

## **9.04 - General Provisions**

### **Chapter 9.04 - GENERAL PROVISIONS**

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#### **9.04.010 Applicability of provisions Terms referring to prohibited conduct.**

A. Any person who does an act prohibited by the provisions of this Title 9, or who fails to do an act required to be done by the provisions of this title, shall be guilty of a misdemeanor, and shall be subject to punishment within the limits prescribed by Section 9.36.010 of this code.

B. The terms "offense," "violation," "unlawful" and "misdemeanor," as used in this title, are synonymous, and all refer to conduct prohibited or the failure to do acts required by this title.

C. The provisions of this title shall apply to any such prohibited or required conduct occurring, or required to occur, within the territorial limits of Evans, Colorado, and upon real property owned by or under the exclusive control of the city. (Ord. 347 77)

**9.04.020 Definitions.** The following definitions are applicable to the determination of culpability requirements for offenses defined in this title.

A. "Act" means a bodily movement, and includes words and possession of property.

B. "Child" means any person under the age of eighteen years.

C. "City" means the city of Evans, Colorado.

D. "Conduct" means an act or omission and its accompanying state of mind or, where relevant, a series of acts or omissions.

E. "Criminal Negligence." A person acts with "criminal negligence" when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

F. "Culpable mental state" means "intentionally" or "knowingly," or "recklessly," or with "criminal negligence," as these terms are defined in this chapter.

G. "Intentionally." A person acts intentionally, with respect to a result or to conduct described by an ordinance defining an offense, when his conscious objective is to cause such result or to engage in such conduct.

H. "Knowingly." A person acts knowingly with respect to conduct or to a circumstance described by an ordinance defining an offense when he is aware that his conduct is of such nature, or that such circumstance exists.

I. "Minor" see Child.

J. "Omission" means a failure to perform an act as to which a duty of performance is imposed by law.

K. "Recklessly." A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

L. "Underage Person" mean any person under the age of twenty one years.

M. "Voluntary act" means an act performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it. (Ord. 519-11: 347 77)

#### **9.04.030 Responsibility for offenses Defense conditions.**

A. Impaired Mental Condition. Evidence of an impaired mental condition, though not legal insanity, may be offered in a proper case as bearing upon the capacity of the accused to form the specific intent, if such an intent is an element of the offense charged.

B. Intoxication.

1. Intoxication of the accused is not a defense to a criminal charge, except as provided in subsection C of this section, but in any prosecution for an offense, evidence of intoxication of the defendant may be offered by the

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defendant when it is relevant to negative the existence of a specific intent, if such intent is an element of the crime charged.

2. Intoxication does not, in itself, constitute mental disease or defect, within the meaning of impaired mental condition in subsection A of this section.

3. A person is not criminally responsible for his conduct if, by reason of intoxication that is not self--induced at the time he acts, he lacks capacity to conform his conduct to the requirements of the law.

4. "Intoxication," as used in this section, means a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

5. "Self induced intoxication" means intoxication caused by substances which the defendant knows or ought to know have the tendency or cause intoxication, and which he knowingly introduced or allowed to be introduced into his or under circumstances that would afford a defense to a charge or crime.

C. Responsibility Affirmative Defense. The issue of responsibility under this section is an affirmative defense. (Ord. 347 77)

**9.04.040 Arrest by peace officer authorized when.** A peace officer may arrest a person when:

A. He has a warrant commanding that such person be arrested; or

B. Any crime has been or is being committed by such person in his presence; or

C. He has probable cause to believe that the offense was committed and has probable cause to believe that the offense was committed by the person to be arrest. (Ord. 347 77)

**9.04.050 Enforcement Rules of procedure.** All proceedings pertaining to the enforcement of the sanctions of this title and of other ordinances and codes of the city shall be carried out in accordance with the Municipal Court Rules or Procedure, promulgated by the Colorado Supreme Court. (Ord. 347 77)

### Code Documents



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