

CITY OF VALDEZ, ALASKA

ORDINANCE NO. 17-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALDEZ,  
ALASKA AMENDING TITLE 9 PUBLIC PEACE AND WELFARE OF THE  
VALDEZ MUNICIPAL CODE

WHEREAS, Senate Bill 91 was adopted by the Alaska legislature thereby reducing the class of crimes for certain offenses, changing certain offenses from crimes to minor offenses, and placing the prosecutorial burden with municipalities; and

WHEREAS, amendments to Title 9 related to public peace and welfare are necessary for the efficient administration of justice in the City of Valdez; and

WHEREAS, a legal review of Title 9 provided amendments for the purpose of conformance with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA that the following amendments are made to Title 9 of the Valdez Municipal Code:

Section 1: Title 9 of the Valdez Municipal Code is hereby amended to read as follows:

**Title 9**

**PUBLIC PEACE AND WELFARE**

**Chapters:**

- 9.04 General Provisions**
- 9.08 Offenses by or Against Public Officers and Government**
- 9.12 Offenses Against Public Peace and Decency**
- 9.16 Theft and Related Offenses**
- 9.20 Offenses Relating to Property**
- 9.24 Offenses by or Against Minors**
- 9.28 Controlled Substances**
- 9.32 Weapons**
- 9.36 Emergency Preparedness**
- 9.38 Trapping**

## Chapter 9.04

### GENERAL PROVISIONS

Sections:

9.04.010 Definitions—Conformance with state law.

9.04.020 Illegal acts generally.

#### **9.04.010 Definitions—Conformance with state law.**

Except as otherwise provided, the Alaska Statutes relating to the provisions of this title shall apply and are hereby incorporated by reference as though fully set forth herein.

#### **9.04.020 Illegal acts generally.**

A. No person shall do any of the following:

1. Solicit a person for the purpose of committing any illegal act;
2. Engage in any illegal occupation or business;
3. Attend or frequent any place in which an illegal business is permitted or conducted.

B. Voluntary intoxication is not a defense to a prosecution for an offense. Evidence of voluntary intoxication is admissible solely on the issue of whether or not the defendant actually formed a required specific intent. ~~but evidence that the defendant was intoxicated may be offered whenever it is relevant to negate an element of the offense that requires that the defendant intentionally cause a result.~~

## Chapter 9.08

### OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sections:

9.08.010 False alarms prohibited.

9.08.020 False reports.

9.08.030 Resisting arrests—Aiding escapes from police custody—Impersonation of police officers.

9.08.040 Escapes from jail.

9.08.050 Misuse of the 911 or emergency call system.

9.08.060 Violation – Penalty.

#### **9.08.010 False alarms prohibited.**

No person shall maliciously turn in or cause to be turned in a false fire alarm.

#### **9.08.020 False reports.**

No person shall register, make, render or report any false alarm, report or complaint to the fire department, police department or any other city department knowing such alarm, report or complaint to be false. No person shall obtain the assistance of the fire department, police department or any other city department including, but not limited to, the city ambulance, through the making of a false report or request, knowing such report or request to be false.

#### **9.08.030 Resisting arrests—Aiding escapes from police custody—Impersonation of police officers.**

No person shall do any of the following:

- A. Resist arrest by a police officer or assist a person in custody of a police officer to escape;
- B. Impersonate a police officer or, without authority, attempt to exercise his powers.

#### **9.08.040 Escapes from jail.**

No person, who has been confined to the city jail, or any city institution provided for prisoners, shall escape from such jail or institution. It shall be unlawful for any person to aid or abet or in any way contribute in any manner to the aid of any person to escape or attempt to escape from such city jail or institution provided for prisoners.

#### 9.08.050 Misuse of the 911 or emergency call system.

It shall be unlawful for any person to make a request for emergency response services using the 911 or any emergency call system when no actual emergency exists and when the caller does not have a good faith basis to request emergency assistance.

#### 9.08.060 Violation-Penalty

Upon citation under 9.08.010 – 9.08.050 court appearance is mandatory.

## Chapter 9.12

### OFFENSES AGAINST PUBLIC PEACE AND DECENCY

#### Sections:

- 9.12.010 Offenses against the peace—Disorderly conduct.
- 9.12.020 Vagrancy.
- 9.12.030 Loitering, etc., on school grounds.
- 9.12.040 ~~Registration of hotel guests—Occupancy of hotel rooms.~~
- 9.12.050 Gambling.
- 9.12.060 ~~Forfeiture of gambling-related items.~~
- 9.12.070 Fireworks, explosives, stench bombs.
- 9.12.080 Invasive viewing prohibited. ~~Offenses against decency—Generally.~~
- 9.12.090 Prostitution, lewdness, assignation, etc.

#### **9.12.010 Offenses against the peace—Disorderly conduct.**

A. A person commits the crime of disorderly conduct if:

1. With intent to disturb the peace and privacy of another not physically on the same premises or with reckless disregard that the conduct is having that effect after being informed that it is having that effect, the person makes unreasonably loud noise;
2. In a public place or in a private place of another without consent, and with intent to disturb the peace and privacy of another or with reckless disregard that the conduct is having that effect after being informed that it is having that effect, the person makes unreasonably loud noise;
3. In a public place, when a crime has occurred, the person refuses to comply with a lawful order of a peace officer to disperse;
4. In a private place, the person refuses to comply with an order of a peace officer to leave premises in which the person has neither a right of possession nor the express invitation to remain of a person having a right of possession;
5. In a public or private place, the person challenges another to fight or engages in fighting other than in self-defense;
6. The person recklessly creates a hazardous condition for others by an act which has no legal justification or excuse; or
7. The offender intentionally exposes the offender's buttock or anus to another with reckless disregard for the offensive or insulting effect the act may have on that person.

B. As used in this section, "noise" is "unreasonably loud" if, considering the nature and purpose of the defendant's conduct and the circumstances known to the defendant,

including the nature of the location and the time of day or night, the conduct involves a gross deviation from the standard of conduct that a reasonable person would follow in the same situation. "Noise" does not include speech that is constitutionally protected.

C. Violation of this section is punishable by a fine of fifty dollars for a first violation, one hundred dollars for a second violation, two hundred dollars for a third violation, and four hundred dollars for a fourth and each subsequent offense.

#### **9.12.020 Vagrancy.**

It is unlawful for any person to occupy, lodge or sleep in any vacant or unoccupied barn, garage, shed, shop, washroom, or other building or structure other than such as is kept for lodging purposes, or on any lot, beach, sidewalk or other real property, or in any automobile, truck, bus, or other vehicle, without owning the same or without permission of the owner or person entitled to the possession thereof.

#### **9.12.030 Loitering, etc., on school grounds.**

It is unlawful for any person to loiter, idle or wander in, about or on any public, private or parochial school grounds or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout, or in connection with such school or the employees thereof, or for any person to do any of the following:

A. Disrupt or otherwise prevent the orderly conduct of classes and activities of any such school;

~~B. Disrupt, assault or molest any student or employee of any such school while in any such school building or on any school grounds;~~

~~B~~C. Conduct themselves ~~himself~~ in a loud, wanton or lascivious manner in speech or behavior in or about any such school building or school grounds;

~~D. Park or move a vehicle in the immediate vicinity of, or on the grounds of, any such school for the purpose of disrupting or molesting the students or employees thereof or in an effort to induce, entice or invite students into such vehicle for illegal purposes.~~

C. Violation of this section is punishable by a fine of fifty dollars for a first violation, one hundred dollars for a second violation, two hundred dollars for a third violation, and four hundred dollars for a fourth and each subsequent offense.

#### **~~9.12.040 Registration of hotel guests—Occupancy of hotel rooms.~~**

~~A. All hotel guests, roomers and lodgers shall register their names and addresses with the person in charge for registering guests.~~

~~B. No person shall, in registering as required in this section, use any name other than his own full correct name with the intent to commit an illegal act or escape punishment for committing an illegal act.~~

~~C. For the purpose of this section, “hotels” means and includes all public lodging places, including but not limited to hotels, motels, lodging houses, boardinghouses and rooming houses.~~

~~D. The requirements of this section shall not apply to victims of domestic violence or lodging places provided to victims of domestic violence. (Ord. 14-06 § 1 (part); prior code § 17-2)~~

### **9.12.050 Gambling.**

A. The provisions of Title 11, of the Alaska Statutes relating to gambling are hereby incorporated by reference as though fully set forth herein. A person engaged in unlawful gambling shall be guilty of a minor offense punishable by a fine not to exceed one thousand dollars. Upon citation under this section court appearance is mandatory. ~~No person shall receive or accept any money or thing of value with the agreement or understanding that any money or thing of value will be paid or delivered to any person where such payment or delivery is or will be contingent upon the result of any race, contest, game, mechanical device or upon the happening of any event not known by the parties to be certain. The term “thing of value,” as used in this section, shall include everything having value whether intrinsic or not.~~

~~1. It shall not be a violation of this section to conduct raffles, bingo, ice pools and related activities of a bona fide nonprofit nature under a valid and existing permit issued pursuant to law by the Department of Revenue of the state. The burden of proving that the act complained of falls within the exception noted in this subdivision shall be upon the person charged.~~

~~2. No person shall attend or frequent or invite another to attend or frequent any place where gambling is permitted or any place operated or occupied as a common gambling house or room.~~

~~3. No person shall have in his possession any policy or pool tickets; any slips or checks or memoranda of any combination or bet; any policy or pool books or sheets; or any policy wheel, implement, apparatus or material of any form of gambling or lottery.~~

~~4. No person shall maintain a gambling or lottery room; policy wheel or gaming table of any game of skill or chance, or partly of skill and partly of chance, used for gaming, or permit the same on any premises occupied or controlled by him.~~

~~B. It shall be an affirmative defense to violation under this section that the gambling activity giving rise to the charge was a social game. It shall be a separate affirmative defense that the activity was limited to card games and did not involve sale of alcoholic beverages, and was not open to the public, and the premises were not used for aiding or abetting any illegal activities. (Ord. 14-06 § 1 (part); prior code § 17-18)~~

### **~~9.12.060 Forfeiture of gambling-related items.~~**

~~A.— All gambling implements, accessories or paraphernalia, and all other items used or intended to be used in gambling or any gambling-related activity are subject to seizure by any police or other agency of the United States, the state of Alaska or the city, and forfeiture to the city. “Gambling” is those activities set forth in Section 9.12.050, or as defined by any other applicable law of the United States or the state. Gambling-related activities are those which support or encourage gambling, including those which make the gambling location more hospitable and comfortable.~~

~~Forfeiture under this section encompasses, but is not limited to, the following:~~

- ~~1.— All gambling implements;~~
- ~~2.— All items used to make the gambling area more pleasant or hospitable, such as food, drink and cigarettes;~~
- ~~3.— All monies, negotiable instruments, and any other things used or intended to be used or wagered in gambling or gambling-related activities, including all monies in the control of the players or operators, and the casino bank; and~~
- ~~4.— All other items used or intended to be used in gambling, or gambling-related activity, even though not specifically enumerated.~~

~~B.— All items listed in subsection A of this section shall be forfeited to the city. All items which have only gambling-related uses shall be destroyed, sold, or otherwise disposed of, as may be in the public interest depending upon the particular item involved. All checks, drafts, and other negotiable instruments shall be converted immediately to cash. All moneys seized, or derived from the sale of property seized or conversion of negotiable instruments, shall be deposited in the general or other fund of the city.~~

~~C.— All items listed in subsection A of this section may be forfeited to the city regardless of whether the property was seized by police officers of the United States, the state or the city, acting under the authority of United States, Alaska, or Valdez law, or the property came under the jurisdiction or control of the city in any other manner.~~

~~D.— The forfeiture of gambling-related items to the city is a remedy of the city directed at the items themselves, and is entirely independent of the rights or criminal or civil liabilities of any of the participants involved in the gambling or gambling-related activity. Accordingly, the items listed in subsection A of this section may be forfeited to the city without regard to the particular charges and dispositions involving the participants.~~

~~This remedy is civil rather than criminal, and is to be construed and applied in accord with the laws and rules pertaining to civil actions.~~

~~E.— This section applies to all property seized within the city presently in the custody of the Alaska or city police departments or other law enforcement agencies, or presently in the custody of any court, or which may come into the custody of any of these at any~~

time in the future. This section also applies to all property coming into the custody of the city, regardless of where seized. (Ord. 14-06 § 1 (part); prior code § 17-18.1)

#### **9.12.070 Fireworks, explosives, stench bombs.**

A. Use of fireworks is prohibited at all times except ~~permitted~~ from ten p.m. on July 3rd to eleven-fifty-nine p.m. on July 4th, and from ten p.m. on December 31st to eleven-fifty-nine p.m. on January 1st of each year subject to provisions of Section 8.20.050.

B. The sale of fireworks to any person under the age of 18 is prohibited. It is unlawful for persons under 18 years of age to purchase fireworks. Purchasers of fireworks must show proof of age upon request by seller.

C. It is unlawful for any person to negligently or unlawfully discharge fireworks in a manner that could reasonably cause harm to life and property.

D. It is unlawful for any person under the influence of alcohol or a controlled substance to discharge fireworks.

E.B. The chief of police may revoke permission whether expressly given or implied under this section where the health and safety of a person may be endangered.

F. Violation of A –B of this section is punishable by a \$100.00 fine. Violation of C –D of this section is punishable by a \$300.00 fine.

#### **9.12.080 Invasive viewing prohibited. Offenses against decency—Generally.** ~~No person shall do any of the following:~~

~~A. Engage in invasive viewing.~~

A4. It is unlawful for any person to look into the windows or doors of any dwelling or building in the city in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy and without the occupant's express or implied consent.

B2. It is unlawful for any person to use any camera, videotape, photo-optical, photoelectric or any other image recording device for the purpose of secretly photographing, filming, or videotaping a person present in a dwelling or other building, if that person:

1a. Is in a private area out of public view; or

2b. Has a reasonable expectation of privacy; or

3e. Has not consented to the observation.

C. Upon citation under this section court appearance is mandatory.



### **9.12.090 Prostitution, lewdness, assignation, etc.**

A. "Prostitution" means the giving or receiving of the body for sexual intercourse for hire. "Lewdness" means any indecent or obscene act. "Assignation" means the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.

B. No person shall engage in prostitution, lewdness or assignation.

C. No person shall solicit, induce, entice, invite, compel, force, require or procure another to commit an act of lewdness, assignation or prostitution.

D. No person shall maintain or operate any place, house, building, other structure or part thereof or vehicle or trailer used for the purpose of lewdness, assignation or prostitution, or let, lease or rent any such place, premises or conveyance or part thereof to another with knowledge or reasonable cause to believe that the intention of the lessee is to use such place, premises or conveyance for prostitution, lewdness or assignation.

E. No person shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act.

F. No person shall direct, take or transport, or offer or agree to take or transport, or aid or assist in transporting, another to any house, place, building, other structure, vehicle, trailer or to any other person with knowledge or reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation.

G. No person shall knowingly accept, receive, levy or appropriate any money or other thing of value without consideration from a prostitute or from the proceeds of any woman engaged in prostitution.

H. No person shall attend or frequent, reside in, enter or remain in any house, place, building or other structure, or enter or remain in any vehicle or trailer for the purpose of prostitution, lewdness or assignation.

I. No person shall attend or frequent, reside in, enter or remain in any place where prostitution, lewdness or assignation is practiced, encouraged or allowed.

J. Upon citation under this section court appearance is mandatory.

## **Chapter 9.16**

### **THEFT AND RELATED OFFENSES**

Sections:

9.16.010 Issuing checks on insufficient funds.

Ordinance No. 17-03

Page 9

Redline indicates additions/~~Strikethrough indicates deletions~~

- 9.16.020 Theft Obtaining money, property, etc., by false pretenses.  
9.16.030 Concealment of merchandise.  
9.16.040 Fraudulent use of an access device.

**9.16.010 Issuing a bad check ~~checks on insufficient funds.~~**

A. A person commits the crime of issuing a bad check if the person issues a check knowing that it will not be honored by the drawee. ~~No person shall make, draw, utter or deliver any check, draft or order for the payment of money upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering that the maker or drawer has not sufficient funds in, or credit with, such bank or other depository for the payment of such check, draft or order in full, upon its presentation, and without fully informing the payee of such check, draft or order, or the person to whom it is delivered, at the time of the making, uttering, drawing or delivering such check, draft or order that the maker or drawer has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft or order, in full, upon presentation; or, any person who having such funds or credits at the time of making, drawing, uttering or delivering such check, draft or order sufficient for the payment of the same, has knowingly drawn, made, uttered or delivered other checks, drafts or orders which, if presented in due course, would have exhausted such funds or credits, or knowing at the time of the making, uttering, issuing or delivering of such check, draft or order, that for other reasons such funds or credits would be exhausted by the time such check, draft or order would be presented; or, any person who shall knowingly, after drawing, making, uttering or delivering such check, draft or order, by any means, exhaust the funds or credits upon which such check, draft or order is drawn before it is presented for payment.~~

B. In a prosecution under this section, it is prima facie evidence that the drawer knew the check would not be honored by the drawee if: ~~As against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of knowledge of insufficient funds in or credit with such bank or other depository; provided, that such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees, within two days after receiving notice that such check, draft or order has not been paid by the drawee.~~

1. Payment of the check was refused by the drawee for lack of funds upon presentation within 30 days after issue, and the drawer failed to make full satisfaction of the amount due within 15 days after notice of dishonor was deposited as first class mail, addressed to the drawer at the address appearing on the dishonored check or the drawer's last known address; or

2. The drawer had no account with the drawee at the time the check was issued.

C. In this section: ~~The word "credit" as used in this section shall be construed to mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order.~~

1. "Amount due" means the face amount of the dishonored check plus all costs and protest fees assessed by the drawee;

2. "Check" means a draft, check, or similar sight order for the payment of money, but does not include a postdated check or a promissory note;

3. A person "issues" a check when as a drawer the person delivers it or causes it to be delivered to a person who thereby acquires a right against the drawer with respect to the check; a person who draws a check with the intent that it be so delivered is considered to have issued it if the delivery occurs.

D. Violation of this section is punishable by a minimum fine of one hundred dollars. Upon citation under this section court appearance is mandatory.

**9.16.020 Theft. Obtaining money, property, etc., by false pretenses.**

~~No person shall obtain money, property or other thing of value, including, but not limited to, the use of coin vending devices or the use of any public utility service, by false pretenses or representations, or the use of any device or means by which the use of any such machine or service is secured without paying or contracting to pay the established consideration therefor or the consideration for the use thereof is charged to another person without the authorization or subsequent consent of such person.~~

A. A person commits theft if:

1. With intent to deprive another of property or to appropriate property of another to oneself or a third person the person obtains the property of another;

2. The person commits theft of lost or mislaid property under AS 11.46.160;

3. The person commits theft by deception under AS 11.46.180;

4. The person commits theft by receiving under AS 11.46.190;

5. The person commits theft of services under AS 11.46.200;

6. The person commits theft by failure to make required disposition of funds received or held under AS 11.46.210.

B. Violation of this section is punishable by a minimum fine of one hundred dollars. Upon citation under this section court appearance is mandatory.

**9.16.030 Concealment of merchandise.**

A. A person commits the crime of concealment of merchandise if without authority the person knowingly conceals on or about the person the merchandise of a commercial establishment, not purchased by the person, while still on the premises of the

commercial establishment, with intent to deprive the owner of the merchandise or with intent to appropriate the merchandise.

B. Merchandise found concealed upon or about the person which has not been purchased by the person is prima facie evidence of a knowing concealment.

C. Violation of this section is punishable by a minimum fine of one hundred dollars. Upon citation under this section court appearance is mandatory.

#### **9.16.040 Fraudulent use of an access device.**

A. A person commits the crime of fraudulent use of an access device if, with intent to defraud, the person uses an access device to obtain property or services with knowledge that the access device is stolen or forged; the access device is expired or has been revoked or cancelled; or for any other reason, that person's use of the access device is unauthorized by either the issuer or the person to whom the access device is issued.

B. Violation of this section is punishable by a minimum fine of one hundred dollars. Upon citation under this section court appearance is mandatory.

### **Chapter 9.20 OFFENSES RELATING TO PROPERTY**

Sections:

9.20.010 Generally.

9.20.020 Disposal of abandoned, found or stolen property—Returning unclaimed property to finder.

9.20.030 Criminal trespass.

#### **9.20.010 Generally.**

No person shall do any of the following:

A. Maliciously destroy or injure any public property or any private property not his own;

B. Drive a vehicle not his own without the owner's consent;

C. ~~Trespass upon the private property of another without his consent;~~

D. ~~Steal any property of a value not exceeding one hundred dollars; provided, that the city may, at its option, treat as petit larceny the theft of a sum greater than one hundred dollars;~~

**C**E. Interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by any city officer without permission from such officer;

**D**F. Willfully obstruct the free passage of or injure or deface public streets, highways, sidewalks or alleys by digging or breaking or by placing objects in such streets, highways, sidewalks and alleys without proper authority from the city official in charge of such streets, highways, sidewalks or alleys;

**E**G. Willfully remove, throw down, destroy, extinguish or carry away any light, obstruction, guard or other similar article or thing erected or placed on any highway, street, alley, avenue or bridge for the purpose of guarding or enclosing unsafe or dangerous places without the consent of the person in control of that safeguard or danger signal;

**F**H. Willfully damage, remove or carry away fire hydrants, hydrant caps, sewer caps, manhole covers or any other part of the city water, sewer or fire protection systems;

**G**I. Create any obstruction or blockage in any pipe, drain or gutter that may hinder the passage of water in, to or from the city water, sewer or fire protection systems;

**H**J. Harvest live trees on municipal public property with the following exceptions:

1. City of Valdez employees or contractors directed to do so in order to maintain public rights-of-way, easements, recreational trails, snow lots, municipal infrastructure; or in preparation for public construction; or in defense of public health and safety;
2. Employees and contractors of utility companies working within designated easements, or where permission has been granted by the city, in the installation, repair or replacement of utilities;

**I**K. Harvest dead fallen or standing trees on municipal public property without a valid wood harvesting permit issued by the city.

**J.** Upon citation under A - G of this section court appearance is mandatory. Violation of H or I of this section is punishable by a fine of fifty dollars for a first violation and one hundred dollars for each subsequent violation. Upon citation under H or I of this section court appearance is optional.

#### **9.20.020 Disposal of abandoned, found or stolen property—Returning unclaimed property to finder.**

A. Disposable Property. Except as otherwise required by law, the following property in possession of the police department may be disposed of as provided in this chapter:

1. Property collected as evidence and not claimed by the owner within thirty days after final disposition (including appeal proceedings) of the criminal case to which it pertains;
2. Property voluntarily tendered or found and delivered to the police department and not claimed by the owner within thirty days thereafter;

3. Stolen property recovered by the police department and not claimed by the owner within thirty days after such recovery. The term “disposable property,” as used in this chapter, does not include a motor vehicle which has been impounded for any reason.

B. Notice of Possession and Sale of Unclaimed Property.

1. The chief of police shall publish in a newspaper of general circulation in the city for two consecutive weeks a notice of possession of disposable property valued in excess of two hundred fifty dollars. At approximately the same time as the first publication, the chief of police shall send copies of the notice by certified mail (return receipt requested) to the last known owner and to the finder, if any, at their respective last known addresses, if reasonably ascertainable;

2. Every notice of possession and sale of unclaimed property mailed or published pursuant to this section shall contain:

a. A general description of the property;

b. The appropriate date the police department first obtained possession of the property;

c. A provision that unclaimed property will be sold at public auction or by competitive bid and the proceeds will be forfeited to the city;

i. If unclaimed property is to be sold at public auction, the notice may contain the date and time of the auction;

ii. If unclaimed property is to be sold by competitive bid, the notice may contain dates and times for viewing items to be sold and the deadline for submitting sealed bids;

d. A provision that unclaimed property, if money, will be forfeited to the city;

e. A provision that the property must be claimed by the owner within fifteen days after the last date on which the notice is published; and

f. A provision that the finder will forfeit all right, title, interest and claim in and to found property or money unclaimed by the owner unless the finder files a written request with the police department for return of the unclaimed property within fifteen days after the last date on which the notice is published.

C. Disposition Generally. If the property is unclaimed by the owner after the publication and mailing of the notice of possession and the expiration of the time periods set forth in this chapter, the property shall be disposed of as follows:

1. Found property, including money, shall be returned to the finder, if any, upon condition that a request for such return has been received by the police department;

2. All property, other than money, which is not addressed by subsection (C)(1) of this section shall be subject to a claim by the chief of police that retention of such property

for use by the city will serve the public interest. Firearms shall be disposed of as provided in AS 18.65.340.

**D. Exceptions to Public Auction Requirement.**

1. Property, not collected as evidence, valued at less than two hundred fifty dollars may be returned to the finder, if any, or donated to a nonprofit organization or otherwise used for city or public purposes if any known owner has been notified by certified letter and the property remains unclaimed for thirty days after the notification is sent. Property not collected as evidence, that is damaged, or in a state of disrepair where the cost to repair exceeds the value of the property, may be disposed of in any manner once any known owner has been notified by certified letter and the property remains unclaimed thirty days after the notification is sent;

2. Property determined by the chief of police to be perishable, or to constitute an immediate danger to the public, may be disposed of immediately in any manner without notice of sale. Proceeds of any such disposition shall be forfeited to the city;

3. Notwithstanding any other provision, property exceeding two hundred fifty dollars in value may be disposed of other than by competitive bid or public auction; provided, that any such noncompetitive disposition is made pursuant to a request submitted to the city manager for review and recommendation to the city council for approval. The city council shall consider the monetary loss to the city and determine whether such disposition is in the public interest.

**E. Fees, Expenses.** Before returning property, including money, to a finder, owner or highest bidder, the chief of police may require a reasonable fee from the person receiving the property for the costs of notice, publication, auction and other expenses attributable to the property or money delivered.

**9.20.030 Criminal trespass.**

**A. It is unlawful for a person to:**

1. Without having been expressly or by implication invited to do so, enter or remain in or upon the premises or motor vehicle of another when the premises or motor vehicle, at the time of such entry or remaining, is not open to the public or when such person is not otherwise licensed or privileged to do so;

2. Fail to immediately leave a private place or premises which are open to the public after being lawfully directed to do so by the person in charge;

3. Knowingly enter a private property, private business or commercial property in violation of a posted sign;

4. Enter or remain on premises open to the public within twenty-four hours of having been lawfully directed to leave such premises by the owner or person in charge unless an express invitation or permission to return to such premises has been given by the



owner or any person in charge, or at any time, to enter or to remain on premises open to the public after having been lawfully ordered in writing not to enter such premises by the owner or person in charge unless the express invitation or permission to return to such premises has been given by the owner or any person in charge.

B. The following phrases used in this section have the meaning given as follows:

A person is “lawfully directed” to leave premises that are open to the public if he has been directed to do so for any reason that is not prohibited by law.

“Open to the public” means premises which by their physical nature, function, custom, usage, notice, or lack thereof, or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.

“Person in charge” means a person, his representative or employee who has lawful control of premises by ownership, tenancy, official position, position of employment or other legal relationship. The person in charge of a retail business establishment includes the owner, manager or other employee who has the authority or duty at the time to supervise the operation or security of the establishment. Any officer, head of a department or employee of the municipality having supervisory authority or an employee designated by any of the foregoing is, with respect to persons other than his superiors or other department heads, the person in charge of municipally owned premises on or in which he or his subordinates exercise their official responsibilities.

“Premises” includes but is not limited to land, buildings, facilities, parking lots, docks, sidewalks, roads and recreational areas including lakes, ponds, hiking/skiing trails, campgrounds and parks.

C. Nothing in this section shall be construed to require the person in charge of any premises to give a person a reason for requesting the person to leave the premises; provided, however, the person in charge shall state such reason to a responding peace officer upon request.

D. Violation of this section is punishable by a minimum fine of one hundred dollars. Upon citation under this section court appearance is mandatory. ~~Criminal trespass is subject to the penalties set forth in Section 1.08.010:~~

~~1. A Class A misdemeanor if:~~

~~a. The premises entered or remained upon are a dwelling; or~~

~~b. The person enters or remains on the premises with intent to commit a crime thereon.~~

~~2. A Class B misdemeanor if the premises entered or remained upon are not a dwelling. (Ord. 14-06 § 1 (part); Ord. 00-01 § 1. Formerly 9.20.050)~~



## Chapter 9.24 OFFENSES BY OR AGAINST MINORS

Sections:

9.24.010 Curfew for minors.

9.24.020 Possession, control, or consumption by persons under 21.

9.24.030 Possession of tobacco by persons under nineteen.

9.24.0420 Abuse of, endangering.

9.24.0530 Abuse—Reports to be kept confidential.

9.24.0640 Sale of firearms to.

9.24.0750 Sale of tobacco cigarettes to.

9.24.0860 Drunkenness, improper conduct, etc., in presence of.

### **9.24.010 Curfew for minors.**

A. Purpose. The purpose of this section is to: (1) promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city; (2) promote the safety and wellbeing of the city's youngest citizens, persons under the age of eighteen, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, and to being victimized by older perpetrators of crime; and (3) foster and strengthen parental responsibility for children.

B. Definitions. As used within this section, the following words and phrases shall have the meanings ascribed to them in this subsection:

"Curfew hours" are as follows:

1. Sunday through Thursday beginning at eleven-one p.m. and ending at five a.m. the following morning; and
2. Beginning at twelve-one a.m. and ending at five a.m. on Saturday and Sunday morning.
3. June 1st through August 31st curfew hours shall begin at twelve-one a.m. and end at five a.m. every day of the week.

"Emergency" means unforeseen circumstances, or the status or conditions resulting therefrom, requiring immediate action to safeguard life, limb or property. The term

includes, but is not limited to, fires, natural disasters, automobile accidents or other similar circumstances.

“Establishment” means any privately owned place of business within the city operated for a profit, to which the public is invited, including, but not limited to, any place of amusement or entertainment.

With respect to such establishment, the term “operator” shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing that establishment.

“Minor” means any person under eighteen years of age who is not married and has not been emancipated pursuant to state law.

“Officer” means a police or other law enforcement officer charged with the duty of enforcing the laws of the state of Alaska and/or the ordinances of the city.

“Parent” means:

1. A person who is a minor’s biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);
2. A person who is the biological or adoptive parent with whom a minor regularly resides;
3. A person judicially appointed as a legal guardian of the minor; and/or
4. A person eighteen years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in subsection(s) (1), (2) or (3) of this definition, for the person to assume the care or physical custody of the child, or as indicated by any other circumstances).

“Person” refers to an individual, not to any association, corporation, or any other legal entity.

“Public place” means any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, avenues, parks, private residences left open to the public without the presence of adult supervision, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

“Remain” refers to the following actions:

1. To linger or stay at or upon a place; and/or
2. To fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

“Special events” means and includes, but shall not be limited to, civic, religious and school events.

“Temporary care facility” means a nonlocked, nonrestrictive shelter at which minors may wait, under visual supervision, to be retrieved by a parent. No minor waiting in such facility shall be handcuffed and/or secured (by handcuffs or otherwise) to any stationary object.

C. Prohibitions.

1. It is unlawful for a minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the city, unless:

- a. The minor is accompanied by a parent; or
- b. The minor is involved in an emergency; or
- c. The minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop; or
- d. The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or
- e. The minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop; or
- f. The minor is on an errand at the direction of a parent, and the minor has in his or her possession writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor’s destination(s) and the hours the minor is authorized to be engaged in the errand; or
- g. The minor is involved in interstate or intrastate travel with the consent of the minor’s parent, and the minor has in his or her possession writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the travel, the telephone number where the parent may be reached during the travel, the name of the minor, and a brief description of the travel, the minor’s destination(s) and the hours the minor is authorized to be engaged in the travel; or
- h. The minor is exercising First Amendment rights protected by the Alaska and United States Constitutions, such as the free exercise of religion, freedom of speech and the right of assembly.

2. It is unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate this section.
3. It is unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of this section.
4. It is unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notified the police department that a minor was present at the establishment after curfew hours and refused to leave.
5. It is unlawful for any person (including any minor) to give a false name, address or telephone number to any officer investigating a possible violation of this section.
6. The police chief shall have the discretionary authority to extend the curfew for a specified period of time for special events if the sponsor of the event has requested the extension, in writing and giving reasons therefor, at least forty-eight hours before the event.

D. Enforcement.

1. Minors. Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or establishment within the city during curfew hours is in violation of this section.
2. Other Violators. If an investigation by an officer reveals that a person, other than or in addition to a minor, has violated this section, appropriate enforcement action shall be taken.

3. Upon citation under this section court appearance is mandatory.

**9.24.020 Possession, control, or consumption by persons under 21.**

A. AS 04.16.050 is hereby incorporated as if set forth fully herein.

B. Upon citation under this section court appearance is mandatory.

**9.24.030 Possession of tobacco by persons under nineteen.**

A. A person under 19 years of age may not knowingly possess a cigarette, a cigar, tobacco, or a product containing tobacco in this state. This subsection does not apply to a person who is a prisoner at an adult correctional facility.

B. Upon citation for violation of this section court appearance is mandatory.

**9.24.0420 Abuse of, endangering.**

A. It is unlawful for any person to willfully cause or permit any child to suffer, or inflict thereon, unjustifiable physical pain or mental suffering, or, having the care or custody of any child, to cause or permit the life or limb of such child to be endangered, or the health of such child to be injured, or to willfully cause or permit such child to be placed in such situation that its life or limb may be endangered, or its health likely to be injured.

B. Upon citation under this section court appearance is mandatory.

**9.24.0530 Abuse—Reports to be kept confidential.**

Any report made by a licensed physician to the police or public prosecutor of a suspected or actual instance of abuse to a minor as defined in Section 9.24.040020 shall be confidential, and such report may not be inspected by or disclosed to any person except officers authorized to administer the criminal laws of the city or the state, or a law enforcement officer, or in response to a proper subpoena from a court. Any city employee who violates this section by disclosing or allowing inspection of such report to an unauthorized person shall be guilty of a violation of this chapter, and shall be subject to disciplinary proceedings in accordance with the city code and personnel regulations. ~~immediately discharged from his office of employment. No report made as provided in this section or evidence of the making of such report may be used in a civil action arising out of the report or the making of the report against the physician making the report.~~

**9.24.0640 Sale of firearms to.**

A. It is unlawful for any person to give, barter, sell, lease or otherwise make available to any person under the age of eighteen years any firearm, including but not limited to pistols, rifles, and shotguns, within the city.

B. Upon citation under this section court appearance is mandatory.

**9.24.0750 Selling Sale or giving of tobacco cigarettes to.**

A. No person shall commit the offense of selling or giving tobacco to a minor as described in AS 11.76.100. ~~sell cigarettes or tobacco in any form to children under nineteen years of age.~~

B. AS 11.76.100 is hereby incorporated as if set forth fully herein.

C. A person commits the offense of selling or giving tobacco to a minor if the person:

1. Negligently sells a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years of age;

2. Is 19 years of age or older and negligently exchanges or gives a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years of age;

3. Maintains a vending machine that dispenses cigarettes, cigars, tobacco, or products containing tobacco, except as provided in AS 11.76.100 (b);

4. Holds a business license endorsement under AS 43.70.075 and allows a person under 19 years of age to sell a cigarette, a cigar, tobacco, or a product containing tobacco.

D. Violation of this section is punishable by a three hundred dollar fine for a first violation, a four hundred dollar fine for a second violation, and a five hundred dollar fine for a third and each subsequent violation.

#### **9.24.0~~8~~60 Drunkenness, improper conduct, etc., in presence of.**

~~It is unlawful for any person, in the presence of any child, to indulge in any degrading, lewd, immoral or vicious habits or practices, or to be habitually drunk in the presence of any child in his care, custody or control. (Ord. 14-06 § 1 (part); prior code § 17-16)~~

A. It is unlawful for any person while caring for a child under 10 years of age to:

1. Cause or allow the child to enter or remain in a dwelling or vehicle in which a controlled substance is stored in violation of AS 11.71; or

2. Be impaired by an intoxicant, whether or not prescribed for the person under AS 17.30 when there is no third person who is at least 12 years of age and not impaired by an intoxicant present to care for the child.

B. In this section:

1. "Impaired" means that a person is unconscious or a person is physically or mentally affected so that the person does not have the ability to care for the basic safety or personal needs of a child with the caution characteristic of a sober person of ordinary prudence;

2. "Intoxicant" has the meaning given in AS 47.10.990;

C. Upon citation under this section court appearance is mandatory.

## Chapter 9.28 CONTROLLED SUBSTANCES

### Sections:

- 9.28.010 Possession, use of controlled substances.
- 9.28.020 Forfeiture proceedings.
- 9.28.030 Items subject to forfeiture.
- 9.28.040 Seizure and custody of property.
- 9.28.050 Procedure for forfeiture action.
- 9.28.060 Burdens of proof and rebuttable presumptions in certain actions.
- 9.28.070 Petition for release of seized items.
- 9.28.080 Petition for sale of seized item.
- 9.28.090 Disposal of forfeited property.
- 9.28.100 Remittance to claimant.
- 9.28.110 Forfeiture of controlled substances.
- 9.28.120 Definitions.

### **9.28.010 Possession, use of controlled substances.**

A. AS 11.71.010 through 11.71.090 and 11.71.140 through 11.71.900, and such amendments as may be made thereto from time to time, are adopted by reference into this code. Any conduct involving a controlled substance which is declared to be a crime or an offense by the foregoing sections of the Alaska Statutes is unlawful and a violation of code.

B. Each violation of this section is punishable by a fine between one hundred and one thousand dollars. Upon citation under this section court appearance is mandatory. ~~not exceeding three hundred dollars.~~

C. If a violation of this section is a violation of a federal law, state law or the law of another state, a conviction or acquittal under federal law, state law or the law of another state for the same act is a bar to prosecution in this city.

### **9.28.020 Forfeiture proceedings.**

A. Property listed in Section 9.28.030 may be forfeited to the city either upon conviction of the defendant of a violation of Section 9.28.010 or AS 11.71, or upon judgment of a court in a separate civil proceeding in rem. The court may order a

Ordinance No. 17-03

Page 23

forfeiture in the in rem proceeding if it finds that an item specified in Section 9.28.030 was used during or in aid of a violation of Section 9.28.010 or AS 11.71.

B. It is not a defense in an in rem proceeding brought under this section that a criminal proceeding has resulted in a conviction or conviction of a lesser offense for a violation of Section 9.28.010 or AS 11.71.

C. A civil action may be commenced against a criminal defendant to recover property which constitutes the proceeds of a crime, the substituted proceeds of a crime or an instrumentality of a crime, or to recover a money judgment in an amount equivalent in value to the property which constitutes the proceeds of a crime, the substituted proceeds of a crime or an instrumentality of a crime.

D. A civil action may be commenced against a noncriminal defendant to recover the property which constitutes the proceeds of a crime, the substituted proceeds of a crime or an instrumentality of a crime; provided, however, that a judgment of forfeiture shall be limited to the amount of the proceeds of the crime.

E. Any action under subsections C and D of this section shall be commenced within six years of the commission of the crime and shall be civil, remedial and personal in nature and shall not be deemed to be a penalty or criminal forfeiture for any purpose.

#### **9.28.030 Items subject to forfeiture.**

The following may be forfeited to the city:

A. A controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this code or AS 11.71;

B. Raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a violation under this code or AS 11.71;

C. Property which is used or intended for use as a container for property described in subsection A or B of this section;

D. A conveyance, including but not limited to aircraft, vehicles or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the transportation, sale, receipt, possession, or concealment of property described in subsection A or B of this section in violation of this code or AS 11.71; however:

1. A conveyance may not be forfeited under this subsection if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this code or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

2. A forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by



a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this code or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

E. Books, records and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of Section 9.28.010 or AS 11.71;

F. Money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by Section 9.28.010 or AS 11.71;

G. A firearm that is visible, carried during, or used in furtherance of a violation of Section 9.28.010 or AS 11.71;

H. The proceeds of a crime;

I. The substituted proceeds of a crime;

J. An instrumentality of a crime.

#### **9.28.040 Seizure and custody of property.**

A. Property listed in Section 9.28.030 may be seized by a peace officer upon an order issued by a court having jurisdiction over the property upon showing of probable cause that the property may be forfeited under this chapter. Seizure without a court order may be made if:

1. The seizure is incident to a valid arrest or a search under a valid search warrant;
2. The property subject to seizure has been the subject of an earlier judgment in favor of the city in a criminal proceeding or civil proceeding in rem under this title or AS 11.71; or
3. There is probable cause that the property was used, is being used, or is intended for use in violation of Section 9.28.010 or AS 11.71 and the property is easily movable; property seized under this subdivision may not be held for more than forty-eight hours without a court order obtained to continue its detention.

B. Property taken or detained under subsection A of this section shall be held in the custody of the department subject only to the orders and decrees of the court having jurisdiction over any forfeiture proceedings. If property is seized under this chapter, the department may:

1. Place the property under seal;
2. Remove the property to a place designated by the court; or
3. Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

C. Within ten days after a seizure under Sections 9.28.020 through 9.28.120, the department shall make an inventory of any property seized, including controlled substances, and shall appraise the value of any items seized other than controlled substances.

#### **9.28.050 Procedure for forfeiture action.**

A. Within twenty days after a seizure under Sections 9.28.020 through 9.28.120, the department shall, by certified mail, notify any person known to have an interest in an item with an appraised value of five hundred dollars or more, or who is ascertainable from official registration numbers, licenses, or other state, federal or municipal numbers on the item, of the pending forfeiture action. Additionally, the department shall publish notice of forfeiture action of an item valued at five hundred dollars or more in a newspaper of general circulation in the city, or if no newspaper is published in the city, in a newspaper published in the judicial district and distributed in the city. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.

B. Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file, within thirty days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the city's allegations. If a claim and answer is not filed within the time specified, the property described in the city's allegation must be ordered forfeited to the city without further proceedings or showings.

C. Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without a jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this chapter or AS 11.71.

#### **9.28.060 Burdens of proof and rebuttable presumptions in certain actions.**

A. In a forfeiture action pursuant to Section 9.28.020(C) or (D), the following burdens of proof shall apply:

1. In a forfeiture action commenced by the city against a criminal defendant, the burden shall be upon the city to prove by a preponderance of the evidence the facts necessary to establish a claim for forfeiture.

2. In a forfeiture action commenced by the city against a noncriminal defendant:

a. If the action relates to the proceeds of a crime, the burden shall be upon the city to prove upon a preponderance of the evidence the facts necessary to establish a claim for forfeiture and that the criminal defendant either:

i. Knew or should have known that the proceeds were obtained through the commission of a crime; or

ii. Knowingly obtained his or her interest in the proceeds to avoid forfeiture.

b. If the action relates to the substituted proceeds of a crime, the burden shall be upon the city to prove by a preponderance of the evidence the facts necessary to establish a claim of forfeiture and that the noncriminal defendant either:

i. Knew that the property sold or exchanged to obtain an interest in the substituted proceeds was obtained through the commission of a crime; or

ii. Knowingly obtained his or her interest in the substituted proceeds to avoid forfeiture.

c. If the action relates to an instrumentality of a crime, except as provided for in subsection (A)(2)(a) of this section, the burden shall be upon the city to prove by a preponderance of the evidence the facts necessary to establish a claim for forfeiture and that the noncriminal defendant either:

i. Knew that the instrumentality was or would be used in the commission of a crime; or

ii. Knowingly obtained his or her interest in the instrumentality to avoid forfeiture.

B. In a forfeiture action commenced by the city against a noncriminal defendant pursuant to Section 9.28.020(C) or (D), the following rebuttable presumptions shall apply:

1. A noncriminal defendant who did not pay fair consideration for the proceeds of a crime, the substituted proceeds of crime or the instrumentality of a crime shall be presumed to know that such property was the proceeds of a crime, the substituted proceeds of a crime or the instrumentality of a crime.

2. A noncriminal defendant who obtains an interest in the proceeds of a crime, substituted proceeds of crime or an instrumentality of a crime with knowledge of an order of provisional remedy relating to the property issued pursuant to this code, shall be presumed to know that such property was the proceeds of a crime, substituted proceeds of a crime, or an instrumentality of a crime.

3. A noncriminal defendant who participated in or was aware of a scheme to conceal or disguise the manner in which the noncriminal obtained his or her interest in the proceeds of a crime, substituted proceeds of a crime, or an instrumentality of a crime is presumed to know that such property was the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime, and shall further be presumed to

have knowingly obtained his or her interest in the proceeds, substituted proceeds or instrumentality of a crime to avoid forfeiture.

#### **9.28.070 Petition for release of seized items.**

A. A claimant under Section 9.28.050(B) may at any time petition for release of a seized item as follows:

1. To a court in which a warrant for seizure has been issued;
2. To a court in which a criminal or civil action alleging forfeiture of the item has been filed; or
3. Before an action is filed, or if no seizure warrant was issued, to a court in the judicial district in which the violation took place.

B. An item may not be released by the court under subsection A of this section unless the claimant gives adequate assurance that the item will remain subject to the court's jurisdiction and:

1. The court finds that the release is in the best interests of the city; or
2. The claimant provides a bond or other valid and equivalent security equal to twice the assessed value of the item.

#### **9.28.080 Petition for sale of seized item.**

A claimant under Section 9.28.050(B) or the city may petition the court for sale of an item before final disposition of court proceedings. The court shall grant a petition for sale upon a finding that the sale is in the best interests of the city and the preservation and maintenance of the item seized. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.

#### **9.28.090 Disposal of forfeited property.**

Property forfeited under Sections 9.28.020 through 9.28.120, other than controlled substances and firearms, shall be disposed of by the department in accordance with applicable law. Firearms shall be disposed of as provided in AS 18.65.340. As to property other than firearms or controlled substances, the department may:

- A. Destroy property harmful to the public;
- B. Sell the property and use the proceeds for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody and court costs, or for any other municipal purpose;
- C. Take custody of the property and authorize its use in the enforcement of this chapter or AS 11.71, or transfer it to another department of the city, the state or a political subdivision of the state for a use in furtherance of the administration of justice;

- D. Take custody of the property and remove it for disposition in accordance with law;
- E. Forward it to the Drug Enforcement Administration of the United States Department of Justice for disposition;
- F. Transfer it to another department of the city for use in furtherance of any municipal purpose.

#### **9.28.100 Remittance to claimant.**

A. Upon a showing that a claimant is entitled to remittance under Sections 9.28.020 through 9.28.120, the court shall order that:

- 1. If the claimant is entitled to the item, it shall be delivered to the claimant immediately;
- 2. If the claimant is entitled to remittance of some value less than the total value of the item, the claimant is entitled, at the claimant's choice, to receive either the value of the claimant's interest or, upon receipt of payment of the difference in value by the claimant, the entire item.

B. An offender who used an item subject to remission in violation of Section 9.28.010, or AS 11.71, shall be assessed a civil penalty which may not be less than the cost of any lien payment or remittance made by the city plus the reasonable costs of the seizure.

#### **9.28.110 Forfeiture of controlled substances.**

A. A controlled substance manufactured, possessed, transferred, sold, or offered for sale in violation of this chapter is contraband and must be seized and summarily forfeited to the city. The department is responsible for the disposal of controlled substances which have been forfeited. The controlled substances shall be disposed of in accordance with procedures and requirements prescribed by the Alaska Commissioner of Public Safety for disposal of controlled substances forfeited to the state pursuant to AS 11.70 or 17.30.

B. Plants from which controlled substances may be derived and which have been planted or cultivated in violation of this chapter or which are grown in the wild may be seized and summarily forfeited to the city.

#### **9.28.120 Definitions.**

In Section 9.28.020 through this section:

"Crime" means a crime, offense or violation of Section 9.28.010 or AS 11.71.

"Criminal defendant" means a person who has criminal liability for a crime.

“Defendant” means a person against whom a forfeiture action is commenced and includes a “criminal defendant” and a “noncriminal defendant.”

“Department” means the Valdez police department.

“Fair consideration” means consideration given for property or obligation:

1. When in exchange for such property or obligation as a fair equivalent therefor, and in good faith, property is conveyed or an antecedent debt is satisfied; or
2. When such property or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared with the value of the property or obligation obtained.

“Instrumentality of a crime” means any property other than real property and any buildings, fixtures, appurtenances and improvements thereon, whose use contributes directly and materially to the commission of a crime.

“Noncriminal defendant” means a person other than a criminal defendant who possesses an interest in the proceeds of a crime, the substituted proceeds of a crime or an instrumentality of a crime.

“Proceeds of a crime” means any property obtained through the commission of a crime, and includes any appreciation in value of such property.

“Property” means and includes real property, personal property, money, negotiable instruments, securities or anything of value or any interest in a thing of value.

“Substituted proceeds of a crime” means any property obtained by the sale or exchange of proceeds of a crime and any gain realized by such sale or exchange.

## **Chapter 9.32**

### **WEAPONS**

Sections:

9.32.010 ~~Discharge~~ ~~Carrying and discharge of firearms.~~

9.32.020 Carrying of firearms.

9.32.030 Hunting.

**9.32.010 Discharge of firearms. ~~Carrying and discharge of firearms.~~**

A. No person may discharge a firearm within the city except:

1. At the rifle range located on Airport Road north of the Valdez airport;
2. At the Valdez High School small bore range;

3. At the police shooting range located on Airport Road north of the Valdez airport;
4. At Robe Lake and adjoining wetlands, using shotguns only;
5. Within that enclosed area bounded on the west by the eastern shore of the Valdez Glacier Stream, on the north by Richardson Highway right-of-way (one hundred fifty feet south of the highway centerline), on the east by the western edge of the access road from the Richardson Highway (approximately two and one-half miles) to the mouth of the Robe River and on the south by the shoreline between the mouth of the Lowe River and the Glacier Stream, using shotguns only;
6. Within that enclosed area between Airport Road and the west bank of the Valdez Glacier Stream from a line parallel to the Richardson Highway beginning on Airport Road one-fourth mile north of the east junction of the Airport Road and Airport Terminal access road and ending on the west bank of the Valdez Glacier Stream, to the toe of the Valdez Glacier, using shotguns only;
7. By a law enforcement officer acting within the scope and authority of his employment;
8. In defense of persons;
9. While the person is assisting a law enforcement officer in the performance of duty; or
10. In any area of the city satisfying all of the following conditions:
  - a. Farther than one-half mile from the Richardson Highway or any inhabited subdivision or occupied industrial site; and
  - b. Outside of the area enclosed by a line described as follows:

Beginning at the west bank of the mouth of Mineral Creek then to the westerly end of the Mineral Creek bridge, then easterly to the two-thousand-foot elevation of the hill northeast of the water tower, then easterly following the two-thousand-foot elevation to a point on the east side of the Valdez Glacier, then to the westernmost point of Robe Lake, then along the northern shoreline to the northeast tip of Robe Lake, then along Deep Creek to the five-hundred-foot elevation to the point north of the Richardson Highway at Milepost 11, then south across the Richardson Highway to the north bank of the Lowe River, then straight northwesterly to the point of beginning.

B. Violation of this section is punishable by a fine of one hundred dollars for a first violation; two hundred dollars for a second violation; three hundred dollars for a third violation; and five hundred dollars for a fourth or any subsequent violation. ~~No person may carry a loaded firearm on his person within an area of the city where discharge of the firearm is prohibited except:~~



- ~~1. A law enforcement officer acting within the scope and authority of his employment;~~
- ~~2. In the person's own dwelling or on one's owned or leased property or own vehicle;~~
- ~~3. On business premises in the course of employment for an owner or lessee of the premises;~~
- ~~4. While the person is actually engaged in lawful hunting, fishing, trapping or other lawful outdoor activity; or~~
- ~~5. Having a valid permit for the carrying of a concealed handgun as provided for by state statute and in compliance with all provisions pertaining to and regulating the carrying of a concealed handgun by permit.~~

### **9.32.020 Carrying of firearms.**

A. No person may carry a firearm on his person where prohibited by AS 11.61.190-AS 11.61.220 or as otherwise prohibited by state law.

B. Upon citation for violation of this section court appearance is mandatory.

### **9.32.0320 Hunting.**

A. No person shall take wildlife by any means within the area known as the Valdez duck flats, which is defined as that area bounded on the east by Mineral Creek Loop Road, on the west by the Richardson Highway, on the south by a line extending from the Valdez Container Terminal to and including Dock Point and on the north by elevation of one thousand feet.

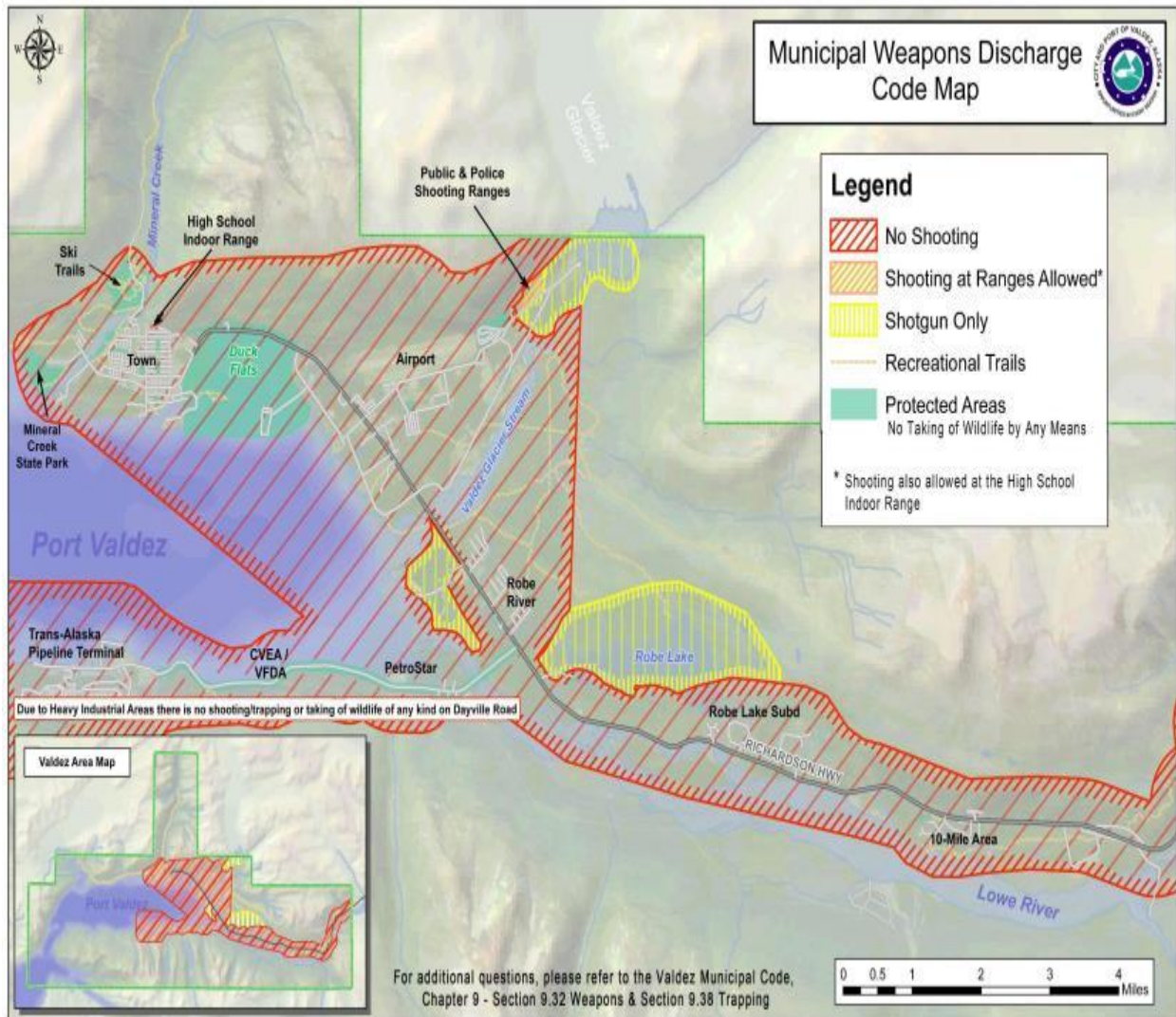
B. No person shall take wildlife by any means within five hundred feet of the cross-country ski trails, located in Mineral Creek Canyon as designated on Exhibit A to Section 12.08.010.

C. No person shall take wildlife by any means within the area known as Mineral Creek State Park, which is defined as a fifty-acre parcel known as Tract A-2, ASLS 99-21; and a 91.68-acre portion of U.S. Survey 5113 bounded on the north by Raven Subdivision and Tract A-1, ASLS 79-117, on the east by Tract A-1, ASLS 79-117, on the south by Blueberry Subdivision and Port Valdez, and on the west by Tract A-2, ASLS 99-21.

D. "Take wildlife" means intentionally, knowingly, recklessly, or with criminal negligence pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to pursue, hunt, fish, trap, or in any manner capture or kill fish or game.

E. Upon citation under this section court appearance is mandatory.





(Ord. 14-06 § 1 (part))

## **Chapter 9.36**

### **EMERGENCY PREPAREDNESS**

#### Sections:

- 9.36.010 Incident management—Established.
- 9.36.020 Incident management—Composition.
- 9.36.030 Manager.
- 9.36.040 Emergency preparedness team—Policy.
- 9.36.050 Duties and functions of emergency manager.

#### **9.36.010 Incident management—Established.**

There is established an incident management team for the city, as an agency within the city government, to be composed of the city manager and such other persons that he or she may appoint from time to time.

#### **9.36.020 Incident management—Composition.**

All city officers and employees, together with those volunteer forces enrolled to aid them prior to, during, or immediately following a disaster, shall constitute the incident management response as provided by law.

#### **9.36.030 Manager.**

The city manager shall appoint an emergency manager and a staff to serve at the pleasure of the city manager.

#### **9.36.040 Emergency preparedness team—Policy.**

There is created an emergency preparedness team as part of city administration. Such emergency preparedness team, as an agency of the government, will discuss the economic, political, legal, and social implications of both the threat and the response to emergency situations to determine general policy and procedures required for these events. The emergency preparedness team will be composed of the mayor, the city manager, assistant city manager, police chief, fire chief, public information officer, LEPC representative, and such others as deemed required by the city manager.

#### **9.36.050 Duties and functions of emergency manager.**

The emergency manager shall cause to have prepared an emergency preparedness plan which he or she shall review and keep up to date as the occasion demands. A copy of the emergency preparedness plan shall be filed with the city clerk. Distribution and maintenance of such plan shall be set by the emergency preparedness team.

## Chapter 9.38

### TRAPPING

#### Sections:

- 9.38.010 Purpose of chapter.
- 9.38.020 Definitions.
- 9.38.030 Trapping allowed.
- 9.38.040 Qualifications to trap.
- 9.38.050 Identification of traps.
- 9.38.060 Registration.
- 9.38.070 Unsafe traps.
- 9.38.080 Other exceptions.
- 9.38.090 Violation - Penalty

#### **9.38.010 Purpose of chapter.**

It is the purpose of this chapter to protect the citizens from hazardous devices and to protect domesticated animals and pets from damage and destruction which may result from uncontrolled trapping.

#### **9.38.020 Definitions.**

The following words and phrases shall have the meanings respectively ascribed to them by this section:

“Trap” means any device used for the purpose of catching, capturing, snaring, holding or killing animals.

“Trapping” means the placing or setting of traps with the intent to catch animals. This definition does not apply to the catching of animals within a dwelling place or garage, shed or barn.

#### **9.38.030 Trapping allowed.**

Trapping for both recreational and for subsistence purposes is allowed within the Valdez city limits except that:

A. Trapping shall not be allowed within one-half mile in any direction of an occupied subdivision.

B. Trapping shall not be allowed within five hundred feet of any road, excluding bridges and culverts outside the downtown area and past the duck flats. No trapping is allowed within the area known as the Valdez duck flats, which is defined as that area bounded on the east by Mineral Creek Loop Road, on the west by the Richardson Highway, on the south by a line extending from the Valdez Container Terminal to and including Dock Point and on the north by elevation of one thousand feet.

C. Snare-only trapping areas shall include portions of Mineral Creek Canyon and all areas northeast of the Richardson Highway from Airport Road to the Glacier Stream Bridge. No trapping is allowed within five hundred feet of the Mineral Creek trails, located in Mineral Creek Canyon as designated on Exhibits A and B to Section 12.08.010.

D. No trapping is allowed within the area known as Mineral Creek State Park, which is defined as a fifty-acre parcel known as Tract A-2, ASLS 99-21; and a 91.68-acre portion of U.S. Survey 5113 bounded on the north by Raven Subdivision and Tract A-1, ASLA 79-117, on the east by Tract A-1, ASLA 79-117, on the south by Blueberry Subdivision and Port Valdez, and on the west by Tract A-2, ASLA 99-21.

#### **9.38.040 Qualifications to trap.**

All persons who trap within the Valdez city limits shall show proof of completion of an approved trapping safety class conducted by the City of Valdez Animal Control Department and valid trapper's license. Copies of trapping licenses shall be provided to the City of Valdez Animal Control Department ~~city clerk~~.

#### **9.38.050 Identification of traps.**

A. All traps shall include a permanent metal tag on which is stamped or etched the trapper's name and phone number.

B. All traps and all trap lines shall be marked with a legible warning sign appropriately set and height-adjusted (i.e., for snow level). Said signs shall be clearly visible on a weather-resistant surface and with the numbers and letters, at least one inch high, in a bright fluorescent color that contrasts with the color of the sign. Each trapper is responsible for placement and maintenance of proper signage.

#### **9.38.060 Registration.**

All trappers shall register the exact locations of their trap lines with the city of Valdez Animal Control ~~police department~~. If requested, this information will be made available to the public.

#### **9.38.070 Unsafe traps.**

Any traps deemed unsafe by a law officer will be removed immediately. The law officer shall attempt to notify the owner of the trap.

#### **9.38.080 Other exceptions.**

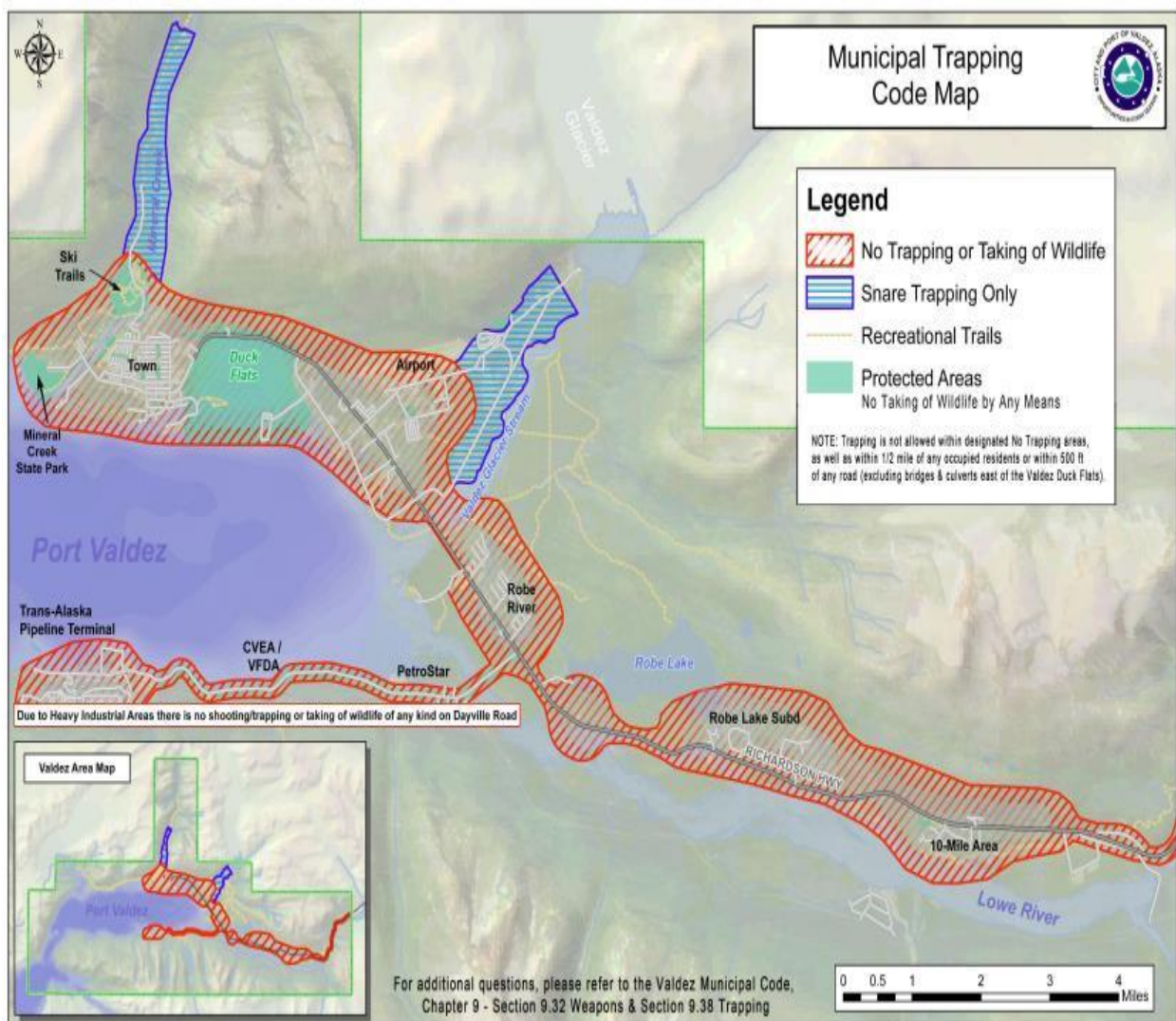
The chief of police or the chief's designee shall have the absolute authority to authorize trapping within a restricted area within the Valdez city limits as is deemed necessary to protect public health and safety. Examples of exceptions include, but are not limited to, the following:



- A. Employees or agents of governmental units or agencies who, using live traps, in the course of their duties, are required to trap animals or birds for authorized purposes.
- B. Scientists in their work of identifying and studying wildlife, animals and birds for scientific purposes.
- C. Persons who have specific animal nuisance problems.

**9.38.090 Violation – Penalty**

Violation of sections 9.38.010 – 9.38.070 is punishable by a minimum fine of fifty dollars. Upon citation under sections 9.38.010 – 9.38.070 court appearance is mandatory.



(Ord. 14-06 § 1 (part))

Section 2. This ordinance takes effect immediately upon passage and approval.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF VALDEZ, ALASKA

\_\_\_\_\_  
Ruth E. Knight, Mayor

ATTEST:

\_\_\_\_\_  
Sheri L. Pierce, MMC, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Anthony S. Guerriero, City Attorney  
Brena, Bell, & Clarkson, P.C.

First Reading:  
Second Reading:  
Adoption:  
Yeas:  
Nays:  
Absent:  
Abstain: