

# **Title 9**

## **PUBLIC PEACE, MORALS AND WELFARE**

### **Chapters:**

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### **Chapter 9.04**

#### **OFFENSES AGAINST PUBLIC DECENCY**

##### **Sections:**

##### **9.04.010 Card rooms and gambling.**

**9.04.010 Card rooms and gambling.** A. It is declared unlawful for any person, firm, corporation, co-partnership or association to maintain or conduct or aid in maintaining or conducting, in any capacity, any card table, gambling contrivance, or card game for the use of which any fee or compensation is charged any player or which is made available for use or used to stimulate sale of goods, wares or merchandise, including any food or potable liquids in connection therewith.

B. Any person violating any part of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars, or by imprisonment for a term not exceeding six months, or both. (Ord. 86-7 Art. 2 §3.0, 1986; Ord. 62-33 §§1, 2, 1962)

## **Chapter 9.08**

### **OFFENSES BY OR AGAINST MINORS**

#### **Sections:**

#### **9.08.010 Public loitering of juveniles.**

**9.08.010 Public loitering of juveniles.** Every person under the age of eighteen years who loiters in or about any public street or other public place or any place open to the public in the city between the hours of ten p.m. and the time of sunrise of the following day when not accompanied by his parent, guardian or other adult person having the legal care, custody or control of such person shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than six months, or both. (Ord. 63-36 §1, 1963)

## **Chapter 9.12**

### **CAMPING AND SLEEPING ON PUBLIC LANDS AND STREETS**

#### **Sections:**

#### **9.12.010 Sleeping in vehicles prohibited.**

#### **9.12.020 Camping or sleeping facilities on public property.**

#### **9.12.030 Violation--Penalty.**

**9.12.010 Sleeping in vehicles prohibited.** It is unlawful for any person to sleep in any vehicle parked on the public street, alley, way or parking area, or any privately owned parking area used for the parking of any customers of any business enterprise in the city between the hours of six p.m. and six a.m. on any day. A vehicle, for the purpose of this chapter, shall be as defined by Section 670 of the Vehicle Code of the state of California as it now exists or may hereafter be amended. (Ord. 69-63 §1, 1969)

**9.12.020 Camping or sleeping facilities on public property.** It is unlawful for any person to camp or place, erect, or maintain any tents, house trailers, campers, or other

camping or sleeping facilities of any kind whatsoever on any public property of the city. (Ord. 69-63 §2, 1969)

**9.12.030 Violation--Penalty.** Any person violating any part of this chapter shall be guilty of an infraction, and upon commission thereof shall be punishable upon a first conviction by a fine not exceeding fifty dollars and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars and for a third or any subsequent conviction within a period of one year by a fine of not exceeding two hundred fifty dollars. (Ord. 69-63 §3, 1969)

## **Chapter 9.16**

### **COMMERCIAL SALE OF FIREARMS**

#### **Sections:**

**9.16.010 Definition.**

**9.16.020 Conditions for sales--Permits.**

**9.16.030 Fee.**

**9.16.040 Exemption for private sales.**

**9.16.050 Violation--Penalty.**

**9.16.010 Definition.** The term "firearms" as used in this chapter, shall include, not by way of limitation, handguns, rifles, shotguns, gas or air guns, spring-loaded guns and other weapons coming under the definition of firearms as defined in the Penal Code of the state. (Ord. 74-76 §6, 1974)

**9.16.020 Conditions for sales--Permits.** No person shall sell, display for sale, or store preparatory for sale any firearm within the city limits unless said person has fully complied with all of the following conditions:

A. The seller shall hold a federal firearms permit and shall meet all of the provisions of the Gun Control Act of 1968.

B. The seller shall have obtained a permit from the chief of police authorizing the storage of the firearms within the city. The permit shall be renewable annually and shall be issued only upon the showing that the seller has a federal firearms permit and has taken steps to insure the safety of his firearms from burglary or theft. The chief of police shall have the right in conjunction with the building inspector to require as a

condition for the issuance of a permit structural changes to the building in which the firearms are sold or stored, including the installation of burglar alarms and other warning devices.

C. The city permit and the federal firearms permit shall be displayed at the location for which it is issued in a prominent place. (Ord. 74-76 §3, 1974)

**9.16.030 Fee.** The fee for the issuance of an annual permit shall be twenty-five dollars. The annual fee shall be paid at the time application is obtained from the city clerk and in the event a permit is not issued, the sum of twenty-five dollars shall be refunded to the applicant. (Ord. 74-76 §4, 1974)

**9.16.040 Exemption for private sales.** Private persons selling their own firearms and not engaged in the commercial sale of the same shall be exempted from the purview of this chapter. For the purpose of this chapter, a person selling three or more firearms in any calendar year shall be conclusively deemed to be engaged in the commercial sale of firearms and shall be required to comply with the terms of this chapter. (Ord. 74-76 §5, 1974)

**9.16.050 Violation--Penalty.** Any person violating any part of this chapter shall be guilty of a misdemeanor and upon commission thereof shall be punishable upon first conviction by a fine not exceeding two hundred fifty dollars and for a second conviction by a fine not exceeding five hundred dollars. In addition, violation of any section of this chapter shall be heard by a court of competent jurisdiction. (Ord. 74-76 §7, 1974)

## **Chapter 9.20**

### **DISCHARGE OF WEAPONS**

#### **Sections:**

**9.20.010 Prohibited.**

**9.20.020 Surrender of weapon-- Destruction--Exemption.**

**9.20.030 Unauthorized discharge of firearms prohibited.**

**9.20.040 Surrender of weapon--Destruction--Nuisance.**

**9.20.050 Violation-Penalty.**

**9.20.010 Prohibited.** It shall be unlawful for any person to shoot or discharge within the city limits any air rifle, air pistol, BB gun, or any other type of weapon operated by

compressed air or gas, or use any sling, elastic, or spring gun, sling shot, bow, cross-bow, dart or any implement or mechanical appliance by which any projectile may be propelled, sprung or thrown, from on place to another. (Ord. 62-30 §1, 1962)

**9.20.020 Surrender of weapon--Destruction--Exemption.** Upon the arrest and conviction of any person under Section 9.20.010, the weapon so discharged or used shall be, and is declared to be, a nuisance, and shall be surrendered to the chief of police of the city. Such officer shall, except upon the certification of the city attorney or district attorney that the preservation thereof is necessary or proper to the ends of justice, annually, destroy or cause to be destroyed, such weapons. (Ord. 62-30 §2, 1962)

**9.20.030 Unauthorized discharge of firearms prohibited.** It shall be unlawful to shoot, fire or discharge, or permit to be discharged any pistol, rifle, shotgun, cannon or other firearms or devices discharged by explosives. Not in necessary self-defense, or in the performance of official duty within the city limits. (Ord. 94-02 §1, 1994)

**9.20.040 Surrender of weapon--Destruction--Nuisance.** Upon the arrest and conviction of any person in violation of section 9.20.030, the weapon so discharged or used shall be, and is declared to be, a nuisance, and shall be surrendered to the chief of police of the city. Grounds for destruction of such weapons will be authorized by the city attorney or district attorney on a quarterly basis. The weapon, if determined by the chief of police to be useful to serve law enforcement needs, shall be turned over to the police department for use in official capacities. (Ord. 94-02 §2, 1994)

**9.20.050 Violation-Penalty.** Any person violating any part of section 9.20.030 shall be guilty of a misdemeanor and upon commission thereof shall be punishable by a fine not exceeding five hundred dollars and/or six months confinement in county jail. (Ord. 94-02 §3, 1994)

## **Chapter 9.24**

### **ADULT ENTERTAINMENT FACILITIES**

#### **Sections:**

**9.24.010 Findings.**

**9.24.020 Definitions.**

**9.24.030 Location.**

**9.24.040 Public display of certain matter prohibited.**

**9.24.050 Conditional use permit.**

**9.24.010 Findings.** The city makes the following findings regarding the establishments of adult businesses:

A. Certain uses of real property, variously described as adult book stores, adult motion picture facilities, figure model studios, adult cabarets, adult motels, massage parlors, and tattoo parlors have serious objectionable characteristics which, if such uses were allowed to become concentrated in certain areas of the city, may have adverse effects upon the character of such areas and adjacent neighborhoods;

B. Permitting the concentration of such adult businesses in residential zones, or in zones adjacent to schools, churches, or public recreational areas, or within close proximity of such uses, may expose minors to such facilities and this may adversely affect such minors due to their immaturity;

C. Permitting the concentration of adult businesses may tend to create and foster a "skid row" atmosphere in neighborhoods and areas within the city;

D. Special regulation of adult business uses is necessary to insure that such uses do not become incompatible land uses, and, further, not contribute to the blighting or downgrading of zones in which they are a conditional use, therefore adversely affecting property values and deterring or interfering with the development and operation of other businesses within the city;

E. There is a higher incidence of crime, especially crimes against the person, in areas in which adult businesses are permitted to cluster or become concentrated, and that such crimes and the incidence thereof increase in the late evening and night hours, requiring increased effort on the part of public safety personnel to police such activities, with resulting costs to the city. (Ord. 87-3 §1, 1987)

**9.24.020 Definitions.** For the purpose of this chapter, the following definitions shall apply, unless the context otherwise requires:

A. "Adult business" means an adult book store, adult motion picture facility, figure model studio, adult motel, adult cabaret, massage establishment, or tattoo parlor.

B. "Adult book store" means an establishment having a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined in this section), or an establishment with a segment or section devoted to the sale or display of such material.

C. "Adult cabaret" means an establishment which features topless-bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

D. "Adult motels" means any establishment designated as or having the characteristics of a hotel, motel, or other transient lodging facility which has or proposes to have as a feature or service offered to its customers the presentation or entertainment in the form of motion picture film, video tape, closed circuit television, or any other similar means or device which is substantially similar thereto and provided for the purpose of displaying, showing, or depicting specified anatomical areas as defined in this section for observation or viewing by persons who are customers of such establishments. This section shall apply whether charge is made or consideration exchanged for the use of rooms within such establishments for overnight accommodations or for short-term admission to view the material described in this section.

E. "Adult motion picture facility" means a facility used for presenting, whether by way of motion picture projection or television, or video equipment, or peep show device, material distinguished or characterized by an emphasis on matter depicting, describing, or related to specific sexual activities or specified anatomical areas for observation by patrons therein, whether in one or more auditoriums, drive-in theaters, booths, or rooms within such facility.

F. "Figure model studio" means any premises where there is conducted the business of furnishing, providing, or procuring figure models who pose for the purpose of being observed, conversed with, or viewed by any person, or being sketched, painted, drawn, sculptured, photographed, or otherwise similarly depicted in the nude or seminude for persons who pay a fee, or other consideration, compensation, or gratuity, for the right or opportunity to converse with or converse with or so depict a figure model, or for admission to, or for permission to remain upon or as a condition of remaining upon the premises. "Figure model studio" shall not be construed to include for purposes of this definition, any studio which is operated by any state college, junior or community college, public or private school, or any governmental agency wherein the person, firm, association, partnership, or corporation so operating has met the requirements established by the state, for the issuance, or conferring, of, and is in fact authorized there under to issue and confer a diploma or honorary diploma.

G. "Massage" means any method of pressure on, or friction against, or stroking, rubbing, kneading, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliance, or with or without the aid of such supplementary materials as rubbing alcohol, lineaments, antiseptics, oils, powders,

creams, lotions, ointments, or other similar preparations commonly used in the practice of massage. "Massage" shall not be construed to include for purposes of this definition the methods of practice or the legitimate techniques of licensed physicians, chiropractors, physical therapists, or athletic trainers.

H. "Massage establishment" means any establishment having a fixed place of business where any individual, firm, association, partnership, corporation, or combination of individuals, engages, in, conducts, carries on, or permits to be engaged in, conducted or carried on, massage, baths, or health treatments involving massage or baths as the principal functions.

I. "Specified anatomical areas" means:

1. Less than completely and opaquely covered:
  - a. Mature human genitals;
  - b. Mature human buttock; and
  - c. Mature human female breast below a point immediately above the top of the areola.
2. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

J. "Specified sexual activities" means:

1. Mature human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

K. "Tattoo parlor" means any premises where there is conducted the business of tattooing an indelible mark or figure fixed upon the human body by insertion of pigment under the skin or by production of scars. (Ord. 87-3 §2, 1987)

#### **9.24.030 Location.**

A. Adult business as defined in this chapter shall only be a conditional use in the C-2 (heavy commercial) zoning district, and in that district shall only be a conditional use subject to first obtaining a conditional use permit. In all other zoning districts, adult businesses are a prohibited use.

B. Adult businesses shall not display or exhibit any material depicting human genitals or specified sexual activities in which such book stores or motion picture theaters are located.

C. No adult business shall be located within a radius of two hundred fifty feet from any of the following:

1. A public or private school attended primarily by minors;
2. A church or other house of worship;
3. A public park or recreational facility frequented or utilized by minors, including but not limited to public parks, beaches, and recreational centers;
4. Any other adult business; and
5. Any property zoned or used for residential purposes.

D. Reference for computing these distances shall be the official Monterey County assessor's maps. (Ord. 87-3 §3, 1987)

**9.24.040 Public display of certain matter prohibited.** A. Materials offered for public sale from news racks shall not be displayed in a manner which exposes to the public view photographs or illustrations of "specified activities" or of poses which emphasize or direct the viewer's attention to "specified anatomical areas." The provisions of this subsection shall not apply to any news rack placed in a location covered by Penal Code Section 313.1.

B. No person shall place, maintain, display, or exhibit, or permit the public view in any manner any material which exposes to public view photographs or illustrations of, "specified sexual activities" or of poses which emphasize or direct the viewer's attention to "specified anatomical areas." As used in this chapter, "exposed to public view" means exposed to the view of persons inside or outside the building in which such material is placed, maintained or displayed. (Ord. 87-3 §4, 1987)

**9.24.050 Conditional use permit.** Any adult business, the location of which is otherwise permitted under this chapter, shall be a use subject to first obtaining a conditional use permit, as defined in Sections 18.68.010, 18.72.010, 18.72.020 and Chapters 18.74 and 18.76 of this code, subject to the requirements of those provisions in addition to the following criteria:

A. That the proposed use will not be contrary to the public health, peace, safety, morals, comfort, and general welfare of persons residing or working in the zone or district in which the use is proposed;

B. That the proposed use will not result in creating a "skid-row" atmosphere in zones or districts in which it is proposed. (Ord. 87-3 §5, 1987)

## **Chapter 9.25**

### **PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES**

#### **Sections:**

**9.25.010 Definitions.**

**9.25.020 Drinking in public places.**

**9.25.030 Violation-Penalty.**

**9.25.010 Definitions.** For the purposes of this chapter the following phrases shall have the meanings stated in this Section:

A. "Alcoholic Beverage" means and includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which is fit for beverage purposes, either alone or diluted, mixed, or combined with other substances.

B. "Public Place" means any public street, right of way, alley, beach area, any park area that the city council may, from time to time, designate by resolution; any publicly used exterior grounds of a parking lot or business to include the parking and public areas of the Sand Dollar Plaza, any school or school ground; any public assembly hall or auditorium; any municipal chambers. This also applies to areas open to public view from these above determined areas. The city council shall have the right to make exceptions in designated places for specific events. On these occasions a permit will be issued by the chief of police upon application and an affirmative vote by the city council. (Ord. 94-03 §1, 1994)

**9.25.020 Drinking in public places.** It is unlawful for any person to drink alcoholic beverages in or upon any public place, as defined in this Chapter, with the City limits of Sand City. (Ord. 94-03 §2, 1994)

**9.25.030 Violation-Penalty.** Any person violating any part of this Chapter shall be guilty of a misdemeanor and upon commission thereof shall be punishable upon first conviction by a fine not exceeding one hundred dollars and for a second conviction within a period of one year by a fine not exceeding two hundred dollars and for a third or any subsequent conviction within a period of one year by a fine not exceeding three hundred dollars. (Ord. 94-03, 1994)

## **Chapter 9.26**

### **PUBLIC DECENCY**

#### **Sections:**

**9.26.010 Urination or defecation in public and private areas.**

**9.26.020 Violation-Penalty.**

**9.26.010 Urination or defecation.** It is unlawful to urinate or defecate on public property except in a public restroom. It is also unlawful to urinate or defecate on private property except in a restroom facility when an immediate health hazard exists from this activity. A health hazard exists when the urination or defecation is not deposited in a proper sewage system as maintained within a restroom facility. (Ord. 94-04 §1, 1994)

**9.26.020 Violation--Penalty.** Any person violating any part of this chapter shall be guilty of a misdemeanor and upon commission thereof shall be punishable upon first conviction by a fine not exceeding one hundred dollars and for a second conviction within a period of one year by a fine not exceeding two hundred dollars and for a third or any subsequent conviction within a period of one year by a fine not to exceed three hundred dollars. (Ord. 94-04 §2, 1994)

## **Chapter 9.27**

### **SMOKING PROHIBITED**

#### **Sections:**

**9.27.010 Definitions.**

**9.27.020 Smoking Prohibited on Beach and in Designated Right of Way Areas**

**9.27.030 Posting of Signs**

**9.27.040 Violation - Penalty**

**9.27.010 Definitions.** For the purposes of this chapter the following phrases shall have the meanings stated in this section.

A. "Smoke" or "smoking" are defined to include inhaling from (or exhaling), as well as burning or carrying of, any lighted pipe, lighted cigar or lighted cigarette of any kind, or the lighting

of any such pipe, cigar or cigarette.

B. "Beach" is defined to include the zone in Sand City which is above the water line and below the toes of the beach dune at a shore of Monterey Bay, which is marked by an accumulation of sand, stone, gravel or concrete slurry that has been deposited by the tide or waves or other activity.

C. "Designated Right of Way" shall include: (1) the California Avenue right of way west of State Highway 1; (2) the Sand Dunes Drive right of way north of Tioga Avenue; (3) the Playa Avenue right of way, west of Metz Road; (4) the Tioga Avenue right of way, west of Sand Dunes Drive; and, (5) the Bay Avenue right of way, west of Sand Dunes Drive.

**9.27.020 Smoking Prohibited on Beach and in Designated Right of Way areas.**

Smoking shall be prohibited, and is unlawful on the Beach and in Designated Right of Way areas as defined in section 9.27.010.

**9.27.030 Posting of Signs.**

Signs, which designate the no smoking areas established by this chapter, shall be clearly, sufficiently, and conspicuously placed or posted. The manner of such posting, including the wording, size, color, design and place of posting shall be determined by the Chief of Police.

**9.27.040 Violation - Penalty.**

Notwithstanding any other provisions of this Code, any person who shall violate the provisions of this chapter shall be deemed guilty of an infraction, and upon conviction thereof, shall be punished by a fine not to exceed \$25.00 for each such violation. (Ord.06-04, 2006)