

## OFFENSES

### Chapter 127

#### OFFENSES

- §127-1. Harassment.
- §127-2. Disturbance of Peace.
- §127-3. (Reserved)
- §127-4. Discharge of Weapons.
- §127-5. Urination and Defecation in Public.
- §127-6. Obstruction of Public Way.
- §127-7. Public Consumption of an Alcohol Beverage and Possession of an Open Container of an Alcohol Beverage.
- §127-8. Report of Disorderly Conduct by Liquor Licensees.
- §127-9. (Reserved)
- §127-10. Injury or Destruction of Public or Private Property.
- §127-11. Open Fires and Fireworks
- §127-12. - 127-15. (Reserved)
- §127-16. Littering on Public or Private Property.
- § 127-17. Receptacles Required – Placement and Removal of Garbage Cans and Receptacles
- §127-18. Vehicles Injurious to Pavement.
- §127-19. Trespassing.
- §127-20. - 127-23. (Reserved)
- §127-24. (Reserved)
- §127-25. (Reserved)
- §127-26. Interference with Person with Police Authority.
- §127-27. - 127-36. (Reserved)
- §127-37. (Reserved)
- §127-38. Operation of Snow Removal Equipment by Private Operators.
- §127-39. Construction of Obstructions on Town Right-of-Way Prohibited.
- §127-40. Idling of Motor Vehicles.
- §127-41. Smoking Prohibited in Public Places – Policy.
- §127-42. Findings.
- §127-43. Definitions.
- §127-44. Smoking Prohibited in all Public Places.
- §127-45. Exceptions to Smoking Prohibition.
- §127-46. Posting of Signs.
- §127-47. Violations and Penalties.
- §127-48. Inspection of Books and Records.
- §127-49. Other Applicable Laws.
- §127-50. (Reserved)

[HISTORY: Adopted by the Board of Trustees (now Mayor and Town Council) of the Town of Frisco 08-27-79, Ord. 79-20. Section 127-37 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

## OFFENSES

### GENERAL REFERENCES

**Alcoholic beverages—See Ch. 53.**

**Dogs—See Ch. 79.**

**Excavations—See Ch. 87.**

**Nuisances—See Ch. 124.**

**Snowmobiles—See Ch. 153.**

#### **§ 127-1. Harassment. [Added 11-23-04, Ord. 04-19]**

- A. It shall be unlawful to commit harassment. A person commits harassment if, with intent to harass, threaten or abuse another person, that person:
1. Strikes, shoves, kicks, or otherwise touches a person or directly or indirectly subjects him or her to harmful, painful or offensive contact;
  2. In a public place directs obscene language or makes an obscene gesture to or at another person;
  3. Follows a person in or about a public place;
  4. Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily harm or property damage or makes any comment, request, suggestion, or proposal by telephone that is obscene;
  5. Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
  6. Repeatedly insults, taunts, challenges, or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response;
  7. Delivers or causes delivery of written, printed, or graphic material or any object that threatens bodily injury or property damage to or against another person; or
  8. Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property.
- B. As used in this section, unless the context otherwise requires, the term "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether the ultimate sexual acts are normal or perverted, actual or simulated, including but not limited to masturbation, cunnilingus, fellatio, anilingus, or excretory functions. Any act prohibited by subsection A. (5) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.<sup>1</sup>

#### **§ 127-2. Disturbance of Peace. [Amended 02-05-91, Ord. 91-01]**

It shall be unlawful for any person to disturb the peace of another by violence, offensive or unruly conduct, loud or unusual noises or use of any language calculated to provoke a disturbance of the peace; or for any person to permit any such disturbance of the

---

<sup>1</sup>Editor's Note: Former § 127-1, Assault and battery, was deleted 2-5-91, Ord. 91-1.

## OFFENSES

peace upon any premises owned or possessed by that person or under his management or control, when within his power to prevent, so that others in the vicinity are or may be disturbed thereby.

### **§ 127-3 (Reserved)<sup>2</sup>**

### **§ 127-4. Discharge of Weapons**

It shall be unlawful for any person, other than a law enforcement officer acting in the line of duty, to discharge or cause to be discharged any firearm within or into the limits of the town. Notwithstanding the foregoing, the Town Manager is authorized to approve the use and discharge of firearms on public property for biathlon events conducted under the auspices of the Colorado Biathlon Club or military salutes during funeral services. During such events, the discharge of firearms may occur only at those locations specifically authorized by the Town Manager. It shall be unlawful for any person (s) participating in a biathlon event or gun salute to discharge any firearm anywhere within or into the limits of the town other than on the property specifically permitted by the Town Manager for such event. For biathlon events, the Town Manager shall cause such property to be posted "Area Closed Due to Firearms Discharged for Biathlon Event" and prior to each biathlon event, a permit for the use of the public land must be approved by the Town Manager.

### **§ 127-5. Urination and Defecation in Public. [Amended 11-23-04, Ord. 04-19]**

It is unlawful for any person to urinate or defecate on any public or private property unless into a receptacle that has been provided for that purpose that stores or disposes the wastes in a sanitary manner and that is enclosed from the view of the general public.<sup>3</sup>

### **§ 127-6. Obstruction of Public Way. [Amended 02-16-82, Ord. 82-03; 02-05-91, Ord. 91-01]**

It shall be unlawful for any person to be upon any public way or public place in such a manner as to interfere with the free and unobstructed use of such public way or public place by any other person or persons.

### **§ 127-7. Public Consumption of an Alcohol Beverage and Possession of an Open Container of an Alcohol Beverage. [Amended 11-23-04, Ord. 04-19]**

A. It shall be unlawful for any person to consume any alcohol beverage in any public place except on a licensed premises permitted by the Town of Frisco Liquor Licensing Authority and in accordance with the Colorado Liquor Code, Colorado

---

<sup>2</sup>Editor's Note: Former § 127-3, Drunk and disorderly conduct, 127-4, Assembling to commit unlawful act, and 127-5 Disturbance of religious worship, were repealed 2-5-91, Ord. 91-1.

<sup>3</sup>Editor's Note: Former § 127-3, Drunk and disorderly conduct, 127-4, Assembling to commit unlawful act, and 127-5 Disturbance of religious worship, were repealed 2-5-91 by Ord. No 91-1.

## OFFENSES

Revised Statutes section 12-47-101 et seq., as presently enacted or as may subsequently be enacted; provided, however, that it shall not be unlawful for a person who is at least twenty-one (21) years of age to consume an alcohol beverage while such person is a passenger aboard a luxury limousine, as defined in 40-16-101(3), Colorado Revised Statutes, or a charter or scenic bus, as defined in section 40-16-101(1.3), Colorado Revised Statutes.

- B. It shall be unlawful for any person to possess, or have under his or her control, in any public place except on a licensed premises permitted by the Town of Frisco Liquor Licensing Authority and in accordance with the Colorado Liquor Code, Colorado Revised Statutes section 12-47-101 et seq., as presently enacted or as may subsequently be enacted, any alcohol beverage in a container of any kind or description which is not sealed or upon which the seal is broken. As used in this section, the word "sealed" means the regular seal applied to alcohol beverage containers pursuant to applicable federal and/or state law. Notwithstanding the provisions of this subsection, it shall not be unlawful for a person who is at least twenty-one years of age to: (i) possess, or have under his or her control, an unsealed container of any alcohol beverage while such person is a passenger aboard a luxury limousine, as defined in section 40-16-101(3), Colorado Revised Statutes, as amended, or a charter or scenic bus, as defined in section 40-16-101(1.3), Colorado Revised Statutes, as amended; (ii) possess, or have under his or her control, one unsealed container of vinous liquor that has been removed from a licensed premises pursuant to and subject to the limitations set forth in section 12-47-411(3.5), Colorado Revised Statutes, as amended, and (iii) possess, or have under his or her control, an unsealed container of any alcohol beverage if such unsealed container is located in a locked trunk or other locked compartment of a motor vehicle that is not readily accessible by the driver or passengers of the motor vehicle.
- C. As used in this section, the terms "alcohol beverage" shall be defined as set forth in section 12-47-103, Colorado Revised Statutes, as amended, provided, however, that such terms shall not include any "fermented malt beverage" as defined in section 12-46-103, Colorado Revised Statutes, as amended. As used in this section, the terms "public place" shall include, without limitation, any place that is in or upon any public street, alley, sidewalk, parking lot, building, park or open space or within any vehicle that is in or upon any public street, alley, sidewalk, parking lot, park or open space, and, in addition, shall include any place that is in or upon those portions of any private property upon which the public has an express or implied license to enter or remain, or within any vehicle that is in or upon those portions of any private property upon which the public has an express or implied license to enter or remain.

### **§ 127-8. Report of Disorderly Conduct by Liquor Licensees. [Amended 11-23-04, Ord. 04-19]**

It shall be unlawful for any person who is the holder of a fermented malt beverage, malt, vinous, or spirituous liquor license, or for any manager or employee of such

## OFFENSES

license holder, to knowingly fail to immediately report to the Frisco Police Department any disturbance of the peace or any other criminal activity occurring on or within the licensed premises.

### **§127-9. (Reserved)<sup>4</sup>**

### **§ 127-10. Injury or Destruction of Public or Private Property. [Amended 02-05-91, Ord. 91-01]**

It shall be unlawful for any person to willfully, maliciously, wantonly, negligently or in any manner injure or destroy real property or improvements thereto or moveable or personal property belonging to any person or business entity.

### **§127-11. Open Fires and Fireworks. [Added 06-26-07, Ord. 07-12]**

- A. If the Town Manager finds, based on competent evidence and after consultation with the Sheriff of Summit County, that there exists a significant threat of wildfires due to recent weather conditions and/or forest conditions in Summit County, then he shall cause to be posted, at each location designated by resolution of the Town Council in January of each year for the posting of notices of Town Council meetings, a notice that states as follows:

#### **PUBLIC NOTICE**

#### **TOWN OF FRISCO OPEN FIRE AND FIREWORKS BAN IN EFFECT PURSUANT TO SECTION 127-11 OF THE CODE OF THE TOWN OF FRISCO**

- B. At any time during which a notice is posted in accordance with subsection A above, it shall be unlawful to set, maintain, or allow the setting or maintenance of an Open Fire within the Town of Frisco, and, further, it shall be unlawful to sell or use Fireworks within the Town of Frisco. Notwithstanding the foregoing, the following types of Open Fire and Fireworks are permitted:
1. Fires contained within liquid-fueled or gas fueled stoves;
  2. Fires in fireplaces or stoves within all buildings;
  3. Charcoal fueled fires contained within grills and chimineas;
  4. Fires on private property within permanent fire pits, or within self-contained outdoor fire bowls or outdoor chimney units with screened covers placed on a concrete or asphalt surface, if:
    - a. Such contained fire is under constant supervision;
    - b. Adequate fires suppression apparatus is available at the location of the contained fire;
  5. Pre-approved public fireworks displays;
  6. Fires used to inflate and propel hot air balloons; and

---

<sup>4</sup>Editor's Note: Former § 127-7, Unlawful acts around schools, 127-8, Unlawful congregation, and 127-9, Injury or destruction of public property, were repealed 2-5-91 by Ord. No. 91-1.

## OFFENSES

7. Fires authorized by the Town, a Fire Protection District, the United States Forest Service, or the Summit County Environmental Health Department pursuant to a properly issued permit.
- C. For purposes of this Section, an "Open Fire" shall be defined as any outdoor fire, including but not limited to campfires, warming fires, bonfires, or the prescribed burning of fence rows, fields, wildlands, trash or debris.
- D. For purposes of this Section, "Fireworks" shall mean any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonations, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, Roman candles, sparklers, fountains, Day-Glo bombs, cigarette loads and torches, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. "Fireworks" shall not include any toy caps that do not contain more than twenty-five hundredths of a grain of explosive compound per cap; trick matches, trick noisemakers, toy smoke devices and novelty auto alarms; or highway flares, railway fuses, ship distress signals, smoke candles and other emergency signal devices.

### **§ 127-12. - 127-15. (Reserved)<sup>5</sup>**

### **§ 127-16. Littering on Public or Private Property. [Amended 02-05-91, Ord. 91-01]**

- A. It shall be unlawful for any person to allow or to deposit, throw or leave any rubbish, waste material, refuse, garbage, trash, debris or other foreign substance on any public or private property or in any waters.
- B. It shall be unlawful for any person to deposit any rubbish, waste material, refuse, garbage, trash, debris or other foreign substance in any private dumpster, receptacle or container without permission of the owner or lessee.

### **§ 127-17. Receptacles Required – Placement and Removal of Garbage Cans and Receptacles [Added 02-12-08, Ord. 08-04]**

- A. It shall be the duty of every person in charge of private real property to provide and keep one or more garbage cans in which all garbage shall be kept and to maintain and store such can(s) in accordance with the requirements of subsection B of this section.
- B. All garbage cans provided and kept in accordance with the requirements of subsection A of this section shall have a lid that prevents access to the contents of the can by birds and small animals. Except during those times when a garbage

---

<sup>5</sup>Editor's Note: Former § 127-11, Damage to ditches, 127-12, Destruction of advertisements, 127-13, Throwing of posters and circulars on public places, 127 14, Circulars invoking violence and hostility, and 127-15, delivery of handbills and circulars restricted were repealed 2-5-91, Ord. 91-1.

## OFFENSES

can is in immediate, active use for filling or emptying, the lid of the can shall be maintained in a completely closed position.

- C. Any person in charge of real property within the town that is served by curbside garbage pickup shall place a garbage can or similar refuse receptacle at the curb only on the day of pickup. After pickup, the garbage can or similar refuse receptacle must be removed from the curb and secured in accordance with subsection B of this section by not later than 10:00 p.m. on the day of pickup.
- D. Any other provision of this section notwithstanding, in the event that a person violates or fails to conform to any requirement of subsection C of this section during a week in which curbside garbage pickup is occurring on a day other than the normal, regularly scheduled pick up day for the subject location, this section shall be enforced only by the provision of a verbal or written warning by a law enforcement officer.
- E. For purposes of this section, the terms "person in charge of private real property" shall mean and include any person owning or having or being entitled to possession or control of any private real property, leasehold, residence, building or premises, or any part thereof, within the town, including the agent or agents of such person. For purposes of this section, the term "garbage" shall mean all putrescible animal or vegetable matter resulting from the processing, preparation, cooking, serving, sale or storage of meats, fowl, fish, fruits or vegetables. For purposes of this section, a "can" shall mean a water-tight receptacle made of galvanized metal or other non-absorbant material.

### **§ 127-18. Vehicles Injurious to Pavement.**

It shall be unlawful for any vehicle injurious to pavement to be permitted upon any public thoroughfare unless the operator of such vehicle shall first plank and protect such paved streets from damage.

### **§ 127-19. Trespassing. [Amended 02-05-91, Ord. 91-01]**

It shall be unlawful for any person to enter upon the property of another without the consent of the owner, occupant or person in charge thereof.

### **§ 127-20. - 127-23. (Reserved)<sup>6</sup>**

### **§ 127-24. (Reserved). [Amended 04-16-91, Ord. 91-08; 08-07-01, Ord. 01-16; Repealed 04-19, 11-23-04]**

### **§ 127-25. (Reserved)<sup>7</sup>**

---

<sup>6</sup>Editor's Note: Former § 127-20. Weapons, 127-21, disposition of confiscated weapons, 127-22, Throwing of stones and missiles, and §127-23, Sale of weapons to intoxicated person or minors, were repealed 2-5-91, Ord. 91-1.

<sup>7</sup>Editor's Note: Former § 127-25, Indecent acts; filthy language, was repealed 2-5-91, Ord. 91-1.

## OFFENSES

### **§ 127-26. Interference with Person with Police Authority.**

It shall be unlawful for any person to resist any person duly empowered with the authority to enforce any ordinance or Charter provision of the town. **[Amended 02-05-91, Ord. 91-01<sup>8</sup>]**

### **§ 127-27. - 127-36. (Reserved)<sup>9</sup>**

### **§ 127-37. (Reserved)<sup>10</sup>**

### **§ 127-38. Operation of Snow Removal Equipment by Private Operators. [Amended 04-03-90, Ord. 90-06]**

- A. It is the duty of the occupant, owner or tenant of any lot, tract or parcel of real estate, whether vacant or occupied, within the Town of Frisco to keep sidewalks continuous thereto reasonably free from accumulation of snow and ice and to remove the same with dispatch.
- B. It shall be unlawful for any person, business or corporation to push or deposit snow or ice upon any street, sidewalk, alley, right-of-way or other public property or any portion thereof.
- C. The Chief of Police or the Director of Public Works, or such other officer or employee as either may designate, may notify and require any person who violates or causes another to violate these provisions to remove such snow or ice within twenty-four (24) hours after being notified to do so.
- D. The person or persons responsible for any offense within the town shall be liable for and pay and bear all costs and expenses of the abatement of said offense.
- E. Snowplow operate shall not deposit snow in any area where such deposit would impede the vision of anyone driving a motor vehicle on a public street or right-of-way.
- F. Snowplow operators shall not deposit snow or ice on any other private property without the written permission of the property owner to which the snow will be deposited and approval from the town.

---

<sup>8</sup>Editor's Note: This ordinance also repealed former Subsections B and C, which prohibited assisting or rescuing persons in the custody of the police and which subsections immediately followed this subsection.

<sup>9</sup>Editor's Note: Former §§ 127-27, Duty to aid law enforcement officer, 127-28, Impersonating an officer, 127-29, False fire alarm, 127-30, Wrongs to persons under age of eighteen, 127-31, Sale of beer to minors, 127-32, Possession of beer by minors, 127-33. False statements or documents by persons under twenty-one, 127-34, Unlawful use of services by minors, 127-35, Unlawful purchases by minors, and 127-36, Aiding and abetting, were repealed 2-5-91, Ord. 91-1.

<sup>10</sup>Editor's Note: Former § 127-37, Use of town logo, added 9-7-1982 by Ord. No. 82-12. which ordinance also redesignated former § 127-37, Violations and penalties, as § 127-50, was repealed 2-5-91, Ord. 91-1.

## OFFENSES

- G. Snowplow operators shall have proper lighting on the vehicle when they are engaged in plowing operations, i.e., headlights, taillights and any other safety lighting that is required by law.

### **§ 127-39. Construction of Obstructions on Town Right-of-Way Prohibited. [Added 04-03-90, Ord. 90-06]**

- A. It is the duty of the occupant, as well as the owner, of any lot, tract or parcel of real estate, whether vacant or occupied, within the Town of Frisco to keep landscaping or any other obstruction of any kind out of the town right-of-way and on private property.
- B. It shall be unlawful for any person, business or corporation to construct or cause to be constructed any obstruction of any kind in town rights-of-way. This includes but is not limited to the following: fences, walls, trees or shrubs, irrigation systems, boulders or rock-type structures or any structure which prohibits the town from servicing its rights-of-way.
- C. The Chief of Police or the Director of Public Works, or such other officer or employee as either may designate, may notify and require any person who violates or causes another to violate these provisions to remove such obstruction from the right-of-way within twenty-four (24) hours after being notified to do so.
- D. The person or persons responsible for any offense within the town shall be liable for and pay and bear all costs and expenses of the abatement of said offense.
- E. Each and every offense declared or defined by any ordinance of the town or otherwise is hereby prohibited, and the Chief of Police, Public Works Director and any other authorized representatives of the town are hereby authorized to cause the same to be summarily abated in such a manner as they may direct.
- F. These provisions shall also apply to all easement or use agreements between the Town of Frisco and any utility company, governmental entity or other parties having been granted the same, in writing, by the town.

### **§ 127-40. Idling of Motor Vehicles. [Added 03-02-93, Ord. 93-03]**

- A. The unreasonable and prolonged idling of motors of any motor vehicle of any kind whatsoever is hereby declared to be a public safety and health hazard.
- B. It shall be unlawful for any person to idle or permit the idling of any motor vehicle of any kind whatsoever for more than fifteen (15) minutes within the limits of the Town of Frisco.
- C. The idling restriction of this section shall not apply to emergency vehicles; to vehicles engaged in traffic operations; to vehicles which are being serviced; to vehicles that must idle to operate auxiliary equipment, including but not limited to

## OFFENSES

pumps, compressors, hydraulic equipment, and refrigeration units; or to idling vehicles stopped due to traffic congestion.

- D. Verification that a motor vehicle has idled for a period of fifteen (15) minutes or longer shall be prima facie evidence that said vehicle was idling for a prolonged and unreasonable period of time.

**§ 127-41. Legislative Intent. [§127-41 - §127-29 repealed and replaced in their entirety 08-08-06, Ord. 06-25]**

The Town Council finds, determines and declares that it is in the best interest of the people of this Town to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment. Therefore, the Town council hereby declares that the purpose of Sections 127-42 through 127-47 is to preserve and improve the health, comfort, and environment of the people of this Town by limiting exposure to tobacco smoke.

**§ 127-42. Definitions.**

The following words, terms and phrases, when used in Sections 127-41 through 127-47 of this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Auditorium* means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.

*Bar* means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

*Cigar-tobacco bar* means a bar that, in the calendar year ending December 31, 2005, generated at least five percent (5%) or more of its total annual gross income or fifty thousand dollars (\$50,000) in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent (5%) of its total annual gross income or fifty thousand dollars (\$50,000) in annual sales from the on-site sale of tobacco products and the rental of on-site humidors shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition regardless of sales figures.

*Employee* means any person who:

1. Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

## OFFENSES

2. Provides uncompensated work or services to a business or nonprofit entity.

*Employee* includes every person described in paragraph (a) of this subsection (5), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

*Employer* means any person, partnership, association, corporation, or nonprofit entity that employs one (1) or more persons. *Employer* includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission or agency; or any other separate corporate instrumentality or unit of state or local government.

*Environmental tobacco smoke, ETS, or secondhand smoke* means the complex mixture formed from the escaping smoke of a burning tobacco product, also known as "sidestream smoke," and smoke exhaled by the smoker.

*Food service establishment* means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

*Indoor area* means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

*Place of employment* means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

*Public building* means any building owned or operated by:

1. The state, including the legislative, executive, and judicial branches of state government;
2. Any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency of any of the same; or
3. Any other separate corporate instrumentality or unit of state or local government.

*Public meeting* means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other law of this state.

*Smoke-free work area* means an indoor area in a place of employment where smoking is prohibited under this Chapter.

## OFFENSES

*Smoking* means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

*Tobacco* means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. *Tobacco* also includes cloves and any other plant matter or product that is packaged for smoking.

*Tobacco Business* means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

*Work area* means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer.

### **§ 127-43. General Smoking Restrictions.**

- A. Except as provided in Section 127-44, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:
1. Public meeting places;
  2. Elevators;
  3. Government-owned or operated means of mass transportation, including, but not limited to, buses, vans, and trains;
  4. Taxicabs and limousines;
  5. Grocery stores;
  6. Gymnasiums;
  7. Jury waiting and deliberation rooms;
  8. Courtrooms;
  9. Child day care facilities;
  10. Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;

## OFFENSES

11. (I) Any place of employment that is not exempted.
  - (II) In the case of employers who own facilities otherwise exempted from this Chapter, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
12. Food service establishments;
13. Bars;
14. Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;
15. Indoor sports arenas;
16. Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
17. Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests;
18. Bowling alleys;
19. Billiard or pool halls;
20. Facilities in which games of chance are conducted;
21. The common areas of retirements facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;
22. Public buildings;
23. Auditoria;
24. Theatres;
25. Museums;
26. Libraries;
27. To the extent not otherwise provided in Section 25-14-103.5, C.R.S., public and nonpublic schools;
28. Other educational and vocational institutions; and

## OFFENSES

- B. A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as of December 31, 2005. A cigar-tobacco bar shall display signage in at least one (1) conspicuous place and at least four inches (4") by six inches (6") in size stating: "Smoking Allowed. Children under eighteen (18) years of age must be accompanied by a parent or guardian."

### **§ 127-44. Exceptions to Smoking Restrictions.**

Section 127-43 of this Chapter shall not apply to:

- A. Private homes, private residences, and private automobiles; except that Section 127-43 of this Chapter shall apply if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation.
- B. Limousines under private hire;
- C. A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%);
- D. Any retail tobacco business;
- E. A cigar-tobacco bar;
- F. The outdoor area of any business;
- G. A place of employment that is not open to the public and that is under the control of an employer that employs three (3) or fewer employees;
- H. A private nonresidential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars (\$500,000); or
- I. The retail floor plan, as defined in Section 12-47.1-509, C.R.S., of a licensed casino.

### **§ 127-45. Optional Prohibitions.**

- A. The owner or manager of any place not specifically listed in Section 127-43, including a place otherwise exempted under Section 127-44, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Chapter.

## OFFENSES

- B. If the owner or manager of a place not specifically listed in Section 127-43, including a place otherwise exempted under Section 127-44, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Section 127-43(A) (11) (II), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection A of this Section.

### **§ 127-46. Other Applicable Regulations of Smoking.**

This Chapter shall not be construed to permit smoking where it is otherwise restricted by any other applicable law.

### **§ 127-47. Unlawful Acts – Penalty – Disposition of Fines and Surcharges.**

- A. It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premise subject to Sections 127-41 through 127-47 of this Chapter to violate any provision of said sections of this Chapter.
- B. It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Chapter.
- C. A person who violates any provision of Section 127-41 through 127-47 of this Chapter is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars (\$200) for a first violation within a calendar year, a fine not to exceed three hundred dollars (\$300) for a second violation within a calendar year, and a fine not to exceed five hundred dollars (\$500) for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation.
- D. All judges, clerks of a court of record, or other officers imposing or receiving fines collected pursuant to or as a result of a conviction of any persons for a violation of any provision of Section 127-41 through 127-47 of this Chapter shall transmit all such moneys so collected in the following manner: Seventy-five percent (75%) of any such fine for a violation occurring within the corporate limits of the Town shall be transmitted to the treasurer of the Town and the remaining twenty-five percent (25%) shall be transmitted to the state treasurer, who shall credit the same to the general fund.

### **§ 127-50. (Reserved)**