

TITLE IX

OFFENSES AND PENALTIES

CHAPTER 3

MUNICIPAL COURT – PENALTIES AND COSTS

Section: 1

(Ord. 2005-01; 2009-04)

- 9-3-1: Creation of Court
- 9-3-2: General Penalty, Continuing Violations
- 9-3-3: Assessment of Court Costs
- 9-3-4: Payment of Fines and Costs

9-3-1: Creation of Court

- A. There is hereby created and constituted a municipal court for the Town of Olathe, Colorado, for the purpose of hearing and trying alleged violations of the ordinances of the Town of Olathe. The Court shall have such further authority and jurisdiction as may be provided by law.

9-3-2: General Penalty, Continuing Violations

- A. Whenever in this Code or any other ordinance or resolution of the Town or any rule or regulation promulgated under the provision of this code, any act is prohibited or declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefore, any person who shall be convicted of the violation of such provisions of this Code or other ordinance or resolution of this Town hereafter enacted, or of such rules or regulations, shall be punished by a fine of not more than Three Hundred Dollars (\$300.00) or by imprisonment in jail not exceeding ninety (90) days or by both such fine and imprisonment.
- B. No person under the age of eighteen (18) years may be sentenced to any period of imprisonment, except for a conviction of a violation of a traffic offense, or except for imprisonment ordered as a result of being found in contempt of court by the Municipal Judge.

- C. In addition the Court in sentencing individuals shall have the authority to place the defendant on probation for periods of up to a year, suspend the sentence on such conditions as the Court may impose, approve deferred sentencing, deferred prosecution and other plea agreements, issue and enforce orders to require adherence to Town ordinances and abatement of nuisances, and to impose any other sentencing options allowed by law.
- D. Every day any violation of this Code or any other ordinance or resolution of the Town or any rule or regulation promulgated under the provisions of this Code shall continue, shall constitute a separate offence.
- E. In all cases where the same offense may be punishable or be created by different clauses or sections of the ordinances of the Town, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be against the same person for the same offense.

9-3-3: Assessment of Court Costs

Court costs of no less than Fifty Dollars (\$50.00) shall be assessed against the defendant in addition to any fine upon a guilty or nolo contendere plea or verdict or upon any plea agreement. The minimum court costs required by this section shall not be waived or suspended by the court. The municipal judge shall have discretion to assess additional court costs, of up to Two Hundred Dollars (\$200.00), against any defendant who pleads guilty or nolo contendere or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation.

9-3-4: Payment of Fines and Costs

All fines and costs collected and received by the Municipal Court shall be paid over to the Town at convenient intervals not to exceed fifteen (15) days.

SECTION 1:

9-4-1: Possession of Marijuana (Ordinance 2015-01)

- A. As used herein, the term "marijuana" shall include all parts of the plant cannabis sativa and cannabis indica., whether growing or not; the seeds thereof; the resin extracted from any part of such plants; and every compound, manufacture, salt, derivative, mixture or preparation, including edibles, of such plants, their seeds, or resin but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake made from the seeds of such plant, any other compound,

manufacture, salt, derivative, mixture, or preparation of its mature stalks, except the resin extracted therefrom, fiber oil, cake or the sterilized seed of such plant which is incapable of germination. The term "cannabis concentrate" shall mean hashish, hash oil, tincture, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized of tetrahydrocannabinols.

- B. It shall be unlawful for any person less than twenty-one years of age to possess marijuana or cannabis concentrate as both are hereinabove defined.

9-4-2: Drug Paraphernalia

- A. As used herein, drug paraphernalia means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing marijuana, as defined in Section 9-4-1, into the human body. Drug paraphernalia includes, but is not limited to:
1. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of marijuana under circumstances in violation of the laws of this state;
 2. Scales and balances used, intended for use, or designed for use in weighing or measuring marijuana;
 3. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
 4. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding marijuana;
 5. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of marijuana;
 6. Containers and other objects used, intended for use, or designed for use in storing or concealing marijuana;
 7. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana into the human body, such as: a. Metal, wooden, acrylic, glass, stone, plastic, or

ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips, meaning objects used to hold burning material such as a marijuana cigarette that has become too small or too short to be held in the hand;
- f. Chamber, carburetor, electric, or air-driven pipes;
- g. Chillums;
- h. Vaporizers;
- i. Bongs; or
- j. Ice pipes or chillers

B. Determination, Considerations

- 1. In determining whether an object is drug paraphernalia, the Court, in its discretion, may consider, in addition to all other relevant factors, the following:
 - a. Statements by an owner or by anyone in control of the object concerning its use.
 - b. The proximity of the object to marijuana or cannabis concentrate.
 - c. The existence of any residue of marijuana on the object.
 - d. Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object or evidence that such person reasonably should know that it will be delivered to persons who he or she knows or reasonably should know could use the object to facilitate a violation of Section 9-4-2.
 - e. Instructions, oral or written, provided with the object concerning its use.
 - f. Descriptive materials accompanying the object, which explain or depict its use.
 - g. National or local advertising concerning its use.

- h. Manner in which the object is displayed for sale.
 - i. Whether the owner or anyone in control of the object is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products.
 - j. Existence and scope of legal uses for the object in the community.
 - k. Expert testimony concerning its use.
 - 2. In the event a case brought pursuant to Section 9-4-1 is tried before a jury, the Court shall hold an evidentiary hearing on issues raised pursuant to this Section. Such hearing shall be conducted in camera.
- C. It shall be unlawful for any person less than twenty-one years of age to possess drug paraphernalia if he or she knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the Town of Olathe, Colorado as provided herein.