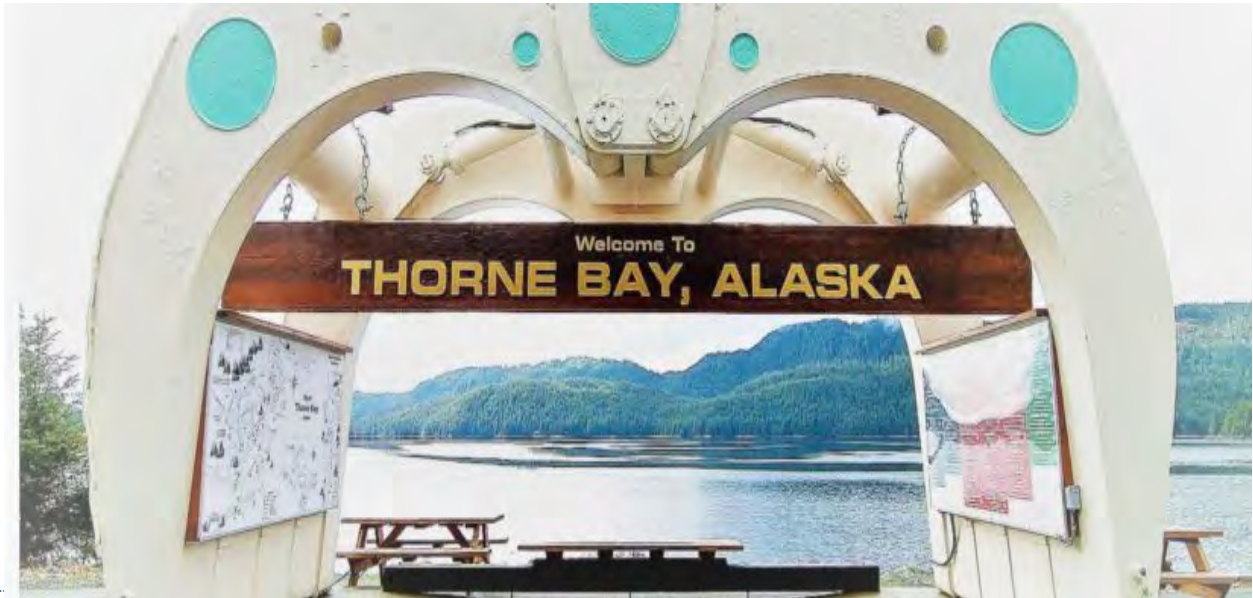


2021



## TITLE 9

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# PUBLIC PEACE MORALS & WELFARE

CODIFIED APRIL 6, 2021

Thorne Bay City Council

Thorne Bay Municipal Code

## TITLE 9 - PUBLIC PEACE, MORALS AND WELFARE

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## CHAPTER 9.02 – CURFEW FOR MINORS

### 9.02.010 DEFINITIONS.

As used in this chapter, "minor" means a person seventeen year of age or younger. (Ord. 94-03 § 3(part), 1994)

### 9.02.020 CONTROL OF MINORS.

It is unlawful for any person having custody or control of a minor to allow the minor to be out past the curfew hours except as provided in Section 9.02.040 of this chapter. No person shall be convicted under this chapter unless they had knowledge the minor was out after the prescribed curfew or had been advised by a law enforcement officer of the curfew, or of violations in the past.

(Ord. 94-03 § 3(part), 1994)

### 9.02.025 AIDING AND ABETTING VIOLATIONS.

It is unlawful for any adult to aid or abet the violation of any section of this chapter. (Ord. 97-23 § 3(part), 1997)

### 9.02.030 CURFEW HOURS.

- A. From June 1st through August 31st, it is unlawful for any minor to remain on the streets or in any public place in the city between the hours of :
  - 1. Nine p.m. to six a.m. for minors under the age of twelve;
  - 2. Eleven p.m. to six a.m. for minors between the ages of twelve and fourteen;
  - 3. Twelve a.m. to six a.m. for minors between the ages of fifteen and seventeen.
- B. From September 1st through May 31st, it is unlawful for any minor to remain on the streets or in any public place in the city between the hours of nine p.m. and six a.m. Sunday through Thursday. On Friday and Saturday, curfew hours are as follows:
  - 1. Nine p.m. to six a.m. for minors under the age of twelve;
  - 2. Ten p.m. to six a.m. for minors between the ages of twelve to fourteen;
  - 3. Eleven p.m. to six a.m. for minors between the ages of fifteen to seventeen.

(Ord. 02-09-05-02 § 3, 2002: Ord. 95-16 § 3, 1995: Ord. 94-03 § 3(part), 1994)

**9.02.040 EXCEPTIONS.**

The following are exceptions to this chapter:

- A. The minor is with their parent or legal guardian.
- B. The minor is attending a sanctioned school function that is scheduled to occur past the curfew hours.
- C. The minor is accompanied by a person twenty-one year of age or older and has permission from the parent or legal guardian.
- D. The minor is going to or coming from gainful employment.
- E. The minor is attending an adult supervised city-sanctioned youth event. (Ord. 97-23 § 3(part), 1997; Ord. 95-16 (part), 1995; Ord. 94-03 § 3(part), 1994)

**9.02.050 VIOLATIONS-PENALTIES.**

- A. Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in the Fine Schedule in 1.16.035 if the offense is listed in that fine schedule or by a fine of up to \$300 if the offense is not listed in 1.16.035.
- B. A parent, legal guardian, or other person having custody or control of a minor that is in violation of the curfew is subject to the aforementioned fines.
- C. Any adult who helps, assists, facilitates, promotes or encourages a child to commit a violation of this chapter, by advancing or bringing about its commission, is subject to the aforementioned fines. (Ordinance 18-08-21-05; Part A; Prior Ord 18-01-02-01; Ord. 97-23 § 3(part), 1997; Ord. 96-28 § 3(part), 1996; Ord. 94-03 § 3(part), 1994;)

## CHAPTER 9.04 OFFENSES GENERALLY

### 9.04.010 LAWS OF ALASKA-VIOLATIONS-ORDINANCES NOT EXCLUSIVE.

No person shall violate any law of the state of Alaska, nor any rule or regulation adopted by any duly authorized agency of the state of Alaska. Violations of the foregoing shall be violations of the code of ordinances of the City of Thorne Bay, Alaska, except where the state has exclusive jurisdiction over the offense. (Prior code Ch. 1 § 7)



## CHAPTER 9.05 DISCHARGE OF FIREARMS – SECTIONS

### 9.05.010 PROHIBITED ACTS.

Except as provided in this chapter, it shall be unlawful to discharge any firearm:

- A. Within the South 1/2 of the Southeast 1/4 of Section 21, the South 1/2 of the Southwest 1/4 of Section 22, the Northeast 1/4 of Section 28, and the West 1/2 of Section 27, Township 71 South, Range 84 East, Copper River Meridian (commonly known as the main town site of the City of Thorne Bay); within lands depicted in Alaska State Land Survey 80-121 (commonly known as the South Thorne Bay Subdivision); and within lands depicted in Alaska State Land Survey 93-141 (commonly known as the Goose Creek Industrial Subdivision), all located within the municipal boundaries of the City of Thorne Bay, Alaska;
- B. On, into, or across that body of water known as Thorne Bay; or
- C. Within the municipal boundaries of Thorne Bay one-half hour before sunrise and one-half hour after sunset.
- D. Any citizen from discharging a firearm on the left side of the Kasaan Road #2030970 when traveling to Kasaan from Goose Creek between the “no shooting” sign at AP&T power pole #116, a distance of approximately 2.5 miles. (Ordinance 05-12-06-02) (Ord. 96-28 § 3(part), 1996)

### 9.05.020 EXCEPTIONS.

This chapter shall not be construed to prohibit:

- A. Any officer of the law from discharging a firearm in the performance of the officer’s duty;
- B. Any citizen from discharging a firearm when lawfully defending person or property;

### 9.05.030 VIOLATIONS-PENALTIES.

Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in 1.16.035 if the offense is listed in that fine schedule or by a fine of up to \$300 if the offense is not listed in the 1.16.035 fine schedule. (Ord. 18-01-02-01; Prior Ord. 96-28 § 3(part), 1996)

## CHAPTER 9.06 MARIJUANA ESTABLISHMENTS

### 9.06.010 Local regulatory authority.

- A. The Thorne Bay city council shall be the local regulating authority responsible for processing applications submitted for a registration to operate a marijuana establishment within the boundaries of the local government under as 17.38.110(c).
- B. Complete copies of applications required by the marijuana control board for new licenses, license renewals, changes of ownership, and transfer of licenses shall be submitted by the license applicant to the Thorne Bay city clerk on or before the same day that applications are submitted to the marijuana control board. The city clerk will provide for city council and city staff review of the application and comment to the marijuana control board within the time limits set by the board.
- C. License applications shall be reviewed by the Thorne Bay planning official to ensure compliance with local zoning code, distances from facilities provided for in 3 AAC 306.010(a), and related municipal ordinances. The Thorne Bay planning official will forward comments on each application to the city clerk for city council review.
- D. License applications shall be reviewed by the Thorne Bay law enforcement officer, and comments will be sent to the city clerk for city council review. [ord. 21-04-06-01]

### 9.06.020 MARIJUANA ESTABLISHMENTS PROHIBITED.

Commercial marijuana cultivation, commercial marijuana manufacturing, and commercial marijuana testing facilities, as defined, licensed, or regulated by the Alaska marijuana control board, are prohibited. [ord. 21-04-06-01]

### 9.06.025 REGISTRATION REQUIRED.

- A. All marijuana establishments shall be registered with the city as required by TBMC 3.17.065 and be compliant with TBMC title 18-zoning. A registration may be issued only when:
  - 1. A valid license has been issued by the Alaska marijuana control board; and
  - 2. The Thorne Bay planning official certifies that the proposed marijuana establishment complies with TBMC title 17. [ord. 21-04-06-01]

**9.06.030 LIMITS ON NUMBER OF MARIJUANA ESTABLISHMENTS.**

- A. There shall be a limit on the number of licensed retail marijuana stores located within the municipal boundaries of the City of Thorne Bay as follows: 1. No more than two licensed retail marijuana stores. [ord. 21-04-06-01]

**9.06.035 HOURS OF OPERATION.**

A licensed retail marijuana store may not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 3:00 a.m. and 8:00 a.m. each day. [ord. 21-04-06-01]

**9.06.040 IDENTIFICATION REQUIREMENT TO PREVENT SALE TO PERSON UNDER 21.**

- A. A licensed retail marijuana store shall refuse entry into the licensed premises to any person failing to produce a form of valid photo identification showing that person is 21 years of age or older. A valid form of identification includes:
1. An unexpired, unaltered passport.
  2. An unexpired, unaltered driver's license; instruction permit, or identification card of any state or territory of the united states, the district of Columbia, or a province of Canada.
  3. An identification card issued by a federal or state agency authorized to issue a driver's license or identification card.
- B. A licensed retail marijuana store shall refuse to sell marijuana or a marijuana product to any person who does not produce a form of valid photo identification showing that person is 21 years of age or older. [ord. 21-04-06-01]

**9.06.050 PRODUCTION OF MARIJUANA CONCENTRATES PROHIBITED.**

- A. No person may produce solvent based marijuana concentrate using the hydrocarbons nbutane, isobutene, propane, or heptane or other explosive or corrosive chemicals, solvents, or gases.
- B. Any violation of this chapter is an infraction and shall be punished by the fine established in TBMC 1.16.035 for violation of TBMC 9.06.010.

- C. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
- D. In this section, “concentrate,” “marijuana concentrate,” and “marijuana” have the meaning given in 3 AAC 306.990. [ord. 21-04-06-01]

#### **9.06.055 PROHIBITION ON ON-SITE CONSUMPTION OF MARIJUANA.**

No licensed retail marijuana store shall permit consumption of marijuana or a marijuana product on the licensed premises within the city limits of Thorne Bay. A licensed retail marijuana store is considered a “public place” as the term is used at TBMC 9.07.040. [ord. 21-04-06-01]

#### **9.06.060 ENFORCEMENT AND INSPECTION.**

- A. The code enforcement officer shall be responsible for ensuring compliance, including all conditions of approval applied by state and local regulatory authorities, for marijuana establishments within the municipal boundaries of the City of Thorne Bay. The Thorne Bay police department shall assist the city’s code enforcement officer in the course of inspecting marijuana establishments, ensuring compliance with conditions of approval, and issuing citations for noncompliance of ordinances, regulations, and imposed license, zoning, and registration conditions.
- B. It is unlawful for any licensee or employee of licensee to refuse a law enforcement officer, or code enforcement officer, access to and inspection of all areas of a licensed premise. [ord. 21-04-06-01]

#### **9.06.070 DEFINITIONS.**

In this section:

“concentrate” or “marijuana concentrate” has the meaning given in 3 AAC 306.990.

“marijuana” and “marijuana products” has the meaning given in as 17.38.900.

“marijuana establishment” and “licensed premises” means a commercial marijuana retail, cultivation, product manufacturing, or testing facility licensed by the State of Alaska under as 17.38 and 3 AAC 306.

“THC” has the meaning given in 3 AAC 306.990.

“**THC-bearing**” means any product containing an amount equal to or greater than 0.01 milligrams of THC per gram of product, or 0.001 percent THC concentrate. [ord. 21-04-06-01]

**9.06.080 PENALTIES FOR VIOLATION.**

Any violation of this chapter is an infraction and shall be punished by the fine established in TBMC 1.16.035 for violation of TBMC 9.07.010. [ord. 21-04-06-01]

**CHAPTER 9.07 CONTROLLED SUBSTANCES****9.07.010 MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE SIXTH DEGREE.**

Except as authorized in as chapter 17.30, a person commits the crime of misconduct involving a controlled substance in the sixth degree if the person:

- A. Uses or displays any amount of a schedule via controlled substance or possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing a schedule via controlled substance on a public street or sidewalk or on the premises of a public carrier or business establishment or in any other public place;
- B. Knowingly possesses any amount of a schedule via controlled substance within the immediate control of that person while operating a propelled vehicle;
- C. Being under 19 years of age, possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than four ounces containing a schedule via controlled substance;
- D. Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of four ounces or more containing a schedule via controlled substance; or e. Refuses entry into a premises for an inspection authorized under as chapter 17.30. [ord. 21-04-06-01]

**9.07.020 MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE SEVENTH DEGREE.**

Except as authorized in as chapter 17.30, a person commits the offense of misconduct involving a controlled substance in the seventh degree if the person:

- A. Manufactures or delivers, or possesses with the intent to manufacture or deliver, one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one-half ounce of a schedule via controlled substance; or
- B. Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of less than one ounce containing a schedule via controlled substance

on a public street or sidewalk or on the premises of a public carrier or business establishment or in any other public place. [ord. 21-04-06-01]

### **9.07.030 SCHEDULES OF CONTROLLED SUBSTANCES.**

Controlled substances referred to herein by schedule number are the same as those identified by the corresponding schedule numbers in as 11.71.140 through 11.71.190. [ord. 21-04-06-01]

### **9.07.040 CONSUMING MARIJUANA IN A PUBLIC PLACE.**

- A. It is unlawful for any person to knowingly consume marijuana when the person is:
1. On, in or upon any public place, except as permitted by ordinance, regulation, statute or permit; or
  2. Outdoors on property adjacent to a public place, and without consent of the owner or person in control thereof.
- C. For purposes of this section, the definitions of the words and phrases below shall apply:
1. “consume” shall have the meaning, in all conjugate forms, of “consumption” set forth in as 17.38.900.
  2. “Marijuana” shall have the meaning set forth in as 17.38.900.
  3. “Public Place” means a place to which the public or a substantial group of persons has access and includes, but is not limited to: streets and highways; motorized vehicles occupying streets, highways or other public places; sidewalks; alleys; transportation facilities; parking areas; convention centers; sports arenas; schools; places of business or amusement; shopping centers; malls; parks; playgrounds; jails; and hallways, lobbies, doorways and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

## CHAPTER 9.08 ALCOHOLIC BEVERAGES

### 9.08.010 DEFINITIONS.

As used in this chapter, "alcoholic beverage" means, but is not limited to, whiskey, brandy, rum, gin, wine, ale, porter, beer and all other spirituous, vinous, malt and other fermented or distilled liquors intended for human consumption and containing more than one percent alcohol by volume. (Ord. 88-08 § 4(part), 1988)

### 9.08.020 STATE LICENSE-REQUIRED.

No person shall manufacture, sell, offer for sale, possess for sale or barter, traffic in or barter an alcoholic beverage unless under license or permit obtained pursuant to state law. The licensees referred to herein are the parties having such licenses from the state of Alaska. (Ord. 88-08 § 4(part), 1988)

### 9.08.030 HOURS OF CONSUMPTION.

- A. A person may not sell, offer for sale, give, furnish, deliver or consume an alcoholic beverage on any licensed premises within the city between the hours of three a.m. and eight a.m. on any day of the week.
- B. A licensee, his agent or employee may not permit a person to consume alcoholic beverages on the licensed premises between the hours of three a.m. and eight a.m. on any day of the week.
- C. A licensee, his agent or employee may not permit a person to and person may not enter licensed premises between the hours of three a.m. and eight a.m. any day of the week; provided, however, this restriction does not apply to common carriers as defined in AS 42.10.420(2), or to an employee of the licensee who is on the premises to prepare for the next day's business or to persons remaining on the premises of a restaurant or eating place to consume food or nonalcoholic beverages.

(Ord. 88-08 § 4(part), 1988)



**9.08.040 PERSON UNDER TWENTY-ONE-ACCESS TO LICENSED PREMISES.**

- A. A person under the age of twenty-one years may not knowingly enter or remain in licensed premises unless:
1. Accompanied by a parent, guardian or spouse who has attained the age of twenty-one years;
  2. The person is at least sixteen years of age, the premises are designated by the Alaska Alcoholic Beverage Control Board as a restaurant for the purposes of AS 04.16, and the person enters and remains only for dining; or
  3. The person is under the age of sixteen years, is accompanied by a person over the age of twenty-one years, the parent or guardian of the under-aged person consents, the premises are designated by the Alaska Alcoholic Beverage Control Board as a restaurant for the purposes of AS 04.16, and the person enters and remains only for dining.
- B. Notwithstanding subsection A of this section, a licensee or any agent or employee of the licensee may refuse entry to a person under the age of twenty-one years to that part of licensed premises in which alcoholic beverages are sold, served or consumed may refuse service to a person under the age of twenty-one years, or may require a person under the age of twenty-one years to leave the portion of the licensed premises in which alcoholic beverages are sold, served or consumed.
- C. Notwithstanding any other provision in this section, a person between sixteen and nineteen years of age may enter and remain within the licensed premises of a hotel, restaurant or eating place in the course of employment if:
1. The employment does not involve the serving, mixing, delivering or dispensing of alcoholic beverages;
  2. The person has the written consent of a parent or guardian; and
  3. An exemption from the prohibition of AS 23.10.355 has been granted by the Alaska Department of Labor. The Alaska Alcoholic Beverage Control Board, with the approval of the municipality and at the licensee's request, designates which premises are hotels, restaurants or eating places for the purposes of this subsection.
- D. Notwithstanding any other provision in this section, a person nineteen or twenty year of age may be employed within the licensed premises of a hotel, restaurant or eating place, may enter and remain within those premises for the purposes of employment, but may not, in the course of employment, sell, serve, deliver or dispense alcoholic beverages. (Ord. 88-08 § 4(part), 1988)

**9.08.050 PERSON UNDER TWENTY-ONE-POSSESSION-CONSUMPTION.**

A person under the age of twenty-one years may not knowingly consume, possess or control alcoholic beverages except those furnished persons under subsection B of Section 9.08.060. (Ord. 88-08 § 4(part), 1988)

**9.08.060 PERSON UNDER TWENTY-ONE-FURNISHING ALCOHOLIC BEVERAGES.**

- A. A person may not furnish an alcoholic beverage to a person under the age of twenty-one years.
- B. This section does not prohibit the furnishing of an alcoholic beverage:
  - 1. By a parent to his child, by a guardian to his ward, or by a spouse to his or her legal spouse if the furnishing occurs off licensed premises; or
  - 2. By a licensed physician or nurse to a patient in the course of administering medical treatment. (Ord. 88-08 § 4(part), 1988)

**9.08.070 PERSON UNDER TWENTY-ONE-FURNISHING ALCOHOLIC BEVERAGES BY LICENSEE.**

A licensee or any agent or employee of the licensee may not with criminal negligence:

- A. Allow another person to sell, barter or give an alcoholic beverage to a person under the age of twenty-one years within licensed premises;
- B. Allow a person under the age of twenty-one years to enter and remain within licensed premises except as provided in Section 9.08.040;
- C. Allow a person under the age of twenty-one years to consume an alcoholic beverage within licensed premises;
- D. Allow a person under the age of twenty-one years to sell or serve alcoholic beverages. (Ord. 88-08 § 4(part), 1988)

**9.08.080 PERSON UNDER TWENTY-ONE-PURCHASE.**

- A. person under the age of twenty-one years may not purchase alcoholic beverages or solicit another or purchase alcoholic beverages for the person under the age of twenty-one.
- B. A person may not influence the sale, gift or service of an alcoholic beverage to a person under the age of twenty-one years, by misrepresenting the age of that person.
- C. A person may not order or receive an alcoholic beverage from a licensee, an agent or employee of the licensee, or another person, for the purpose of selling, giving or serving it to a person under the age of twenty-one years.
- D. A person under the age of twenty-one years may not enter licensed premises where alcoholic beverages are sold and offer or present to a licensee or an agent or employee of the licensee a birth certificate or other written evidence of age, that is fraudulent or false or that is not actually the person's own, or otherwise misrepresent the person's age, for the purpose of inducing the licensee or an agent or employee of the licensee to sell, give, serve or furnish alcoholic beverages contrary to law.
- E. A person under the age of twenty-one who is seeking to enter and remain in a licensed premise under subsection A (2) or (3) of Section 9.08.040 may not misrepresent the person's age or having obtained the consent of the parent or guardian required by that section. (Ord. 88-08 § 4(part), 1988)

**9.08.090 UNLAWFUL DRINKING ON PREMISES.**

It is unlawful for a licensee to permit the drinking of alcoholic beverages by any person upon the premises covered by his license unless such drinking is permitted under the license held by the licensee for such premises. (Ord. 88-08 § 4(part), 1988)

**9.08.100 SOLICITATION OF ALCOHOLIC BEVERAGES.**

A licensee, his agent or employee may not knowingly permit a person to loiter within or about licensed premises for the purposes of begging or soliciting a patron or visitor to purchase alcoholic or other beverages for the person who is begging or soliciting. (Ord. 88-08 § 4(part), 1988)

**9.08.110 DRUNKEN PERSON-SALE OR DISPOSITION OF ALCOHOLIC BEVERAGES.**

A licensee, his agent or employee may not with criminal negligence:

- A. Sell, give or barter alcoholic beverages to a drunken person;
- B. Allow another person to sell, give or barter an alcoholic beverage to a drunken person within licensed premises;
- C. Allow a drunken person to enter and remain within licensed premises or to consume an alcoholic beverage within licensed premises;
- D. Permit a drunken person to sell or serve alcoholic beverages. (Ord. 88-08 § 4(part), 1988)

**9.08.120 DRUNKEN PERSON-ACCESS TO LICENSED PREMISES.**

A drunken person may not knowingly enter or remain on licensed premises. (Ord. 88-08 § 4(part), 1988)

**9.08.130 ENFORCEMENT OF RESTRICTIONS IN LICENSED PREMISES.**

A licensee, his agent or employee may not permit the consumption of alcoholic beverages by any person within licensed premises unless it is permitted by the license. (Ord. 88-08 § 4(part), 1988)

**9.08.140 STOCK TO BE KEPT ON PREMISES.**

It is unlawful for a licensee to carry for sale any stock of alcoholic beverages except on the premises covered by his license. (Ord. 88-08 § 4(part), 1988)

**9.08.150 INSPECTION.**

It is unlawful for any licensee or his employee to refuse a law enforcement officer the right to inspect all of his licensed premises. (Ord. 88-08 § 4(part), 1988)

**9.08.160 PLAYING MUSIC-RESTRICTION.**

It is unlawful for any licensee to permit or cause the playing of any music or other reproduction of any music within licensed premises except during such hours as the premises are lawfully open for business. (Ord. 88-08 § 4(part), 1988)

**9.08.170 CLUBS-SERVING RESTRICTION.**

It is unlawful for any club to sell alcoholic beverages under a club license to any person other than members of the club and their families. (Ord. 88-08 § 4(part), 1988)

**9.08.180 DANGEROUS WEAPON POSSESSION.**

It is unlawful for any customer to carry or possess within licensed premises any knife with a straight blade of any length, or a folding knife with a blade in excess of three and one-half inches. (Ord. 88-08 § 4(part), 1988)

**9.08.190 ENFORCEMENT**

REPEALED (ORD. 18-01-02-01; PRIOR ORD. 88-08 § 4(PART), 1988)

**9.08.200 VIOLATIONS-PENALTIES.**

Any person violating any provision of this chapter shall be guilty of an infraction and shall be punished by the fine established in 1.16.035 Fine Schedule if the offense is listed in that fine schedule or by a fine of up to \$300 if the offense is not listed in the 1.16.035 fine schedule.

**CHAPTER 9.12 PROTECTION OF SURVEY MONUMENTS:****9.12.010 DEFINITIONS.**

As used in this chapter, the following terms are defined below:

- A. "Corner" means a point determined by the surveying process that determines the boundaries of the various subdivisions represented on the official plat of the city of Thorne Bay, including but not limited to, witness corners, reference corners, township corners, section corners, quarter-section corners, subdivision corners or meander corners.
- B. "Meander lines" means lines run in surveying particular to portions of public lands which border on navigable waters not as boundaries of the tract, but for the purpose of defining the sensuosities of the banks of streams.
- C. "Meander post" means any object used to mark the location of a meander line, including but not limited to, a marked metal post.
- D. "Survey monument" means any object used to mark the location of a survey corner, including but not limited to a metal post having an inscribed cap. (Ord. 88-12 § 2, 1988)

**9.12.020 PURPOSE.**

The purpose of this chapter is to:

- A. Effect and accomplish the protection and perpetuation of survey monumentation;
- B. Safeguard the city's survey monumentation;
- C. Stabilize and improve property values in the city;
- D. Provide for a means by which destroyed or disturbed survey monuments may be replaced;
- E. Establish guidelines to follow respecting replacement of destroyed or disturbed survey monuments; and
- F. Assess penalties for destruction or disturbance of survey monumentation. (Ord. 88-12 § 3, 1988)

**9.12.030 UNLAWFUL ACTS.**

It is unlawful for any person to destroy, disturb, deface, change or remove to another place any witness corner, reference corner, section corner, quarter-section corner, meander post or any survey monument of any state of Alaska or city survey.

(Ord. 88-12 § 6, 1988)

**9.12.040 ENFORCEMENT.**

REPEALED BY ORDINANCE 18-01-02-01

**9.12.050 RESURVEY RESPONSIBILITY.**

The chief executive officer may, in his discretion, cause to be made, as he may deem necessary, resurveys, retracements and/or re-monumentation of the surveys of municipal lands as, after full investigation, he may deem essential to properly mark the boundaries of municipal lands remaining undisposed of; provided that no such resurvey, retracement or remonumentation shall be so executed as to impair the bona fide rights or claims of any claimant, entry man or owner of lands affected by such resurvey, retracement or remonumentation. The cost of such resurvey, retracement and/or remonumentation shall be assessed to and borne by the party guilty of violating the provisions of this chapter; provided, however, in the event no guilty party can be determined, such cost shall be borne by the city. (Ord. 88-12 § 10, 1988)

**9.12.060 VIOLATIONS-PENALTIES.**

Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in 1.16.035 if the offense is listed in that fine schedule or by a fine of up to \$300 if the offense is not listed in the 1.16.035 fine schedule. (Ordinance 18-08-21-05; Prior Ord. 18-01-02-01)

**9.12.070 CIVIL REMEDIES.**

A. In addition to the penalties prescribed in this chapter for violations, the city or an aggrieved person may institute a civil action against a person who violates a provision of this chapter. In addition to other relief, a civil penalty not to exceed one

thousand dollars may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or threatened violation, the court shall grant the injunction.

- B. Each thirty-day period that an unlawful act continues constitutes a separate violation. (Ord. 88-12 § 9, 1988)



**CHAPTER 9.16 PROTECTION OF WATER LAKE WATERSHED****9.16.010 DEFINITIONS.**

- A. "Domestic animal" means any animal kept for pleasure or utility that is dependent or partially dependent upon people for food and shelter, including but not limited to dogs, cats, ferrets, rabbits, chickens, ducks, geese, horses, cows, goats, sheep, mules, pigs and donkeys.
- B. "Logging roads" means a road, restricted from use by the general public by a locked gate or other barrier and prepared for the purpose of travel exclusively by log trucks, timber harvesting machinery and other vehicles necessary for timber management.
- C. "Mining" means extraction from the earth, sediments, or waters of any metallic or nonmetallic mineral, sand, gravel, peat or construction rock.
- D. "Roads" means any street, highway, or other course, paved or unpaved, for the purpose of motor vehicle travel, with the exception of logging roads.
- E. "Sewage" means human excretion, gray water, and other water carried waste.
- F. "Solid waste" means any waste or trash, including but not limited to bottles, broken glass, ashes, paper, boxes, cans, dirt, metal, rubbish, garbage and refuse.
- G. "Toxic substances" means those materials, or combination of materials, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available, cause death, disease, behavioral abnormalities, malignancy, genetic mutations, physiological abnormalities (including malfunctions in reproduction) or physical deformations, in affected organisms or their offspring; the term includes the following substances, and other substances identified as a toxic pollutant under Section 307(a) of the Clean Water Act of 1977 (33 U.S.C. Section 466, et seq.), including, but not limited to, fertilizers, chemicals, oil and oil by-products, rubber products, herbicides, insecticides and pesticides.
- H. "Vehicle" means any wheeled or tractor treaded conveyance, whether motor powered or self-propelled and includes, but is not limited to, automobiles, motor homes, trucks, vans, tractors, graders, backhoes, motorcycles, motor scooters, all-terrain vehicles, snowmobiles, bicycles and wagons.
- I. "Waters" means any creek, river, tributary, pond, lake or other surface drainage.

- J. "Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, muskegs, bogs and similar areas.
- K. "Water Lake watershed protection area" means that tract of land containing 153.10 acres, more or less, situated in the Tongass National Forest in the state of Alaska, more particularly described as follows:
1. Beginning at the southeast corner of the north 1/2 of the southwest 1/4 of Section 22, Township 71 South, Range 84 East, Copper River meridian, thence north 36° 00' East 1,200 feet, thence south 81°00' East 1,500 feet, thence south 1°00' East 1,700 feet, thence south 37°00' West 800 feet, thence south 24°00' West 500 feet, thence south 49°00' West 1,100 feet, thence north 53°30' West 1,200 feet, thence north 7°15' East 2,084 to the point of beginning. Attached to the ordinance codified in this chapter and incorporated in this subsection by reference as Exhibit A is the official Water Lake watershed protection area map depicting the above-described tract of land. (Ord. 99-18 § 6, 1999; Ord. 89-19 § 5(part), 1989)

#### **9.16.020 TITLE FOR CITATION-JURISDICTION.**

Chapter 9.16 of the Thorne Bay Municipal Code shall be known and cited as the "Thorne Bay Watershed Protection Ordinance." As authorized by AS 29.35.020, this chapter shall be applicable to all lands and waters within the Water Lake watershed protection area, which watersheds are located inside the city limits. (Ord. 89-19 § 5(part), 1989)

#### **9.16.030 ESTABLISHMENT OF WATERSHEDS.**

The watershed of the city is the Water Lake watershed protection area, the location and boundaries of which are described in Section 9.16.010 and set forth in Exhibit A, attached to the ordinance codified in this chapter and incorporated herein. (Ord. 89-19 § 5(part), 1989)

**9.16.040 PROHIBITED ACTS.**

Except as otherwise provided herein, the following acts are prohibited in the Water Lake watershed protection area (hereinafter called "area"):

- A. No person shall enter or trespass upon the area.
- B. No vehicle of any kind shall be allowed in the area.
- C. No domestic animal of any kind shall be allowed in the area.
- D. No boats or other floating devices of any kind shall be allowed in the area.
- E. No unauthorized logging equipment or construction equipment of any kind shall be allowed in the area.
- F. No hunting, fishing or trapping shall be allowed in the area.
- G. No person shall dispose of or cause to be disposed of any solid wastes, toxic substances or sewage in the area.
- H. No person shall dig or remove any soil, rock, stones, trees, shrubs, plants, downed timber or other wood or materials or excavate by tool, equipment, blasting or other method in the area.
- I. No mining shall be permitted in the area.
- J. No person shall swim or otherwise enter into the waters of the area. (Ordinance 19-08-20-02) Prior Ord. 89-19 § 5(part), 1989)

**9.16.050 PERMITTED ACTS.**

- A. The city employees or agents shall be allowed to enter upon the Water Lake watershed protection area for purposes of maintenance, repairs or emergencies.
- B. The United States Government, Department of Agriculture, Forest Service and its contractors (hereinafter called "U.S.F.S."), shall be permitted to enter the area for purposes of logging Timber Harvest Units Number 586-3 and 588-104. The U.S.F.S. shall be permitted to transport timber from the above-described timber harvest units over the existing road number 3000140. Immediately upon completion of the above-described timber harvest, the U.S.F.S. will reseed the grounds adjacent to that portion of road number 3000140 which traverses the Water Lake watershed protection area and the permission granted hereunder to enter the area for said timber harvesting purposes shall terminate. Road access on the existing road traversing the Water Lake watershed protection area which may be necessary for

future timber harvest units designated for areas located outside of the Water Lake watershed protection area, shall be coordinated in such a manner to ensure that any potential environmental hazards or contamination will be mitigated.

- C. The U.S.F.S. shall have the right to enter upon the Water Lake watershed protection area for purposes of fighting fire, for purposes of mitigating or controlling other natural disasters or acts of God, for purposes of tree inspection, for purposes of examining or protecting wildlife habitat and for other administrative purposes.
- D. The Alaska Department of Fish and Game Department of Natural Resources shall have the right to enter upon the Water Lake watershed protection area for purposes of examining or protecting wildlife habitat and for other administrative purposes. (Ord. 89-19 § 5(part), 1989)

#### **9.16.060 ENFORCEMENT.**

It shall be the duty of the Village Public Safety Officer or Code Enforcement Officer, (hereinafter called "Code Enforcement Officer") to enforce the provisions of this chapter. (Ord. 89-19 § 5(part), 1989)

#### **9.16.070 OBEDIENCE OF LAW REQUIRED.**

It is a violation of this chapter for any person to do any act which is forbidden or to fail to perform any act required to be performed in this chapter. (Ord. 89-19 § 5(part), 1989)

#### **9.16.080 OBEDIENCE TO OFFICIALS REQUIRED.**

The failure or refusal to comply with any lawful order or direction of the Code Enforcement Officer given in connection with this chapter shall be a violation of this chapter. (Ord. 89-19 § 5(part), 1989)

#### **9.16.090 EMERGENCY POWERS.**

- A. When it is found, after investigation, that a person is causing, engaging in or maintaining a condition or activity which, in the judgment of the Code Enforcement Officer presents an imminent or present danger to the health, safety, or welfare of

the people of the municipality or would result in or be likely to result in irreversible or irreparable damage to the Water Lake watershed protection area, and it appears to be prejudicial to the interest of the people of the municipality to delay action until an opportunity for a hearing can be provided, the Code Enforcement Officer, without prior hearing, may order that person by notice to discontinue, abate, or alleviate the condition or activity. The proscribed condition or activity shall be immediately discontinued, abated or alleviated.

- B. Upon receipt of an order of the Code Enforcement Officer made under subsection A of this section, the person affected has the right to be heard and to present proof to the city council that the condition or activity does not constitute an actual or potential source of irreversible or irreparable damage to the public health, safety or welfare or to the Water Lake watershed protection area.
- C. In the chief executive officer's discretion or upon application made by the recipient of an order within fifteen days of receipt of the order, the chief executive officer shall schedule a hearing before the city council at the earliest possible time. The hearing shall be scheduled within five days after receipt of the application. The submission of an application or the scheduling of a hearing does not stay the operation of the Code Enforcement Officer's order made under subsection A of this section.
- D. After a hearing the city council may affirm, modify, or set aside the order. An order affirmed, modified, or set aside after a hearing is subject to judicial review. The order is not stayed pending judicial review unless the city council so directs. If an order is not immediately complied with, the city attorney, upon request of the chief executive officer, may seek enforcement of the order. (Ordinance 19-08-20-02; Prior Ord. 89-19 § 5(part), 1989)

#### **9.16.100 COMPLIANCE ORDER.**

- A. When, in the opinion of the Code Enforcement Officer, a person is violating or is about to violate a provision of this chapter, or a lawful order of the Code Enforcement Officer, the Code Enforcement Officer may notify the person of his determination by personal service or certified mail.

- B. The recipient of the determination must file with the Code Enforcement Officer, within ten days, a report stating what measures have been and are being taken, or are proposed to be taken, to correct or control the conditions outlined in the notice.
- C. After the report is filed under subsection B of this section, or the time period specified for it has elapsed, the Code Enforcement Officer may issue a compliance order. A copy of the compliance order shall be served personally or sent by certified mail to the person affected. A compliance order is effective upon receipt.
- D. Within fifteen days after receipt the recipient may request a hearing before the city council to review the compliance order. Failure to request a hearing within fifteen days after the receipt of a compliance order constitutes a waiver of the recipient's right of review.
- E. The city council shall hold a hearing within twenty days after receipt of a request for one under subsection D of this section. After the hearing the city council may rescind, modify or affirm the compliance order.
- F. Appeal from a decision of the city council shall be to the superior court, provided notice of appeal is filed with the superior court no later than thirty days following the city council's issuance of its written decision (this time limit is jurisdictional) and the appellant pay the city, by depositing with the city clerk, the city's cost of preparing the entire record (including a transcript of hearings held below) no later than sixty days following the decision being appealed from. Transcripts of hearings shall be prepared by a certified court reporter, and preparation of the entire record is at the appellant's expense.
- G. All other procedures, on appeal to the superior court, are set forth in the Alaska Rules of Appellate Procedure. The appeal is an administrative appeal, heard solely on the record established in this chapter, pursuant to AS 29.40.060(b).
- H. The city attorney may seek enforcement of a compliance order. (Ordinance 19-08-20-02; Prior Ord. 89-19 § 5(part), 1989)

### **9.16.110 PENALTY AND REMEDIES.**

- A. Civil Remedies.
  - 1) Upon violation of any of the provisions of this chapter, or failure or refusal to comply with any lawful order or direction of the Code Enforcement Officer given in connection with this chapter, the Code Enforcement Officer on behalf of the city, or any aggrieved citizen, may institute or cause to be instituted an

appropriate civil action to prevent, enjoin, abate, estop, remove or punish such violation and to obtain monetary damages suffered by such party.

- 2) In addition to injunctive and compensatory relief, each violation shall be subject to a civil penalty not to exceed one thousand dollars and attorney fees as provided by law.
  - 3) Each day a violation continues shall constitute an additional violation for purposes of assessing civil penalties.
  - 4) An action to enjoin a violation of this chapter may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and the finding of an existing or threatened violation, the court shall grant injunctive relief to restrain the violation.
- B. Criminal Remedies. Any violation of the provisions of this chapter, including failure or refusal to comply with any lawful order or direction of the Code Enforcement Officer given in connection with this chapter, is a misdemeanor. Every person convicted of such violation shall be subject to a fine not exceeding one thousand dollars, a jail term not exceeding thirty days, or both. Each unlawful act or condition, and every day upon which such continues, shall constitute a separate violation. (Ord. 89-19 § 5(part), 1989)

### **9.16.110 PENALTY AND REMEDIES.**

#### A. Civil Remedies.

- 1) Upon violation of any of the provisions of this chapter, or failure or refusal to comply with any lawful order or direction of the city watershed officer given in connection with this chapter, the city watershed officer on behalf of the city, or any aggrieved citizen, may institute or cause to be instituted an appropriate civil action to prevent, enjoin, abate, estop, remove or punish such violation and to obtain monetary damages suffered by such party.
- 2) In addition to injunctive and compensatory relief, each violation shall be subject to a civil penalty not to exceed one thousand dollars and attorney fees as provided by law.
- 3) Each day a violation continues shall constitute an additional violation for purposes of assessing civil penalties.

- 4) An action to enjoin a violation of this chapter may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and the finding of an existing or threatened violation, the court shall grant injunctive relief to restrain the violation.
- B. Criminal Remedies. Any violation of the provisions of this chapter, including failure or refusal to comply with any lawful order or direction of the city watershed officer given in connection with this chapter, is a misdemeanor. Every person convicted of such violation shall be subject to a fine not exceeding one thousand dollars, a jail term not exceeding thirty days, or both. Each unlawful act or condition, and every day upon which such continues, shall constitute a separate violation. (Ord. 89-19 § 5(part), 1989)

#### **9.16.120 REMEDIES CUMULATIVE.**

All remedies provided by this chapter are cumulative, and the securing of relief, whether injunctive, civil or criminal, under a section or subsection of this chapter does not prevent the municipality from obtaining relief under any other section or subsection of this chapter. The remedies provided in this chapter are in addition to all other remedies available at law or in equity. (Ord. 89-19 § 5(part), 1989)



## CHAPTER 9.20 LITTER CONTROL

### 9.20.010 DEFINITIONS.

The following terms, phrases, words and their derivations shall have the meaning given herein unless their use in the text clearly demonstrates a different meaning.

- A. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air. "Aircraft" includes helicopters and lighter-than-air dirigibles and balloons.
- B. "City" means and includes all those lands located within the city limits of Thorne Bay, Alaska, as depicted on that certain map produced in 1984 by Northwest Cartography entitled Landownership Edition, segments 1 through 10, Thorne Bay, Alaska, one copy of which has been filed in the office of the city clerk for public use, inspection and examination, and which map is made a part of this section as if fully set forth herein.
- C. "Commercial handbill" means and includes any handbill which advertises for sale, or promotional gifts or prizes, any merchandise, product, commodity or thing; directs attention to any business for the purpose of either directly or indirectly promoting the interests thereof by sales or by other means; directs attention to or advertises any meeting, exhibition, theatrical or other performance or event of any kind for which an admission fee is charged; while containing reading or pictorial matter other than Advertising matter is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.
- D. "Construction sites" means and includes any private or public property upon which repairs to existing buildings, construction of new buildings, or demolition of existing structures is taking place.
- E. "Elements" means and includes any element whether created by nature or created by man, which with reasonable foresee ability could carry litter from one place to another. Elements shall include, but are not limited to, air current, rain, water current and animals.

- F. "Litter" means and includes any non-containerized manmade or man-used waste which, if deposited within the city other than in a litter receptacle, tends to create a danger to public health, safety, and welfare or to impair the environment of the people of the city. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle part, furniture, oil, carcass of a dead animal, or nauseous or offensive matter of any kind, or any object likely to injure any person or create a traffic hazard.
- G. "Litter receptacles" means and includes any container which is designed to receive litter and to prevent the escape of litter deposited therein, which is of such size or sufficient capacity to hold all litter generated between collection periods.
- H. "Park" means and includes a public or private park, reservation, playground, beach, recreation center or any public or private area devoted to active or passive recreation, or any other area under the supervision of the department of public parks.
- I. "Parking lots" means and includes any private or public property with provisions for parking vehicles, to which the public is invited or which the public is permitted to use, or which is visible from any public place or private premises.
- J. "Private premises" means and includes any dwelling, use, building or other structure designed to be used, either wholly or in part, for private Residential purposes, whether uninhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox, or other structure belonging or appurtenant to such dwelling house, building or other structure.
- K. "Public place" means and includes any and all streets, boulevards, avenues, lanes, alleys or other public ways, and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned.
- L. "Vehicle" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks. (Ord. 89-22 § 5(part), 1989)

**9.20.020 LITTERING PROHIBITED.**

No person shall deposit any litter within the city except in litter receptacles for collection or in any duly licensed disposal facility. (Ord. 89-22 § 5(part), 1989)

**9.20.030 PREVENTION OF SCATTERING.**

Persons placing litter in litter receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises. (Ord. 89-22 § 5(part), 1989)

**9.20.040 UPSETTING OR TAMPERING WITH LITTER RECEPTACLES.**

No person shall upset or tamper with any public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises. (Ord. 89-22 § 5(part), 1989)

**9.20.050 WALKWAYS, STREETS AND ALLEYS.**

Persons owning, occupying or in control of any public place or private premises shall keep the walkways, streets and alleys adjacent thereto free of litter. (Ord. 89-22 § 5(part), 1989)

**9.20.060 PRIVATE PREMISES.**

The owner or person in control of private premises shall maintain litter receptacles for collection of litter as necessary and in such a manner that litter will be prevented from being carried by the elements to adjoining premises. (Ord. 89-22 § 5(part), 1989)

**9.20.070 PUBLIC PLACES.**

Every owner, occupant, tenant or lessee using or occupying any public place shall provide adequate litter receptacles of sizes, numbers and types as may be required to contain all litter generated by those persons frequenting that public place, and as specified by the litter enforcement officer for all public places. (Ord. 89-22 § 5(part), 1989)

**9.20.080 BUSINESS PREMISES.**

The owner or person in control of any business, including but not limited to restaurants, shopping centers, fast-food outlets, stores, hotels, motels, industrial establishments, office buildings, laundromats, apartment buildings, housing projects, gas stations, hospitals and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this section to abandon, neglect or disregard the condition or appearance of such premises so as to permit it to accumulate litter thereon.

**9.20.090 LITTERING FROM VEHICLES.**

No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises. No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any public place or private premises. (Ord. 89-22 § 5(part), 1989)

**9.20.100 LITTERING FROM AIRCRAFT.**

No person in an aircraft shall throw out, drop or deposit any litter within the city. (Ord. 89-22 § 5(part), 1989)

**9.20.110 LITTER IN PARKS.**

No person shall deposit litter in any park within the city except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner. (Ord. 89-22 § 5(part), 1989)

**9.20.120 CONSTRUCTION SITES.**

Each contractor shall be responsible for the job site in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private business. Litter or other debris deposited as a result of any construction process upon any public place or private premises, shall be removed. (Ord. 89-22 § 4(part), 1989)

**9.20.130 PARKING LOTS-LITTER RECEPTACLES REQUIRED.**

All premises having parking lots shall provide in an easily accessible location, a minimum of one refuse container for up to ten spaces and at least one additional refuse container for every twenty additional parking spaces. It shall be the duty and obligation of all persons using parking lot areas to use such litter receptacles as herein above provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot. (Ord. 89-22 § 5(part), 1989)

**9.20.140 LITTER RECEPTACLES OBSTRUCTING TRAFFIC.**

Litter receptacles shall not be placed in any location where they may obstruct vehicular traffic or unreasonably obstruct pedestrian traffic. (Ord. 89-22 § 5(part), 1989)

**9.20.150 COMMERCIAL HANDBILLS PROHIBITED.**

- A. No person shall throw, scatter or cast any kind of commercial handbill in or upon any public place within the city; and no person shall hand out or distribute or sell any commercial handbill in any public place; provided, however, it shall not be unlawful for any person to hand out or distribute handbills or any other thing which is otherwise permitted and authorized by law in any public place to any person willing to accept such handbill or other thing, without payment therefore.
- B. No person shall deposit, fasten, throw, scatter or cast any commercial handbill in or upon any vehicle. The provisions of this paragraph shall not be deemed to prohibit the handing of any commercial handbill to the owner or other occupant of any vehicle who is willing to accept it.

- C. No person shall place any commercial handbill in or on any private premises which are vacant.
- D. No person shall place any commercial handbill in or on any private premises which are inhabited, except by handing or transmitting any such handbill directly to any other person then present in or upon the private premises. The provisions of this paragraph shall not be deemed to prohibit the posting of commercial handbills on private premises, if the handbill is placed so as to prevent it from being carried by the elements about such premises or elsewhere.
- E. Any person distributing any commercial handbills shall maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.
- F. The provision of this section shall not be construed to prohibit the distribution of newspapers, television programming materials, municipal public notices and political pamphlets. (Ord. 89-22 § 5(part), 1989)

#### **9.20.160 ENFORCEMENT.**

It shall be the duty of the village protection safety officer (hereinafter called "litter enforcement officer") to enforce the provisions of this chapter. (Ord 18-01-02-01) (Prior Ord. 89-22 § 5(part), 1989)

#### **9.20.170 OBEDIENCE OF LAW REQUIRED.**

It is a violation of this chapter for any person to do any act which is forbidden or fail to perform any act required to be performed in this chapter. (Ord. 89-22 § 5(part), 1989)

#### **9.20.180 OBEDIENCE TO OFFICIALS REQUIRED.**

The failure or refusal to comply with any lawful order or direction of the litter enforcement officer given in connection with this chapter shall be a violation of this chapter. (Ord. 89-22 § 5(part), 1989)

#### **9.20.190 EMERGENCY POWERS.**

- A. When it is found, after investigation, that a person is causing, engaging in or maintaining a condition or activity which, in the judgment of the litter enforcement officer presents an imminent or present danger to the health, safety or welfare of the people of the municipality or would result in or be likely to result in irreversible or irreparable damage to adjoining property or premises, and it appears to be prejudicial to the interest of the people of the municipality to delay action until an opportunity for a hearing can be provided, the litter enforcement officer, without prior hearing, may order that person by notice to discontinue, abate or alleviate the condition or activity. The proscribed condition or activity shall be immediately discontinued, abated or alleviated.
- B. Upon receipt of an order of the litter enforcement officer made under subsection A of this section, the person affected has the right to be heard and to present proof to the city council that the condition or activity does not constitute an actual or potential source of irreversible or irreparable damage to the public health, safety or welfare.
- C. In the chief executive officer's discretion or upon application made by the recipient of an order within fifteen days of receipt of the order, the chief executive officer shall schedule a hearing before the city council at the earliest possible time. The hearing shall be scheduled within five days after receipt of the application. The submission of an application or the scheduling of a hearing does not stay the operation of the city litter enforcement officer's order made under subsection A of this section.
- D. After a hearing the city council may affirm, modify or set aside the order. An order affirmed, modified or set aside after a hearing is subject to judicial review. The order is not stayed pending judicial review unless the city council so directs. If an order is not immediately complied with, the city attorney, upon request of the chief executive officer, may seek enforcement of the order. (Ord. 89-22 § 5(part), 1989)

### 9.20.200 COMPLIANCE ORDER.

- A. When, in the opinion of the city litter enforcement officer, a person is violating or is about to violate a provision of this chapter, or a lawful order of the litter enforcement officer, the litter enforcement officer may notify the person of his determination by personal service or certified mail.

- B. The recipient of the determination must file with the litter enforcement officer, within the five days, a report stating what measures have been and are being taken, or are proposed to be taken, to correct or control the conditions outlined in the notice.
- C. After the report is filed under subsection B of this section, or the time period specified for it has elapsed, the litter enforcement officer may issue a compliance order. A copy of the compliance order shall be served personally or sent by certified mail to the person affected. A compliance order is effective upon receipt.
- D. Within fifteen days after receipt the recipient may request a hearing before the city council to review the compliance order. Failure to request a hearing within fifteen days after the receipt of a compliance order constitutes a waiver of the recipient's right of review.
- E. The city council shall hold a hearing within twenty days after receipt of a request for one under subsection D of this section. After the hearing the city council may rescind, modify or affirm the compliance order.
- F. Appeal from a decision of the city council shall be to the superior court, provided notice of appeal is filed with the superior court no later than thirty days following the city council's issuance of its written decision (this time limit is jurisdictional) and the appellant pay the city, by depositing with the city clerk, the city's cost of preparing the entire record (including a transcript of hearings held below) no later than sixty days following the decision being appealed from. Transcripts of hearings shall be prepared by a certified court reporter, and preparation of the entire record is at the appellant's expense.
- G. All other procedures, on appeal to the superior court, are set forth in the Alaska Rules of Appellate Procedure. The appeal is an administrative appeal, heard solely on the record established in this chapter, pursuant to AS 29.40.060(b).
- H. The city attorney may seek enforcement of a compliance order. (Ord. 89-22 § 5(part), 1989)

### 9.20.210 PENALTY AND REMEDIES.

- A. Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in 1.16.035 if the offense is listed in that fine schedule or by a fine of up to \$300 if the offense is not listed in 1.16.035.



B. Each day a violation continues shall constitute an additional violation for purposes of assessing fines. An action to enjoin a violation of this chapter may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and the finding of an existing violation, the court shall grant injunctive relief to restrain the violation and attorney fees as provided by law. (Ord. 18-18-21-05; Prior Ord. 18-01-02-01; Prior Ord. 89-22 § 5(part), 1989)

#### **9.20.220 REMEDIES CUMULATIVE.**

All remedies provided by this chapter are cumulative, and the securing of relief under a section or subsection of this chapter does not prevent the municipality from obtaining relief under any other section or subsection of this chapter. The remedies provided in this chapter are in addition to all other remedies available at law or equity. (Ord. 89-22 § 5(part), 1989)

**CHAPTER 9.22 WATER HYDRANTS – SECTIONS:****9.22.010 DEFINITIONS.**

"Water hydrant" means "fire hydrant" or "fire plug" in this chapter. (Ord. 91-10 § 4(part), 1991)

**9.22.020 DESCRIPTION AND LOCATION.**

Located throughout the city, most commonly along road easement boundaries or adjacent to a public facility, are water hydrants. More specifically these hydrants can be identified as fire hydrants painted red, yellow or a combination of red and black. (Ord. 91-10 § 4(part), 1991)

**9.22.030 INTENDED USE.**

- A. The water hydrants described in Section 9.22.020 shall be used for extinguishing fires and such other uses as may be approved by the city administration.
- B. The aforementioned water hydrants shall not be used for any other purpose than those approved by this or other ordinances. (Ord. 91-10 § 4(part), 1991)

**9.22.040 ACCESSIBILITY.**

- A. No person, property owner, building occupant or building visitor shall deposit or allow others to deposit any materials, vehicles or plant life (living or dead) within eight feet of any water hydrant which, if deposited, would obstruct access to the water hydrant by firemen or private persons working to extinguish an unwanted fire.
- B. No person, property owner, building occupant or building visitor shall, within eight feet of the aforementioned water hydrants, tie or leash or contain in a fenced enclosure, any animal that may attack or threaten any fireman or private person that is in the process of extinguishing an unwanted fire or using the water hydrant for any other approved purpose.
- C. No person, property owner, building occupant or building visitor shall park or allow any other person to park a vehicle in such a way so as to block access to a water hydrant. (Ord. 91-10 § 4(part), 1991)

### 9.22.050 FENCE OPENINGS AND GATES.

- A. No property owner may build or allow building occupants to build fences or any other structures which enclose or obstruct access to the aforementioned water hydrants.
- B. The distance from a fence or other structure to a water hydrant is not prescribed in feet but the fence or other structure must be placed so as to afford free and unfettered access to the water hydrant for firemen and other authorized persons. (Ord. 91-10 § 4(part), 1991)

### 9.22.060 VIOLATIONS-PENALTIES.

Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in 1.16.035 if the offense is listed in that fine schedule, or by a fine of up to \$300 if the offense is not listed in 1.16.035. (Ord. 18-01-02-01; Prior Ord. 91-10 § 4(part), 1991)

## ORDINANCE LIST &amp; DISPOSITION TABLE

Ordinance No.	Ordinance Description
88-08	Alcoholic Beverages (9.08)
88-12	Protection of Survey Monuments (9.12)
88-13	Amends § 1.210 Of Ord. 88-08, Alcoholic Beverages (9.08)
89-19	Adds Ch. 9.16, Protection of Water Lake Watershed (9.16)
89-22	Adds Ch. 9.20, Litter Control (9.20)
91-10	Adds Ch. 9.22, Water Hydrants (9.22)
94-03	Adds Ch. 9.02, Curfew for Minors (9.02)
95-16	Amends §§ 9.02.030 And 9.02.040, Public Peace, Morals and Welfare (9.02)
96-28	Adds Ch. 9.05, Discharge of Firearms (9.05)
97-23	Adds § 9.02.025; Amends §§ 9.02.040 And 9.02.050, Curfew for Minors (9.02)
99-18	Amends § 9.16.010(K), Protection of Water Lake Watershed (9.16)
02-09-05-02	Amends §9.02.030, Curfew Hours (9.02)
05-12-06-02	Amending Section 9.05.010 - Prohibited Acts And Deleting C From Section 9.05.020 - Exceptions, Chapter 9.05 - Discharge Of Firearms, Title 9 - Public Peace, Morals And Welfare (Removing "Any Citizen Discharging A Firearm In A Regularly Established Shooting Gallery Or Into Approved Backstop" <b>Adding:</b> "Any Citizen From Discharging A Firearm On The Left Side Of The Kasaan Road #2030970 When Traveling To Kasaan From Goose

	Creek Between The "No Shooting" Sign At AP&T Power Pole #80 And The "No Shooting" Sign At AP&T Power Pole #I 16, A Distance Of Approximately 2.5 Miles." (9.05)
11-01-04-01	Amending Title 9-Public Peace Morals and Welfare, Chapter 9.05-Discharge of Firearms, Section 09-05-010(A)-Probation Acts, Discussion and Action Item:
17-06-06-02	Amending Title 9-Public Peace Morals & Welfare, Adding Chapter 9.30-Marijuana, Discussion and Action Item:
18-08-21-05	Amending Title 9-Public Peace Morals and Welfare, Chapters 9.02-Curfew for Minors; 9.12-Protection of Survey Monuments; 9.20-Litter Control, 9.22-Water Hydrants; Discussion and Action Item:
19-08-20-02	Amending 9.20.010-Definitions adding Definition for "Junk Vehicle" Amending 9.20.060-Private Premises, and ADDING SECTION 9.20.155---Junked Vehicles, Unlawful...Subsections A & B
21-04-06-01	Adding Chapter 9.06-Marijuana Establishments
21-04-06-02	Adding Chapter 9.07-Controlled Substances