge, with respect to his/her conduct or to circumstances surrounding his/her conduct when he/she is aware of the nature of his/her conduct or the existing circumstances. A person acts knowingly, or with knowledge with respect to a result of his/her conduct when he/she is aware that his/her conduct is reasonably certain to cause the result.

C. Recklessly, or maliciously, with respect to circumstances surrounding his/her conduct or the result of his/her conduct when he/she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

D. With criminal negligence or is criminally negligent with respect to circumstances surrounding his/her conduct or the result of his/her conduct when he/she ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise in all the circumstances as view from the actor's standpoint. (Ord. 87-2 (CC §2.02), 1987)

9.08.030 Culpable Mental State Required. Every offense not involving strict liability

shall require a culpable mental state, and when the definition of the offense does not specify a culpable mental state, intent, knowledge, or recklessness shall suffice to establish criminal responsibility. An offense shall involve strict liability only when a statute defining the offense clearly indicates a legislative purpose to impose strict liability for the conduct by use of the phrase "strict liability" or other terms of similar import. (Ord. 87-2 (CC §2.01), 1987)

9.08.040 Direct Commission of Offense or Conduct of Another. Every person, acting with the mental state required for the commission of an offense who directly commits the offense, who solicits, requests, commands, encourages or intentionally aids another person to engage in conduct which constitutes an offense shall be criminally liable as a party for such conduct. (Ord. 87-2 (CC §2.04), 1987)

9.08.050 Conduct of Another-Defenses Not Allowed. In any prosecution in which an actor's criminal responsibility is based on the conduct of another, it is no defense:

- A. That the actor belongs to a class of persons who by definition of the offense are legally incapable of committing the offense in an individual capacity; or
- B. That the person for whose conduct the actor is criminally responsible has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense or of a different type or class of offense or is immune from prosecution. (Ord. 87-2 (CC §2.05), 1987)

9.08.060 Corporation or Association. A corporation or association is guilty of an offense when:

- A. The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations or associations by law; or
- B. The conduct constituting the offense is authorized, solicited, requested, commanded, or undertaken, performed, or recklessly tolerated by the board of directors or by a high managerial agent acting within the scope of his/her employment and in behalf of the corporation or association. (Ord. 87-2 (CC §2.06), 1987)

9.08.070 Conduct in Name of Corporation or Association. A person is criminally liable for conduct constituting an offense which he/she performs or causes to be performed in the name of or on behalf of a corporation or association to the same extent as if such conduct were performed in his/her own name or behalf. (Ord. 87-2 (CC §2.07), 1987)

Chapter 9.12 - Inchoate Offenses

9.12.010 Attempt.

A. For purposes of this title a person is guilty of an attempt to commit a crime if, acting with the kind of culpability otherwise required for the commission of the offense, he/she engages in conduct constituting a substantial step toward commission of the offense.

B. For purposes of this title, conduct does not constitute a substantial step unless it is strongly corroborative of the actor's intent to commit the offense.

C. No defense to the offense of attempt shall arise:

1. Because the offense attempted was actually committed; or
2. Due to factual or legal impossibility if the offense could have been committed had the attendant circumstances been as the actor believes them to be. (Ord. 87-2 (CC §4.01), 1987)

9.12.020 Conspiracy. For purposes of this part a person is guilty of conspiracy when he, intending that conduct constituting a crime be performed, agrees with one or more persons to engage in or cause the performance of such conduct and anyone of them commits an overt act in pursuance of the conspiracy. (Ord. 87-2 (CC §4-02), 1987)

9.12.030 Classification of Offense. Conspiracy or attempt to commit:

- A. A class B misdemeanor is a class C misdemeanor;
- B. A class C misdemeanor or infraction is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor. (Ord. 87-2 (CC §4.03), 1987)

Chapter 9.16 - Offenses Against Public Officers and Government

9.16.010 Interference with Public Servant. A person is guilty of a class B misdemeanor if he/she uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with a public servant performing an official function. (Ord. 87-2 (CC §7.01), 1987)

9.16.020 Picketing or Parading in or Near Court. A person is guilty of a class B misdemeanor if he/she pickets or parades in or near a building which houses a court of this state with intent to obstruct access to that court or to affect the outcome of a case pending before that court. (Ord. 87-2 (CC §7.02), 1987)

9.16.030 Disturbing Official Meeting.

A. A person is guilty of a class B misdemeanor if he/she intentionally disturbs an official meeting or commits any disorderly conduct in immediate view and presence of participants in an official meeting tending to interrupt its proceedings.

B. "Official meeting," as used in this section, means any lawful meeting of public servants for the purpose of carrying on governmental functions. (Ord. 87-2 (CC §7.04), 1987)

9.16.040 Interference With Peace Officer Making Arrest. A person is guilty of a class B misdemeanor if he/she has knowledge, or by the exercise of reasonable care, should have knowledge, that a peace officer is seeking to effect a lawful arrest or detention of himself or another and interferes with such arrest or detention by use of force or by use of any weapon. (Ord. 87-9.16, 1987; Ord. 87-2 (CC §7.04), 1987)

9.16.050 Obstructing Justice.

A. A person is guilty of an offense if, with intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of another for the commission of a crime, he:

1. Knowing an offense has been committed, conceals it from magistrate; or

2. Harbors or conceals the offender; or

3. Provides the offender a weapon, transportation, disguise or other means for avoiding discovery or apprehension; or

4. Warns such offender of impending discovery or apprehension;

or

5. Conceals, destroys, or alters any physical evidence that might aid in the discovery, apprehension or conviction of such person; or

6. Obstructs by force, intimidation, or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such person.

B. An offense under this section is a class B misdemeanor. (Ord. 87-2 (CC §7.05), 1987)

9.16.060 Failure to Aid Peace Officer. A person is guilty of a class B misdemeanor if, upon command by a peace officer identifiable or identified by him/her as such, he/she unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person. (Ord. 87-2 (CC §7.06), 1987)

9.16.070 Acceptance of Bribe.

A. A person is guilty of a class B misdemeanor if he:

1. Solicits, accepts or agrees to accept any benefit as consideration for his/her refraining from initiating or aiding in a criminal prosecution; or

2. Confers, offers or agrees to confer any benefit upon another as consideration for the person refraining from initiating or aiding in a criminal prosecution.

B. It is an affirmative defense that the benefit did not exceed an amount which the actor believed to be due as restitution or indemnification for the loss caused or to be caused by the offense. (Ord. 87-2 (CC §7.07), 1987)

9.16.080 Escape.

A. A person is guilty of escape if he/she escapes from official custody.

B. Escape is a class B misdemeanor.

C. "Official custody," for the purpose of this section, means arrest, custody in a penal institution, jail, an institution for confinement of juvenile offenders, or other confinement pursuant to an order of the court. (Ord. 87-2 (CC §7.08), 1987)

9.16.090 Bail Jumping.

A. A person is guilty of an offense when having been released on bail or on his/her own recognizance by court order or by other lawful authority upon condition that he/she subsequently appear personally upon a charge of an offense, he/she fails without just cause to appear at the time and place which has been lawfully designated for his/her appearance.

B. An offense under this section is a class B misdemeanor when the offense charged is a misdemeanor, and an infraction then the offense is an infraction. (Ord. 87-2 (CC §7.09), 1987)

9.16.100 Obstructing Collection of Revenue. Every person who willfully obstructs or hinders any public officer from collecting any revenue, taxes, or other sums of money in which the people of this state are interested and which such officer is by law empowered to collect, is guilty of a class B misdemeanor. (Ord. 87-2 (CC §7.10), 1987)

9.16.110 Refusing to Give Tax or License Collector List or Denying Access to Employees Every person who, when requested by the assessor or collector of taxes or license fees, refuses to give to the assessor or collector the name and residence of each man in his/her employ, or to give the assessor or collector access to the building or place where such men are employed, is guilty of a class B misdemeanor. (Ord. 87-2 (CC §7.11), 1987)

9.16.120 Doing Business Without a License. Every person who commences or carries on any business, trade, profession, or calling, for the transaction or carrying on of which a license is required by any law, or by any county, city or town ordinance, without taking out the license required by law or ordinance is guilty of a class B misdemeanor. (Ord. 87-2 (CC §7.12), 1987)

9.16.130 Tampering with Official Notice or Proclamation. Every person who intentionally defaces, obliterates, tears down, or destroys any copy or transcript or extract from or of any law of the United States or of this state, or any proclamation, advertisement, or notice set up at any place in this state by authority of any law of the United States or of this state, or by order of any court or of any public officer, before the expiration of the time for which the same was to remain set up, is guilty of an infraction. (Ord. 87-2 (CC §7.13), 1987)

9.16.140 Removing or Injuring Road Signs. Every person who maliciously removes or injures any milepost or milestone or guidepost or any inscription on them, erected upon any highway, is guilty of a class B misdemeanor. (Ord. 87-2 (CC §7.14), 1987)

9.16.150 Falsification in Official Matters-Definitions. For the purpose of Sections 9.16.160 through 9.16.220:

A. "Material" means capable of affecting the course or outcome of the proceeding. A statement is not material if it is retracted in the course of the official proceeding in which it was made before it became manifest that the falsification was or would be exposed and before it substantially affected the proceeding. Whether a statement is material is a question of law to be determined by the court.

B. "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental body or official authorized by law to take evidence under oath or affirmation, including a notary or other person taking evidence in connection with any of these proceedings. (Ord. 87-2 (CC §7.15), 1987)

9.16.160 False or Inconsistent Statement. A person is guilty of a class B misdemeanor if:

A. He/she makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and he/she does not believe the statement to be true if:

1. The falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing his/her official functions or

2. The statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or

B. He/she makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him/her to be true. In a prosecution under this section, it need not be alleged or proved

which of the statements is false but only that one or the other was false and not believed by the defendant to be true.

C. No person shall be guilty under this section if he/she retracts the falsification before it becomes manifest that the falsification was or would be exposed. (Ord. 87-2 (CC §7.16), 1987)

9.16.170 False Statement-Written. A person is guilty of a class B misdemeanor if:

A. He/she makes a written false statement which he/she does not believe to be true on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or

B. With intent to deceive a public servant in the performance of his/her official function, he:

1. Makes any written false statement which he/she does not believe to be true, or

2. Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting, information necessary to prevent statements therein from being misleading, or

3. Submits or invites reliance on any writing which he/she knows to be lacking in authenticity, or

4. Submits or invites reliance on any sample, specimen, map, boundary mark or other object which he/she knows to be false.

C. No person shall be guilty under this section if he/she retracts the falsification before it becomes manifest that the falsification was or would be exposed. (Ord. 87-2 (CC §7.17), 1987)

9.16.180 False Report to Law Enforcement Officer. A person is guilty of a class B misdemeanor if he:

A. Knowingly gives or causes to be given false information to any law enforcement officer with a purpose of inducing the officer to believe that another has committed an offense; or

B. Knowingly gives or causes to be given information to any law enforcement officer concerning the commission of an offense, knowing that the offense did not occur or knowing that he/she has no information relating to the offense or danger. (Ord. 87-2 (CC §7.18), 1987)

9.16.190 False Name or Address to Law Enforcement Officer. A person commits a class C misdemeanor if, with intent of misleading a law enforcement officer as to his/her identity, he/she knowingly gives a false name or address to a law enforcement officer in the lawful discharge of his/her official duties. (Ord. 87-2 (CC §7.19), 1987)

9.16.200 Falsification or Alteration of Government Record. A person is guilty of a class B misdemeanor if he:

A. Knowingly makes a false entry in or false alteration of anything belonging to, received or kept by the government for information or record, or required by law to be kept for information of the government; or

B. Presents or uses anything knowing it to be false and with a purpose

that it be taken as a genuine part of information of records referred to in subsection A of this section; or

C. Intentionally and unlawfully destroys, conceals or otherwise impairs the verity or availability of any such thing. (Ord. 87-2 (CC §7.20), 1987)

9.16.210 Impersonating Officer. A person is guilty of a class B misdemeanor if he/she impersonates a public servant or a peace officer with intent to deceive another or with intent to induce another to submit to his/her pretended official authority or to rely upon his/her pretended official act. (Ord. 87-2 (CC §7.21), 1987)

9.16.220 False Judicial or Official Notice. A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails or delivers to the person a notice or other writing which has no judicial or other sanction but which in its format or appearance simulates a summons, complaint, court order, or process, or an insignia, seal, or printed form of a federal, state or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction. (Ord. 87-2 (CC §7.22), 1987)

9.16.230 False Alarm.

A. A person is guilty of giving a false alarm if he/she initiates or circulates a report or warning of any fire, impending bombing, or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause evacuation of any building, place of assembly, or facility of public transport, to cause public inconvenience or alarm or action of any sort by any official or volunteer agency organized to deal with emergencies.

B. Giving a false alarm is a class B misdemeanor. (Ord. 87-2 (CC §8.05), 1987)

9.16.240 Abuse of Flag.

A. A person is guilty of abuse of a flag if he:

1. Intentionally places any unauthorized inscription or other thing, upon any flag of the United States or of any state of the United States; or

2. Knowingly exhibits any such flag, knowing the inscription or other thing to be unauthorized; or

3. For purposes of advertising a product or service for sale or for distribution, affixes a representation of the flag of the United States or of a state of the United States to the product or on any display whereon the product or service is advertised; or

4. Knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning or trampling upon it.

B. Abuse of a flag is a class B misdemeanor. (Ord. 87-2 (CC §8.16), 1987)

Chapter 9.20 - Offenses Against the Person

9.20.010 Assault.

A. Assault is:

1. An attempt, with unlawful force or violence, to do bodily injury to another; or
2. A threat, accompanied by a show of immediate force or violence, to do bodily injury to another.

B. Assault is a class B misdemeanor. (Ord. 87-2 (CC §5.01), 1987)

9.20.020 Harassment.

A. A person is guilty of harassment if, with intent to frighten or harass another, he/she communicates in writing a threat to commit any violent felony.

B. Harassment is a class C misdemeanor. (Ord. 87-2 (CC §5.02), 1987)

9.20.030 Protective Orders. Any person who has been restrained from abusing another, or who has been ordered to vacate a dwelling by a protective order issued pursuant to Chapter 6 of Title 30, UCA 1979, violates that order after having been properly served with it, is guilty of a class B misdemeanor. (Ord. 87-2 (CC §5.03), 1987)

9.20.040 Terroristic Threat.

A. A person commits terroristic threat if he/she threatens to commit any offense involving violence with intent:

1. To cause action of any sort by an official or volunteer agency organized to deal with emergencies; or
2. To place a person in fear of imminent serious bodily injury; or
3. To prevent or interrupt the occupation of a building, room, place of assembly, place to which the public has access, or aircraft, automobile, or other form of conveyance.

B. Terroristic threat is a class B misdemeanor unless the actor's intent is to prevent or interrupt the occupation of a building, a place to which the public has access, or a facility of public transportation operated by a common carrier. (Ord. 87-2 (CC §5.04), 1987)

9.20.050 Unlawful Detention.

A. A person commits unlawful detention if he/she knowingly restrains another unlawfully so as to interfere substantially with his/her liberty.

B. Unlawful detention is a class B misdemeanor. (Ord. 87-2 (CC §5.05), 1987)

9.20.060 Telephone Harassment.

A. A person is guilty of telephone harassment and subject to prosecution in the jurisdiction where the telephone call originated or was received if, with intent to annoy or alarm another, he:

1. Makes a telephone call, whether or not a conversation ensues, without purpose of lawful communication; or

2. Makes repeated telephone calls at extremely inconvenient hours or in offensively coarse language; or

3. Insults, taunts or challenges another in a manner likely to intimidate or provoke a violent or disorderly response.

B. Telephone harassment is a class B misdemeanor. (Ord. 87-2 (CC §8.06), 1987)

Chapter 9.24 - Offenses Against Public Peace

9.24.010 Riot.

A. A person is guilty of riot if:

1. Simultaneously with two or more other persons he/she engages in tumultuous or violent conduct and thereby knowingly or recklessly creates a substantial risk of causing public alarm; or

2. He/she assembles with two or more other persons with the purpose of engaging soon thereafter in tumultuous or violent conduct, knowing that the two or more other persons in the assembly have the same purpose; or

3. He/she assembles with two or more other persons with the purpose of committing an offense against a person or property of another whom he/she supposes to be guilty of a violation of law, believing that the two or more other persons in the assembly have the same purpose.

B. Any person who refuses to comply with a lawful order to withdraw given to him/her immediately prior to, during, or immediately following a violation of subsection A is guilty of riot. It is no defense to a prosecution under this subsection that withdrawal must take place over private property; provided, however, that no persons so withdrawing shall incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.

C. Riot is a class B misdemeanor, unless, in the course of and as a result of the conduct, any person suffers bodily injury, or substantial property damage, arson occurs or the defendant was armed with a deadly weapon. (Ord. 87-2 (CC §8.01), 1987)

9.24.020 Disorderly Conduct.

A. A person is guilty of disorderly conduct if:

1. He/she refuses to comply with the lawful order of the police to move from a public place, or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or

2. Intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof:

a. He/she engages in fighting or in violent, tumultuous or threatening behavior; or

b. He/she makes unreasonable noises in a public place; or

c. He/she makes unreasonable noises in a private place which can be heard in a public place; or

d. He/she engages in abusive or obscene language or makes obscene gestures in a public place; or

e. He/she obstructs vehicular or pedestrian traffic.

B. "Public place" for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

C. Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction. (Ord. 87-2 (CC

§8.02), 1987)

9.24.030 Disrupting a Meeting or Procession.

A. A person is guilty of disrupting a meeting or procession if, intending to prevent or disrupt a lawful meeting, procession, or gathering he/she obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance, or any other means.

B. Disrupting a meeting or procession is a class B misdemeanor. (Ord. 87-2 (CC §8.03), 1987)

9.24.040 Failure to Disperse.

A. A person is guilty of failure to disperse when he/she remains at the scene of a riot, disorderly conduct, or an unlawful assembly after having been ordered to disperse by a peace officer.

B. This section shall not apply to a person who attempted to but was unable to leave the scene of the riot or unlawful assembly.

C. Failure to disperse is a class C misdemeanor. (Ord. 87-2 (CC §8.04), 1987)

9.24.050 Begging-Prohibited.

A. It is unlawful for any person, either directly or indirectly, to get or gather alms within the limits of the city.

B. Any person violating the provisions of this section shall be deemed a mendicant and shall be fined in a sum not exceeding twenty-five dollars or be imprisoned for a term not exceeding twenty-five days. (Ord. 87-2 (CC §8.28), 1987)

9.24.060 Privacy Violation-Definitions.

A. "Eavesdrop" means to overhear, record, amplify or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical or other device.

B. "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.

C. "Public" includes any professional or social group of which the victim of a defamation is a member. (Ord. 87-2 (CC §8.13), 1987)

9.24.070 Privacy Violation-Designated.

A. A person is guilty of privacy violation if, except as authorized by law, he:

1. Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or

2. Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in the place or uses any such unauthorized installation; or

3. Installs or uses outside of a private place any device for hearing, recording, amplifying or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without

the consent of the person or persons entitled to privacy there.

B. Privacy violation is a class B misdemeanor. (Ord. 87-2 (CC §8.14), 1987)

9.24.080 Privacy Violation-Communication Abuse. A person commits communication abuse if, except as authorized by law, he:

A. Intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of communicating privately; this subsection does not extend to:

1. Overhearing of messages through a regularly installed instrument on a telephone party line or on an extension; or

2. Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or

B. Divulges without consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted or if he/she learned of the message in the course of employment with an agency engaged in transmitting it. (Ord. 87-2 (CC §8.15), 1987)

9.24.090 Privacy Violation-Emergency Telephone Abuse.

A. A person is guilty of emergency telephone abuse if he:

1. Intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another person upon being informed that the telephone is needed to report a fire or summon police, medical or other aid in case of emergency, unless the telephone is likewise being used for an emergency call; or

2. Asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists.

B. Emergency telephone abuse is a class C misdemeanor.

C. For the purpose of this section:

1. "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

2. "Party line" means a subscriber's line or telephone circuit consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number. (Ord. 87-2 (CC §8.07), 1987)

Chapter 9.28 - Offenses Against Public Decency

9.28.010 Expectoration-Littering. It is unlawful for any person to expectorate or spit, or throw cigar stumps, quids of tobacco, cigarette stumps, banana peels or any other unhealthy or dangerous substance on the floor of any street or railway car or other public conveyance or public building or upon any paved sidewalk within the city. (Ord. 87-2 (CC §8.24), 1987)

9.28.020 Loitering.

A. A person is guilty of loitering if he/she appears at a place or at a time under circumstances that warrant alarm for the safety of persons or property in the vicinity, and upon inquiry by a law enforcement official, he/she fails to give a reasonably credible account of his/her identity, conduct or purposes.

B. No person shall be convicted under this section if the explanation he/she gave of his/her conduct and purposes was true and, if believed by the law enforcement official at the time, would have dispelled the alarm.

C. Loitering is a class C misdemeanor. (Ord. 87-2 (CC §8.26), 1987)

9.28.030 Abuse of Corpse.

A. A person is guilty of abuse of a corpse if he/she intentionally and unlawfully:

1. Removes, conceals, dissects or destroys a corpse or any part thereof; or
2. Disinters a corpse that has been buried or otherwise interred.

B. An offense under this section is a class B misdemeanor. (Ord. 87-2 (CC §8.27), 1987)

9.28.040 Lewdness and Profanity.¹

A. Definitions. As used in this section "willfully" means simply a purpose or willingness to commit the act or to omit an act referred to herein.

B. Except those sections defining crimes and penalties therefore, over which the justice of the peace does not have jurisdiction, the Criminal Code, Title 76, Section 76-10-1201 and 76-10-1203 of the UCA 1953, as amended from time to time is adopted and incorporated in this section by reference.

C. It shall be unlawful for any person:

1. To knowingly or wilfully bathe in the nude in public or in such a manner that the nude body is exposed to the view of other persons;
2. To expose his/her private parts or go nude, or topless (if female) or bottomless in any public place or to procure, counsel or assist any other person to so expose themselves;
3. To urinate or stool in any public place (except public restrooms) or in any place exposed to public view or to procure, counsel, or aid any other person to do so.

D. Lewdness

¹ Statutory references: UCA 76-9-702, 76-10-120, 76-10-1203

1. A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, or an attempt to commit any of these offenses, performs an act of sexual intercourse or sodomy, exposes his/her genitals or private parts, masturbates, engages in trespassory voyeurism, or performs any other act of gross lewdness, in a public place or under circumstances which he/she should know will likely cause affront or alarm to, on, or in the presence of another who is fourteen years of age or older.

2. Lewdness is a class B misdemeanor. (Ord. 87-24 (4), 1987; Ord. 87-9.24, 1987; Ord. 87-2 (CC §8.25, 9.40) 1987)

9.28.050 Public Drinking or Intoxication-Prohibited. Any person who drinks any intoxicating liquor in any street, alley, park, theater, store or in any vehicle commonly used for the public transportation of passengers, or who is drunk or intoxicated in a public place, or who is drunk or intoxicated in a private place where he/she unreasonably disturbs another person, within the corporate limits of the city, shall be deemed guilty of a class B misdemeanor. (Ord. 87-2 (CC §8.17), 1987)

9.28.060 Sale of Liquor to Drunken Person. No person shall sell or supply any alcoholic beverage or permit alcoholic beverages to be sold or supplied to any person under or apparently under the influence of liquor. A violation of this section is a class B misdemeanor. (Ord. 87-2 (CC §8.18), 1987)

9.28.070 Permitting Drunkenness.

A. No person shall:

1. Permit drunkenness to take place in any house or on any premises of which he/she is the owner, tenant or occupant; or
2. Permit or suffer any person apparently under the influence of liquor to consume any liquor in any house or on any premises of which the first-named is owner, tenant or occupant; or
3. Give any liquor to any person apparently under the influence of liquor.

B. A violation of this section is a class B misdemeanor. (Ord. 87-2 (CC §8.22), 1987)

9.28.080 Alcoholic Beverages - Unauthorized Use Prohibited. Except as provided by state law, the manufacture, sale, keeping or storing for sale in the city, or offering or exposing for sale, or importing, carrying, transporting, advertising, distributing, giving away, exchanging, dispensing or serving of liquors in the city, is prohibited, and it is unlawful for any person within the corporate limits of the city to knowingly have in his, her or its possession any intoxicating liquors except as provided by state law. (Ord. 87-2 (CC §8.23), 1987)

9.28.090 Controlled Substances.² Except for those sections defining controlled

² Statutory references: UCA 58-37-1c58-37b-8

substances, drug paraphernalia and imitation controlled substances crimes, and penalties therefor over which the justice of the peace does not have jurisdiction, the entire Chapter 37, Title 58 UCA, 1953, as amended from time to time is adopted and incorporated in the criminal code by reference. (Ord. 87-9.24(x) §1, 1987)

9.28.100 Cigarettes, Tobacco and Psychotoxic Chemical Solvents. The entire Chapter 10, Part 1, Title 76 UCA, 1953, as amended from time to time, is adopted and incorporated in the criminal code by reference. (Ord. 87-9.40, 1987), 1987)

9.28.110 Gambling-Definitions.

A. "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme or gaming device when the return or outcome is based upon an element of chance and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome; gambling does not include:

1. A lawful business transaction; or
2. Playing an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

B. "Gambling bet" means money, checks, credit or any other representation of value.

C. "Gambling device or record" means anything specifically designed for use in gambling or used primarily for gambling.

D. "Gambling proceeds" means anything of value used in gambling. (Ord. 87-2 (CC §9.32), 1987)

9.28.120 Gambling-Elements.

A. A person is guilty of gambling if he:

1. Participates in gambling; or
2. Knowingly permits any gambling to be played, conducted or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part.

B. Gambling is a class B misdemeanor. (Ord. 87-2 (CC §9.33), 1987)

9.28.130 Gambling-Device Seizure.

A. Whenever any magistrate shall determine that any devices or equipment is used or kept for the purpose of gambling, the magistrate may authorize the city council in conjunction with its police chief to seize the devices and sell them for the best price obtainable. The sale must be made to a person of good character and repute who is a bona fide resident of a state where it is lawful to use the equipment. The officials conducting the sale shall place the equipment on a public carrier, properly consigned to the purchaser at the place of this residence.

B. The proceeds of any sale shall be paid into the treasury of the city.

C. If no sale is consummated within ninety days of the authorization therefor, the device or equipment shall be destroyed under the direction of the magistrate.

(Ord. 87-2 (CC §9.34), 1987)

9.28.140 Gambling-Bets or Proceeds Seizure.

A. At the commencement of any prosecution for a violation of this chapter any gambling bets or gambling proceeds which are reasonably identifiable as having been used or obtained in violation of this chapter may be seized and they shall be held pending the disposition of the proceedings. At the conclusion of the proceedings, any person who is found guilty of a violation of this chapter shall forfeit any sums held by the court which were acquired or being used in violation of this chapter. Any sums not identifiable, or in the event the individual is found not guilty, shall be returned to him.

B. A commencement or prosecution shall occur upon arrest, issuance of a complaint or indictment, whichever occurs first.

C. All sums forfeited under this section shall be paid into the treasury of the city. (Ord. 87-2 (CC §9.35), 1987)

9.28.150 Prostitution-Definitions. For purposes of Sections 9.28.160 through 9.28.180, the following terms shall have the meanings set out in this section:

A. "House of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management or supervision of another.

B. "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.

C. "Public place" means any place to which the public or any substantial group thereof has access.

D. "Sexual activity" means intercourse or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant. (Ord. 87-2 (CC §9.36), 1987)

9.28.160 Prostitution-Elements.

A. A person is guilty of prostitution when:

1. He/she engages or offers or agrees to engage in any sexual activity with another person for a fee; or

2. Is an inmate of a house of prostitution; or

3. Loiters in or within view of any public place for the purpose of being hired to engage in sexual activity,

B. Prostitution is a class B misdemeanor. (Ord. 87-2 (CC §9.37), 1987)

9.28.170 Prostitution-Patronizing a Prostitute. A person is guilty of patronizing a prostitute when:

A. He/she pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or

B. He/she enters or remains in a house of prostitution for the purpose of engaging in sexual activity. (Ord. 87-2 (CC §9.38), 1987)

9.28.180 Prostitution-Aiding Prostitution.

A. A person is guilty of aiding prostitution if he:

1. Solicits a person to patronize a prostitute; or
2. Procures or attempts to procure a prostitute for a patron; or
3. Knowingly leases or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or
4. Solicits, receives or agrees to receive any benefit for doing any of the acts prohibited by this subsection.

B. Aiding prostitution is a class B misdemeanor. (Ord. 87-2 (CC §9.39), 1987)

Chapter 9.32 - Offenses Against Property

9.32.010 Property Destruction-Definitions. For purposes of this chapter, the following words and phrases shall have the following meanings:

A. "Property" means any form of real property or tangible personal property which is capable of being damaged or destroyed and includes a habitable structure.

B. "Property" is that of another, if anyone other than the actor has possessory or proprietary interest in any portion thereof.

C. "Value" means:

1. The market value of the property, if totally destroyed, at the time and place of the offense, or when cost of replacement exceeds the market value; or

2. Where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense;

3. If the property damaged has a value that cannot be ascertained by the criteria set forth in subsections A and B of this section, the property shall be deemed to have a value of fifty dollars. (Ord- 87-2 (CC §6.01), 1987)

9.32.020 Arson.

A. A person is guilty of arson if under circumstances not amounting to aggravated arson as defined in Section 76-6-103, UCA 1973, by means of fire or explosives, he/she unlawfully and intentionally damages the property of another.

B. A violation of subsection A of this section is a class B misdemeanor if the damage caused exceeds two hundred fifty dollars but is not more than one thousand dollars; a class C misdemeanor if the damage caused is not more than two hundred fifty dollars. (Ord. 87-2 (CC §6.02), 1987)

9.32.030 Reckless Burning.³

A. A person is guilty of reckless burning if he/she damages the property of another by reckless use of fire or by causing an explosion.

B. A violation of subsection A is a class B misdemeanor if the damage to property exceeds five hundred dollars but is not more than one thousand dollars; and a class C misdemeanor if the damage to property exceeds fifty dollars.

Violation of this section is an infraction if the damage is less than fifty dollars. (Ord. 87-9.28(x), 1987; Ord. 87-2 (CC §6.03), 1987)

9.32.040 Criminal Mischief.⁴

A. A person commits criminal mischief if:

1. He/she intentionally damages, defaces or destroys the property

³ Statutory references: UCA 76-6-104(2)

⁴ Statutory references: UCA 76-6-206

of another.

2. He/she recklessly or wilfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car or caboose, whether moving or standing.

B. Any violation of this section is a class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss in excess of two hundred fifty dollars, but less than five hundred dollars and a class C misdemeanor if the actor's conduct causes or is intended to cause loss of less than two hundred fifty dollars. (Ord. 87-9.28(xx), 1987; Ord. 87-2 (CC §6-04), 1987)

9.32.050 Criminal Trespass.

A. For purposes of this section "enter" means intrusion of the entire body.

B. A person is guilty of criminal trespass if, under circumstances not amounting to burglary as defined in Sections 76-6-202, 76-6-203 or 76-6-204, UCA, 1953:

1. He/she enters or remains unlawfully on property and:

- a. Intends to cause annoyance or injury to any person thereon or damage to any property thereon, or
- b. Intends to commit any crime, other than theft or a felony,
- c. Is reckless as to whether his/her presence will cause fear for the safety of another;

2. Knowing his/her entry or presence is unlawful, he/she enters or remains on property as to which notice against entering is given by;

- a. Personal communication to the actor by the owner or someone with apparent authority to act for the owner; or
- b. Fencing or other enclosure obviously designed to exclude intruders; or
- c. Posting of signs reasonably likely to come to the attention of intruders.

C. It is a defense to prosecution under this section:

1. That the property was open to the public when the actor entered or remained; or
2. The actor's conduct did not substantially interfere with the owner's use of the property.

D. A violation of subsection (B)(1) is a class C misdemeanor unless it was committed in a dwelling, in which event it is a class B misdemeanor. A violation of subsection (B)(2) is an infraction. (Ord. 87-9.28(4), 1987; Ord. 87-2 (CC §6.06), 1987)

9.32.060 Burglary Instruments. Any person who manufactures or possesses any instrument, tool, device, article or other thing adapted, designed or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that some person intends to use the same in the commission of a burglary or theft is guilty of a class B misdemeanor. (Ord. 87-2 (CC §6.05), 1987)

9.32.070 Theft-Definitions. For purposes of Sections 9.32.080 through 9.32.160:

A. "Deception" occurs when a person intentionally:

1. Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the transaction; or

2. Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true; or

3. Prevents another from acquiring information likely to affect his/her judgment in the transaction; or

4. Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim or impediment is or is not valid or is or is not a matter of official record; or

5. Promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be performed; provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

B. "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other reproduction.

C. "Obtain or exercise unauthorized control" means, but is not necessarily limited to, conduct heretofore defined or known as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee, and embezzlement.

D. "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings represented or embodying rights concerning real or personal property, labor, service or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam or water, and trade secrets meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.

E. "Purpose to deprive" means to have the conscious object:

1. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; or

2. To restore the property only upon payment of a reward or other compensation; or

3. To dispose of the property under circumstances that make it unlikely that the owner will recover it. (Ord. 87-2 (CC §6.07), 1987)

9.32.080 Theft-Presumptions and Defenses. The following presumption shall be

applicable to Sections 9.32.070 through 9.32.160;

A. Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.

B. It is no defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this subsection shall not include a security interest for the repayment of a debt or obligation.

C. It is a defense under sections 9.32.070 through 9.32.160 that the actor:

1. Acted under an honest claim of right to the property or service involved; or
2. Acted in the honest belief that he/she had the right to obtain or exercise control over the property or service as he/she did; or
3. Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented. (Ord. 87-2 (CC §6.08), 1987)

9.32.090 Theft-Elements. A person commits theft if he/she obtains or exercises unauthorized control over the property of another with a purpose to deprive him/her thereof. (Ord. 87-2 (CC §6.09), 1987)

9.32.100 Theft-By Deception.

A. A person commits theft if he/she obtains or exercises control over property of another by deception and with a purpose to deprive him/her thereof.

B. Theft by deception does not occur, however, when there is only falsity as to matters having no pecuniary significance, of puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares or worth in communications addressed to the public or to a class or group. (Ord. 87-2 (CC §6.10), 1987)

9.32.110 Theft-Extortion.

A. A person is guilty of theft if he/she obtains or exercises control over the property of another by extortion and with a purpose to deprive him/her thereof.

B. As used in this section, extortion occurs when a person threatens to:

1. Cause physical harm in the future to the person threatened or to property at any time; or
2. Subject the person threatened or any other person to physical confinement or restraint; or
3. Engage in other conduct constituting a crime; or
4. Accuse any person of a crime or expose him/her to hatred, contempt or ridicule; or
5. Reveal any information sought to be concealed by the person threatened; or
6. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
7. Take action as an official against anyone or anything, or

withhold official action, or cause such action or withholding; or

8. Bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

9. Do any other act which would not in itself substantially benefit him/her but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation or personal relationships.

(Ord. 87-2 (CC §6.11), 1987)

9.32.120 Theft-Lost or Mistakenly Delivered Property. A person commits theft when:

A. He/she obtains property of another which he/she knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and

B. He/she has the purpose to deprive the owner of the property when he/she obtains the property or at any time prior to taking the measures designated in subsection A of this section. (Ord. 87-2 (CC §6.12), 1987)

9.32.130 Theft-Receiving Stolen Property.

A. As used in this section:

1. "Dealer" means a person in the business of buying or selling goods.

2. "Receives" means acquiring possession, control or title or lending on security of the property.

B. A person commits theft if he/she receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen or who conceals, sells, withholds or aids in concealing, selling or withholding any property from the owner, knowing the property to be stolen, with a purpose to deprive the owner thereof.

C. The knowledge or belief required for subsection B of this section is presumed in the case of an actor who:

1. Is found in possession or control of other property stolen on a separate occasion; or

2. Has received other stolen property within the year preceding the receiving offense charged; or

3. Being a dealer in property of the sort received, retained or disposed, acquires it for a consideration which he/she knows is far below its reasonable value;

4. Is a pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or an agent, employee or representative of the pawnbroker or person who buys, receives or obtains property to certify, in writing, that he/she has the legal rights to sell the property. If the value given the property exceeds twenty dollars, the pawnbroker or person shall also require the seller or person delivering the property to obtain a legible print, preferably the right thumb, at the bottom of the certificate next to his/her

signature and at least one other positive form of identification.

a. Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of the pawnbroker or person who fails to comply with the requirements of subdivision 4 of this subsection shall be presumed to have bought, received or obtained the property knowing it to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.

b. When in a prosecution under this section it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee or representative of a pawnbroker or person, that the defendant bought, received, concealed or withheld the property without requiring the person from whom he/she bought, received or obtained the property to sign the certificate required in subdivision 4 of this subsection and in the event the transaction involves an amount exceeding twenty dollars also place his/her legible print, preferably the right thumb, on the certificate, then the burden shall be upon the defendant to show that the property bought, received or obtained was not stolen.

(Ord. 87-2 (CC §6.13), 1987

9.32.140 Theft of Services.

A. As used in this section, "services" includes, but is not necessarily limited to, labor, professional service, public utility, and transportation services, restaurant, hotel, motel, tourist cabin, rooming house, and accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, gas, electricity, water or steam and the like, admission to entertainment, exhibitions, sporting events, or other events for which a charge is made.

B. A person commits theft if he/she obtains services which he/she knows are available only for compensation by deception, threat, force, or any other means designed to avoid the due payment therefor.

C. A person commits theft if, having control over the disposition of service of another, to which he/she knows he/she is not entitled, he/she diverts such service to his/her own benefit or to the benefit of another who he/she knows is not entitled thereto. (Ord. 87-2 (CC §6.14), 1987)

9.32.150 Theft-Rental Agreements. A person is guilty of theft if:

A. Having custody or property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of such property, he/she intentionally uses or operates it, without the consent of the owner, for his/her own purposes in a manner constituting a gross deviation from the agreed purpose; or

B. Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement. (Ord. 87-2 (CC §6.15), 1987)

9.32.160 Theft-Classification of Offenses.

A. Theft of property and services as provided in this chapter shall be punishable as a class B misdemeanor if the value of the property stolen was one hundred dollars or less.

B. Any person who has been injured by a violation of subsection B of Section 9.32.130 may bring an action against any person mentioned in subsection C4 of Section 9.32.130 for three times the amount of actual damages, if any sustained by the plaintiff, costs of suit and reasonable attorney's fees. (Ord. 87-2 (CC §6.16), 1987)

9.32.170 Tampering with Records.

A. Any person who, having no privileges to do so, knowingly falsifies, destroys, removes or conceals any writing, other than the writings enumerated in Section 76-6-503, UCA, 1953, or record, public or private, with intent to deceive or injure any person or to conceal any wrongdoing is guilty of tampering with records.

B. Tampering with records is a class B misdemeanor. (Ord. 87-2 (CC §6.17), 1987)

9.32.180 Altered or Fictitious Card. A person is guilty of a class B misdemeanor if he/she:

A. Gives false information on an application for the purpose of procuring a card of identification;

B. Knowingly has possession of or has under his/her control an altered or fictitious card of identification; or

C. Alters any information or photograph contained on a card of identification. (Ord. 87-2 (CC §6.18), 1987)

9.32.190 Bad Checks.

A. Any person who issues or passes a check for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property or other thing of value or paying for any services, wages, salary, labor or rent, knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of issuing a bad check.

B. For purposes of this section, a person who issues a check for which payment is refused by the drawee is presumed to know the check would not be paid if he/she had no account with the drawee at the time of issue.

C. An offense of issuing a bad check shall be punished if the check or series of checks made or drawn in this state within a period not exceeding six months amounts to a sum of not more than two hundred dollars. Such offense shall be a class B misdemeanor. (Ord. 87- 9.28(5), 1987; Ord. 87-2 (CC, §6.19), 1987)

9.32.200 Deceptive Business Practices.⁵

A. Definitions - Defense.

1. A person is guilty of a class B misdemeanor if in the course of business, he:

a. Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;

b. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he/she furnishes the weight or measure; or

c. Sells, offers or exposes for sale adulterated or mislabeled commodities.

2a. "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.

b. "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.

3. It is an affirmative defense to prosecution under this section that the defendant's conduct was not knowing or reckless.

B. Bribery of or Receiving Bribe by Person in the Business of Selection, Appraisal or Criticism of Goods or Services.

1. A person is guilty of a class B misdemeanor when, without the consent of the employer or principal, contrary to the interests of the employer or principal:

a. He/she confers, offers or agrees to confer upon the employee, agent or fiduciary of an employer or principal any benefit with the purpose of influencing the conduct of the employee, agent, or fiduciary in relating to his/her employer's or principal's affairs; or

b. He, as an employee, agent or fiduciary of an employer or principal, solicits, accepts or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence his/her conduct in relation to his/her employer's or principal's affairs; provided, that this section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent or fiduciary.

2. A person is guilty of violation of this section if he/she holds himself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of goods or services and he/she solicits, accepts or agrees to accept any benefit to influence his/her selection, appraisal, or criticism.

(Ord. 87-9.28(7) ' ' 1, 2, 1987; Ord. 87-2 (CC §6.22), 1987)

⁵ Statutory references: UCA 76-6-50

9.32.210 Defrauding Creditors. A person is guilty of a class B misdemeanor if:

A. He/she destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or

B. Knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors, he:

1. Destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or

2. Presents to any creditor or to an assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false. (Ord. 87-2 (CC §6.23), 1987)

9.32.220 Slugs-Making or Using.

A. As used in this section:

1. "Coin machine" means any mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination or a token made for the purpose, and in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.

2. "Slug" means any object which, by virtue of its size, shape, or other quality, is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill or token.

B. A person is guilty of a class B misdemeanor if:

1. With a purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, he/she inserts, deposits or uses a slug in that machine; or

2. He/she makes, possesses or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine. (Ord. 87-2 (CC §6.24), 1987)

9.32.230 Criminal Simulation.

A. A person is guilty of criminal simulation if, with intent to defraud another:

1. He/she makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source or authorship that it does not have; or

2. He/she sells, passes or otherwise utters an object so made or altered; or

3. He/she possesses an object so made or altered with intent to sell, pass or otherwise utter it; or

4. He/she authenticates or certifies an object so made or altered as genuine or as different from what it is.

B. Criminal simulation is punishable if the value defrauded or intended to be defrauded is less than one hundred dollars, the offense is a class B misdemeanor. (Ord. 87-2 (CC §6.25), 1987)

9.32.240 Retail Theft-Definitions. As used in this section through Section 9.32.290:

A. "Merchandise" means any personal property displayed, held or offered for sale by a merchant.

B. "Merchant" means an owner or operator of any retail mercantile establishment where merchandise is displayed, held or offered for sale and includes the merchant's employees, servants or agents.

C. "Minor" means any unmarried person under eighteen years of age.

D. "Peace officer" means an officer as described in Section 77-10-6, UCA, 1953, including a member of the highway patrol.

E. "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking lots or areas set aside for the benefit of those patrons of the retail mercantile establishment.

F. "Retail mercantile establishment" means any place where merchandise is displayed, held or offered for sale to the public.

G. "Retail value" means the merchant's stated or advertised price of the merchandise.

H. "Shopping cart" means those push carts of the types which are commonly provided by grocery stores, drug stores, or other mercantile establishments or markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store.

I. "Under-ring" means to cause the cash register or other sales recording device to reflect less than the retail value of the merchandise. (Ord. 87-2 (CC §6.26), 1987)

9.32.250 Retail Theft-Designated. A person commits the offense of retail theft when he/she knowingly:

A. Takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of such merchandise; or

B. Alters, transfers or removes any label, price tag, marking, indicia of value or any other markings with aid in determining value of any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of such merchandise; or

C. Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of such merchandise; or

D. Under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

E. Removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use or benefit of such cart. (Ord. 87-2 (CC §6.27), 1987)

9.32.260 Retail Theft-Detention of Suspect. Any merchant who has probable cause to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

A. To make reasonable inquiry as to whether such person has in his/her possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise;

B. To request identification;

C. To verify such identification;

D. To make a reasonable request of such person to place or keep in full view any merchandise such individual may have removed, or which the merchant has reason to believe he/she may have removed, from its place of display or elsewhere, whether for examination, purchase or for any other reasonable purpose;

E. To inform a peace officer of the detention of the person and surrender the person to the custody of a peace officer;

F. In the case of a minor, to inform a peace officer, the parents, guardian or other private person interested in the welfare of that minor immediately, if possible, of this detention and to surrender custody of such minor to such person; A merchant may make a detention as permitted herein off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person. (Ord. 87-2 (CC §6.28), 1987)

9.32.270 Retail Theft-Defense. In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by the merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had committed retail theft and that the merchant acted reasonably under all circumstances. (Ord. 87-2 (CC §6.29), 1987)

9.32.280 Retail Theft-Evidence. In any prosecution for a violation of this chapter, photographs of the goods or merchandise alleged to have been taken or converted shall be deemed competent evidence of such goods or merchandise and shall be admissible in any proceeding, hearing or trial to the same extent as if such goods and merchandise had been introduced as evidence. Such photographs shall bear a written description of the goods or merchandise alleged to have been taken or converted, the name of the owner of such goods and merchandise, or the store or establishment wherein the alleged offense occurred, the name of the accused, the name of the arresting peace officer, the date of the photograph and the name of the photographer. Such writing shall be made under oath by the arresting peace officer, and the photographs identified by the

signature of the photographer. Upon the filing of such photograph and writing with the authority or court holding in such goods and merchandise as evidence, such goods or merchandise shall be returned to their owner, or the proprietor or manager of the store or establishment wherein the alleged offense occurred. (Ord. 87-2 (CC §6.30), 1987)

9.32.290 Retail Theft-Penalty.

A. A violation of Sections 9.32.240 through 9.32.280 shall be punished in accordance with Section 9.32.160.

B. Any arrest made for a violation of this act shall be reported by the appropriate jurisdiction to the State Bureau of Criminal Identification which shall keep a record thereof together with the disposition thereof for purposes of inquiry by any law enforcement agency. (Ord. 87-2 (CC §6.31), 1987)

9.32.300 Entry on Private Property.

A. Any person entering upon the property or land owned by any other person, firm or corporation which is properly posted, without permission from the owner or person with apparent authority to act for the owner, is guilty of a class B misdemeanor.

B. Any person who upon request of the owner or person with apparent authority to act for the owner shall refuse to immediately leave such private land, whether posted or not, is guilty of a class B misdemeanor.

C. Any person who without the owner's permission shall obstruct any entrance or exit to private property is guilty of a class B misdemeanor.

D. The minimum fine under this section is fifty dollars.

E. Private Property

1. Private property shall be deemed properly posted when "No Trespassing" signs or other signs limiting special behavior and/or a minimum of one hundred square inches of fluorescent or bright yellow paint (on exterior fenceposts, tree; or when metal fenceposts are used, the entire exterior side must be painted) are displayed at approximately one-quarter mile intervals along the exterior boundaries and at all corners of the property and at all fishing streams that cross property lines, and along all roads, trails, gates and right-of-way entering such land. Posting must be confined to prevent access to privately owned land under the control of an individual, group or organization and is not valid in restricting access to public lands other than lands controlled by public agencies posted by such agencies as conservation measures or to prevent property destruction or the obstruction of or befouling of public waters.

2. Any landowner desiring enforcement of this provision must notify the city police department in writing fourteen days prior to enforcement that property is posted in the prescribed manner and that unless anyone has written permission to be on the property, the landowner expects the police to apprehend and prosecute the trespasser.

F. This section shall not apply to peace or conservation officers in performance of their duties.

G. Restricting Use

1. Any person, firm or corporation desiring to restrict use of or ingress on to privately owned property by the owner or owners and not others, except by permission, may post a special sign "entrance by permission only."

2. Written permission is not required for access to lands posted "entrance by permission only"; verbal permission is sufficient for access to such lands. However, landowners shall notify city police if such verbal permission is given to another. (Ord. 87-2 (CC §6.32), 1987)

9.32.310 Destruction of Signs or Equipment. It is unlawful and punishable as a class B misdemeanor for any person to shoot, deface, damage, remove or destroy signs or placards placed, permitted to be placed, or caused to be placed in any part of the city by the city or by a private landowner; or to damage, destroy, remove, or cause to be damaged, destroyed or removed any equipment or devices owned, controlled, or operated by the city; or to shoot, shoot at, damage, destroy, or remove any road signs placed upon any of the highways of the city. (Ord. 87-2 (CC §6.33), 1987)

9.32.320 Destruction of Sign on Private Land. It is unlawful for any person, without the consent of the owner or person with apparent authority to act for the owner of any privately owned land, to tear down, mutilate, or destroy any sign, signboard or other notice located on such property which regulates trespassing or otherwise limits or restricts specific behavior; or to, without such consent, tear down, deface, or destroy any fence or other enclosure on such privately owned land, or any gate or bars belonging to any such fence or enclosure. (Ord. 87-2 (CC §6.34), 1987)

9.32.330 Obstruction of Sidewalk.⁶ It is unlawful and punishable as a class C misdemeanor for any person to remain standing, lying or sitting on any sidewalk in such a manner as to obstruct the free passage of foot travelers thereon, or wilfully to remain standing, lying or sitting thereon in said manner after being requested to move by another citizen or any police officer or wilfully to remain on the sidewalk in front of any dwelling, house or place of business in such manner as to obstruct the free passage of any person into or out of such dwelling, house or place of business. (Ord. 87-9.25, 1987; Ord. 87-2 (CC §8.39), 1987)

9.32.340 Obstruction of Street.⁷ It is unlawful and punishable as a class C misdemeanor for any person to remain standing, lying or sitting on the street or highway, in such a manner as to obstruct the free passage of vehicular or pedestrian traffic thereon, or wilfully to remain standing, lying or sitting thereon in said manner after being requested to move by a citizen or any police officer, or wilfully to remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the

⁶ Statutory reference: UCA 76-9-102

⁷ Statutory references: UCA 76-9-102

street or highway or any property having access to the street or highway.
(Ord. 87-9.26, 1987; Ord. 87-2 (CC §8.40), 1987)

9.32.350 Motor Vehicles on Private or Public Property.

A. It is unlawful and punishable as a class B misdemeanor for any person to operate any type of motor vehicle (including but not limited to motorcycles, trail bikes, dune buggies, motor scooters or jeeps) upon the private property of another, except a highway or private street, without first obtaining the written permission of the person in lawful possession of the property or, if the property is unoccupied, the owner of such property.

B. It is unlawful for any person to operate any type of motor vehicle (including but not limited to motorcycles, trail bikes, dune buggies, motor scooters, or jeeps) upon any public property except a highway or private street, without first obtaining the written permission of the public entity which is in possession of such property or, if the property is unoccupied, the public entity which owns such property.

C. Every person who operates any type of motor vehicle upon the private property of another or upon any public property, except a highway or private street, at all times while so operating such motor vehicle shall maintain in his/her possession the written permission required by subsections A and B of this section, except that if the same document grants permission to two or more persons, a person named in such document need not have it in his/her possession while another person named in the same document riding in the same group has such document in his/her possession.

D. As used in this section, "private street" means a street over which private persons have an easement to travel and does not include driveways, paths or other ways over which no one has a right to travel except by license.

E. This section does not prohibit the use of such property by the following:

1. Emergency vehicles;
2. Vehicles of commerce in the course of the conduct of normal business;
3. Vehicles being operated on property devoted to commercial or industrial purposes where such operation is in conjunction with commercial or industrial use and where such operation is implied or expressly given by the person in possession of the property.
4. Vehicles operated on property actually used for residential purposes and where such vehicles are there at the expressed or implied invitation of the owner or occupant;
5. Vehicles being operated on public or private parking lots permission to so operate is implied or expressly given by the person in possession of the lot. (Ord. 87-2 (CC §8.41), 1987)

9.32.360 Water Use-Interfering with Distribution. Every person who in anyway interferes with or alters the flow of water in any stream, ditch or lateral while under the control or management of any water commissioner is guilty of a class B misdemeanor. (Ord. 87-2 (CC §9.12), 1987)

9.32.370 Water Use-Taking Water Out of Turn. Every person who, in violation of any right of any other person, wilfully turns or uses the water, or any part thereof, of any canal, ditch, pipeline or reservoir, except at a time when the use of the water has been duly distributed to the person, or wilfully uses any greater quantity of the water than has been duly distributed to him/her or in anyway changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change, or wilfully and maliciously breaks or injures any dam, canal, pipeline, watergate, ditch or other means of diverting or conveying water for irrigation or other useful purposes, is guilty of a class B misdemeanor. (Ord. 87-2 (CC §9.13), 1987)

9.32.380 Water Use-Obstruction of Watergates. Every person who rafts or floats logs, timber or wood down any river or stream and allows the logs, timber or wood to accumulate at or obstruct the watergates owned by any person or irrigation company taking or diverting the water of the river or stream for irrigation or manufacturing purposes is guilty of a class B misdemeanor. (Ord. 87-2 (CC §9.14), 1987)

9.32.390 Prohibited Disposal of Carcass or Offal. Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, corral or butcher shop into any river, creek, pond, street, alley, or public highway, or road in common use, or who attempts to destroy it by fire, within one-fourth of a mile of the city is guilty of a class B misdemeanor. (Ord. 87-2 (CC §9.29), 1987)

9.32.400 Bonfires on Street. It is unlawful for any person to build, maintain or assist in building or maintaining any fires upon any of the streets within the limits of the city. (Ord. 87-2 (CC §8.36), 1987)

9.32.410 Sign or Gate Removal.

A. It is unlawful for any person to remove mischievously any gates or signs within the limits of the city.

B. A violation of this section is a class B misdemeanor. (Ord. 87-2 (CC §8.37), 1987)

9.32.420 Tree or Monument Injury. It is unlawful for any person wilfully and maliciously to take down, injure or remove any monument erected or any tree marked as a boundary of any street, land or city lot, or to destroy or deface or alter the marks of any monuments. (Ord. 87-2 (CC §8.38), 1987)

Chapter 9.36 - Offenses by or Against Minors

9.36.010 Alcoholic Beverages-Selling or Supplying Prohibited.

A. No person shall sell or supply alcoholic beverages to any person under twenty-one years.

B. This section does not apply to the supplying of liquor to a person under the age of twenty-one years for medicinal purposes by the parent or guardian.

C. A violation of this section is a class B misdemeanor. (Ord. 87-2 (CC §8.19), 1987)

9.36.020 Alcoholic Beverages-Possession Prohibited.

A. No person under the age of twenty-one shall purchase, consume or possess any alcoholic beverage.

B. A violation of this section is an infraction. (Ord. 87-2 (CC §8.20), 1987)

9.36.030 Alcoholic Beverages-Misrepresentation of Age. It shall be unlawful for any minor to misrepresent his/her age, or for any other person to knowingly misrepresent the age of a minor, for the purpose of obtaining an alcoholic beverage. A violation of this section is a class B misdemeanor. (Ord. 87-2 (CC §8.21), 1987)

9.36.040 Curfew-Imposed. It is unlawful for any person under the age of sixteen years to be or to remain in or upon the streets, alleys, public places or vacant lots in the city on any night, except Friday night, between the hours of ten p.m. and four a.m., or to be upon the streets, alleys, public places or lots on Friday night between the hours of twelve midnight and four a.m., unless such person is accompanied by a parent, guardian or other person having legal custody of such minor person. The provisions of this section shall not apply to any such minor person whose employment of lawful business makes it necessary to be upon such streets, alleys or public places during said hours if such minor person has upon his/her person a written permit from the chief of police to be upon the streets, alleys or public places during said hours. (Ord. 87-2 (CC §8.44), 1987)

9.36.050 Curfew-Parents Responsibility. It is unlawful for the parent, guardian or person having the legal custody or charge of a person under the age of sixteen years to permit such minor person to go in or be in or upon any streets, alleys, public places or vacant lots in the city contrary to the provisions of this chapter. (Ord. 87-2 (CC §8.45), 1987)

9.36.060 Curfew-Violation. Any person violating any of the provisions of Sections 9.36.040 and 9.36.050 shall be guilty of a misdemeanor. (Ord. 87-2 (CC §8.46), 1987)

Chapter 9.40 - Weapons

9.40.010 Definitions. For purposes of this chapter:

A. "Bureau" means the Utah State Bureau of Criminal Identification.

B. "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. In construing whether an item, object or thing not commonly known as a dangerous weapon, is a dangerous weapon, the character of the instrument, object or thing; the character of the wound produced, if any; and the manner in which the instrument, object or thing was used shall be determinative.

C. "Firearms" means pistols, revolvers, sawed-off shotguns or sawed-off rifles, and/or any device that could be used as a weapon from which is expelled a projectile by any force.

D. "Prohibited area" means any place where it is unlawful to discharge a weapon.

E. "Sawed-off shotgun" means a shotgun having a barrel or barrels of less than eighteen inches in length, or in the case of a rifle, having a barrel or barrels of less than sixteen inches in length or any weapon made from a rifle or shotgun (whether by alteration, modification or otherwise), if the weapon as modified has an overall length of less than twenty-six inches. (Ord.2015-1, dated 1/13/15; prior code: Ord. 87-2 (CC §9.15), 1987)

9.40.020 Loaded-Designated. For the purpose of this section, any pistol, revolver, shotgun, rifle or other weapon described in this chapter, shall be deemed to be loaded when there is an unexpended cartridge, shell or projectile in the firing position, except in the case of pistols and revolvers, in which case they shall be deemed loaded when the unexpended cartridge, shell or projectile is in a position that the manual operation of any mechanism once would cause the unexpended cartridge, shell or projectile to be fired; and a muzzle loading firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinders. (Ord. 87-2 (CC §9.16), 1987)

9.40.030 Carrying Concealed Dangerous Weapon. Any person carrying a concealed dangerous weapon as defined in this chapter is guilty of a class B misdemeanor, unless the dangerous weapon is a firearm and is carried with proper permits in accordance with the laws of the State of Utah. (Ord.2015-1, dated 1/13/15; prior code: Ord. 87-2 (CC §9.17), 1987)

9.40.040 Carrying Loaded Firearm in Vehicle or On Street. Every person who carries a loaded firearm in a vehicle or on any public street in the city is guilty of a class B misdemeanor, unless the firearm is carried with proper permits in accordance with the laws of the State of Utah. (Ord.2015-1, dated 1/13/15; prior code: Ord. 87-2 (CC §9.18), 1987)

9.40.050 Threatening Use in Fight or Quarrel. Every person, except those persons described in Section 76-10-503, UCA, 1953, who, not in necessary self-defense in the presence of two or more persons, draws or exhibits any dangerous weapon

in any angry and threatening manner or unlawfully uses the same in any fight or quarrel is guilty of a class B misdemeanor. (Ord. 87-2 (CC §9.19), 1987)

9.40.060 Discharge of Firearm from Vehicle or Near Highway. It is unlawful for any person to discharge any kind of firearm from an automobile or other vehicle or to discharge a firearm from, upon or across any highway. A person violating any provision of this section is guilty of a class B misdemeanor. (Ord. 87-2 (CC §9.20), 1987)

9.40.070 Possession by Minor. A minor under the age of eighteen may not possess a dangerous weapon as defined in this chapter unless he/she has the permission of his/her parent or guardian to have such weapon or is accompanied by parent or guardian while he/she has such weapon in his/her possession. In any event, any minor who is under the age of fourteen years must be accompanied by a responsible adult. (Ord. 87-2 (CC §9.21), 1987)

9.40.080 Use Under Influence of Alcohol or Drugs. It is unlawful for any person to possess or use weapons in the city while under the influence of alcohol or illegal drugs. A violation of this section is a class B misdemeanor. (Ord. 87-2 (CC §9.22), 1987)

9.40.090 Firearms Discharge Generally. A person may not discharge any kind of dangerous weapon or firearm in violation of Utah Code Annotated §76-10-508, 1953, as amended. It is further unlawful for any person to discharge any gun, pistol or other firearm within the corporate limits of the city, with the following exceptions:

- A. In self-defense.
- B. The case of the city police officer or any other lawfully appointed peace officer, in the discharge of his/her official duties.
- C. The case of hunting in compliance with the laws of the State of Utah and with the permission of the owner thereof or person entitled to the possession thereof.
- D. The case of target shooting, after the erection in a suitable place of a proper breastwork or battery to ensure projectiles do not leave the owner's property, allowing for the protection of the citizens.
- E. In the harvesting of domestic livestock or for nuisance animals, limited to those nuisance animals that threaten human society by spreading diseases or destroying crops, in such a manner that the projectile does not exit that owner's property. (Ord.2015-1, dated 1/13/15; prior code §7-1-1)

9.40.100 Target Shooting Area. Repealed. Commercial shooting ranges are regulated in the Land Use Sections of City Code. (Ord.2015-1, dated 1/15/15: prior code §7-1-2)

9.40.110 Unlawful Use of Firearms-Hunting. All hunting within City limits must be done in accordance with Utah State laws governing such activities. It is unlawful for any person on the land of another person, whether with or without his/her

permission, to damage, disarrange or destroy property, real or personal, fixed or moveable; or to shoot at or destroy signs, orchards, gardens, flower-beds, nurseries, buildings, livestock, domestic fowl or bee-hives.

Hunting on private property may not commence until express written permission of the property owner(s) has been obtained. Individuals engaged in hunting must possess such written permission on their persons while they are hunting.
(Ord.2015-1, dated 1/13/15; prior code: Ord. 7-1-3, 1983: prior code §7-1-3)

9.40.130 Firearm Violations. Any person, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor. (Amended during 1988 codification; prior code §7-1-4)

9.40.140 Authorized Possession-Generally. Nothing in this chapter shall be construed to prohibit a citizen of the United States over the age of eighteen years who resides or is temporarily within this state and who is not within the excepted classes as prescribed by Section 76-10-503, UCA, 1953, from owning, possessing or keeping within his/her place of residence or place of business or any vehicle under his/her control any pistol, revolver or other firearm or dangerous weapon capable of being concealed upon the person, and no permit or license to purchase, own, possess or to keep any such firearm or weapon at his/her place of residence, or place of business or any vehicle under his/her control, shall be required of him. (Ord. 87-9.36, 1987: (CC §9.23), 1987)

9.40.150 Authorized Possession-At Residence. Nothing in this chapter shall prevent any person, except persons described in Section 76-10-503, UCA, 1953, from having a loaded weapon at his/her place of residence, including any temporary residence or camp. (Ord. 87-2 (CC §9.24), 1987)

9.40.160 Return to Owner. If the police department has in its possession a weapon after it has been used for other purposes, he/she shall determine the true owner of the weapon and return it to him; however, if unable to determine the true owner of the weapon, or if the true owner is the person committing the crime for which the weapon was used as evidence, the department shall confiscate it and shall revert it to that agency for their use and/or disposal as the head of the department determines. (Ord. 87-2 (CC §9.25), 1987)

Chapter 9.44 - Punishment

9.44.010 Misdemeanors Classified.

A. Misdemeanors are classified into two categories:

1. Class B misdemeanors;
2. Class C misdemeanors.

B. An offense designated a misdemeanor, in this code, without specification as to punishment or category, is a class B misdemeanor. (Ord. 87-2 (CC §3.01), 1987)

9.44.020 Infractions.

A. Infractions are not classified.

B. Any offense which is an infraction within this code is expressly designated. (Ord. 87-2 (CC §3.02), 1987)

9.44.030 Sentences Allowed-Civil Penalties.

A. Within the limits prescribed by this chapter, a court may sentence a person adjudged guilty of an offense to any one of the following sentences or combination of such sentences:

1. To pay a fine; or
2. To remove from and/or disqualification of public or private office;

or

3. To probation; or
4. To imprisonment; or
5. Restitution.

B. Nothing contained in this section shall deprive a court of authority conferred by law to forfeit property, dissolve a corporation, suspend, or cancel a license or permit removal of a person from office, cite for contempt, or impose any other civil penalty. A civil penalty may be included in a sentence.

C. As used in subsection D of this section:

1. "Criminal activities" means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.

2. "Pecuniary damages" means all special damages, but not general damages which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and shall include, but not be limited to, the money equivalent of property taken, destroyed, broken or otherwise harmed and losses such as medical expenses.

3. "Restitution" means full, partial or nominal payment of pecuniary damages to a victim.

4. "Victim" means any person whom the court determines has suffered pecuniary damages as a result of the defendant's criminal activities; "victim" shall not include any co-participant in the defendant's criminal activities.

D. Court Action

1. When a person is adjudged guilty of criminal activities which

have resulted in pecuniary damages, in addition to any other sentence it may impose, the court may order that the defendant make restitution to the victim.

2. In determining whether to order restitution which is complete, partial or nominal, the court shall take into account:

a. The financial resources of the defendant and the burden that the payment of restitution will impose, with due regard to the other obligations of the defendant;

b. The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;

c. The rehabilitative effect on the defendant of the payment of restitution and the method of payment; and

d. The situation of the victim and requirements of justice.
(Ord. 87-9.52(3), 1987; Ord. 87-2 (CC §3.03), 1987)

9.44.040 Fine-Nonpayment as Contempt.

A. When a defendant sentenced to pay a fine or to make restitution defaults in the payment thereof or of any installment, the court on motion of the city attorney, victim, or upon its own motion may require him/her to show cause why his/her default should not be treated as contempt of court, and may issue a show cause citation or a warrant of arrest for his/her appearance.

B. Unless the defendant shows that this default was not attributable to an intentional refusal to obey the order of the court or to a failure on his/her part to make a good faith effort to make the payment, the court may find that his/her default constitutes contempt and may order him/her committed until the fine or the restitution, or a specified part thereof, is paid.

C. When a fine or an order of restitution is imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the fine or make the restitution from those assets, and his/her failure to do so may be held to be contempt unless he/she makes the showing required in subsection B of this section.

D. The term of imprisonment for contempt for nonpayment of fines or failure to make restitution shall be set forth in the commitment order.

E. 1. If it appears to the satisfaction of the court that the default in the payment of a fine or restitution is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the fine or order of restitution or the unpaid portion thereof in whole or in part.

2. A default in the payment of a fine or costs or failure to make restitution or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment.

3. The levy of execution for the collection of a fine or restitution shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine or restitution has actually been collected. (Ord. 87-2 (CC §3.04), 1987)

9.44.050 Civil Action by Victim for Damages.

A. Nothing in these sections limits or impairs the right of a person injured by a defendant's criminal activities to sue and recover damages from the defendant in a civil action. Evidence that the defendant has paid or been ordered to pay restitution pursuant to these sections, may not be introduced in any civil action arising out of the facts and or events which were the basis for the restitution. However, the court shall credit any restitution paid by the defendant to a victim against judgment in favor of the victim in such civil action.

B. If conviction in a criminal trial necessarily decides the issue of a defendant's liability for pecuniary damages of a victim, that issue is conclusively determined as to the defendant if it is involved in a subsequent civil action. (Ord. 87-2 (CC §3.05), 1987)

9.44.060 Violations. Unless otherwise specified, any violation of this title is a class B misdemeanor. (Ord. 87-9.52, 1987)

9.44.070 Additional Sanctions Against Corporation.

A. When a corporation or association is convicted of an offense, the court may, in addition to or in lieu of imposing other authorized sanctions, require the corporation or association to give appropriate publicity of the conviction by notice to the class or classes of persons or section of the public interested in or affected by the conviction, by advertising in designated areas, or by designated media or otherwise.

B. When an executive or high managerial officer of a corporation or association is convicted of an offense committed in the furtherance of the affairs of the corporation or association, the court may include in the sentence an order disqualifying him/her from exercising similar functions in the same and other corporations or associations for a period of not exceeding five years if it finds the scope or wilfulness of his/her illegal actions make it dangerous or inadvisable for such functions to be entrusted to him. (Ord. 87-2 (CC §3.07), 1987)