

Chapter 14
OFFENSES

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Cross references: *General Penalty*, Section 1-15; *Assessment as Court Costs Against Every Person Convicted of a Violation*, Section 2-53; *Nudity Sexual Conduct Prohibited in Alcoholic Beverage Establishments*, Section 12-35.

State law references: *Arrests*, Chapter 901, *Florida Statutes*; *Notice in Lieu of Arrest*, Section 901.27 et seq, *Florida Statutes*; For state law misdemeanors, see *Florida Statutes* general index under heading “crimes”; *Penalty for Misdemeanor*, Section 775.082 and Section 775.083, *Florida Statutes*.

Section 14.1 State misdemeanors

It shall be unlawful to commit, within the limits of the City, any act which is or shall be recognized by the laws of the State as a misdemeanor. The commission of any such act in the City shall be considered a violation of the laws of the City.
(Code 1958, Section 12-36)

Case law annotation: A municipality may enact an ordinance which creates an offense against municipal law for the same act that constitutes an offense against State law. *Jaramillo v. City of Homestead*, 322 So.2d 496 (Fla. 1975). Similarly, a municipality by ordinance may adopt state misdemeanor statutes by specific reference or by the general reference as contained in the ordinance. Such an adoption by general reference as contained in the ordinance permits subsequent amendments, revisions and repeals of the laws by the state legislature to apply to the municipal ordinances. *Id.*

Section 14.2 Disorderly intoxication

It shall be unlawful for any person to be disorderly intoxicated and endanger the safety of another person or property, and no person within the City shall be disorderly intoxicated or drink any alcoholic beverage in a public place or in or upon any public conveyance or cause a public nuisance.

(Ordinance of 9-14-78, Section 1)

Cross references: *Permitting drunkenness, rowdiness or immoral conduct in alcoholic beverage establishment*, Section 12.33; *Consumption or possession of open containers of alcoholic beverages on public property*, Section 14.7.

Section 14.3 Firearms; air guns

It shall be unlawful for any person to discharge any gun, pistol or other firearm, or any air gun or slingshot, in the City except law enforcement officers in performance of their duties.
(Code 1958, Section 12-7)

Section 14.3.5 Disposal of confiscated, abandoned firearms

(a) For purposes of this section, the term “firearm” means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term “firearm” shall not include an antique firearm unless the antique firearm is used in the commission of a riot; the inciting or encouraging of a riot; or the commission of a murder, an armed robbery; an aggravated assault, an aggravated battery; a burglary an aircraft piracy, a kidnapping, sexual battery or other felony, misdemeanor or illegal shooting.

(b) In any case involving violation of law or ordinance, the firearm shall be held until such time as the offense is disposed of or as otherwise provided by law.

(c) if the person arrested for an offense involving a firearm is convicted of the offense, such firearm shall be forfeited to the City without any order of forfeiture being necessary unless the court having jurisdiction over the offense orders a contrary disposition.

(d) If the person arrested as aforesaid be acquitted of the offense involving the firearm, the firearm shall be released to the owner upon presentation of proper proof of ownership. However, if the owner fails to call for or receive the same within six [6] months from and after the acquittal or dismissal of the charges, the firearm shall become forfeited to the City.

(e) Any firearm found, abandoned, lost or otherwise discarded within the City and coming into the hands of the police department shall be retained for a period of sixty [60] days. If the firearm has not been identified as to ownership and/or reclaimed by the owner upon proper proof of ownership, the firearm shall become forfeited to the City; and no action or proceeding for its recovery shall thereafter be pursued.

(f) Any firearms coming into the possession of the police department, pursuant to the above subsections, shall be documented by serial number when known, or by general description when unknown, and kept and held in the evidence/property section until such time as released or disposed of.

(g) All firearms forfeited to the City, pursuant to the foregoing subsections, shall be disposed of as follows:

- (1) All firearms having been forfeited which are not needed or are useless or unfit for use shall be destroyed.
- (2) Any firearms which are needed and deemed usable for law enforcement use will be retained and added to the police department inventory upon approval of the Chief of Police.
- (3) Rifles, shotguns, and handguns, except short-barreled shotguns and short-barreled rifles as defined in Chapter 790, *Florida Statutes*; and curio and relic firearms as defined by Part 178, 27 CFR, may be sold or traded to licensed firearm dealers upon approval of the Chief of Police.

(Ordinance No. 9002, Sections 1-7, 4-12-90)

Editor's note: Ordinance No. 9002, adopted Apr. 12, 1990, did not specifically amend this Code; hence, inclusion of Section 1 as Section 14.3.5 was at the discretion of the Editor. See also Section 14.8.

Sec. 14-4. Glass, tacks, etc., on streets

(a) No person shall throw or deposit upon any highway or street or alley any glass bottles, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle.

(b) Any person who drops, or permits to be dropped or thrown upon any street or alley, any destructive or injurious material shall immediately remove it or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a street or highway shall remove any glass or other injurious substance dropped or deposited upon the street or alley from such vehicle.

(Code 1958, Section 12-8) Cross reference: *Streets and sidewalks*, Chapter 16.

Section 14.5 Seizure and forfeiture of illicit liquors, stilling apparatus, etc.

Any vehicle, vessel, aircraft or any animal used in the transportation or removal, or for the deposit or concealment of any illicit liquor still or stilling apparatus or any mash, wort, wash, or other fermented liquids capable of being distilled or manufactured into an alcoholic beverage containing more than one percent [1%] of alcohol by weight, or any alcoholic beverage commonly known and referred to as “moonshine whiskey” seized by a municipal police officer within the City may be forfeited as provided for by the general state law. All sums received therefrom shall go into the general operating fund of the City.

(Code 1958, Section 12-13) State law reference: *State law authorizing seizure and forfeiture*, Section 562.35, 562.40 *et seq*, *Florida Statutes*.

Section 14.6 Public or private property; injuring or defacing

It shall be unlawful for any person to willfully injure or deface any church or schoolhouse or building or property belonging to the State, County or City or to any person or to write or draw figures, letters or characters on the walls, or the fences or enclosures thereof.

(Code 1958, Section 12-29)

Section 14.7 Consumption or possession of open containers of alcoholic beverages on public property

(a) It shall be unlawful for any person to consume alcoholic beverages, or carry in any cup, glass, can or other open or unsealed container, any alcoholic beverage on the streets, sidewalks, alleys, parks, or other municipal properties within the City limits except as provided in subsection (b) hereof.

(b) The City Commission shall authorize the Police Chief to issue a permit for the carrying and/or consumption of alcoholic beverages on streets, sidewalks, or alleys within the City during gatherings held by fraternal, benevolent, charitable, eleemosynary; philanthropic, civic, community; and veteran organizations, subject to such terms and conditions as the City Commission may impose for the protection of health, safety and welfare of the public. The Chief of Police shall issue a permit only if the public health, safety and welfare will not be endangered thereby.

(c) It is unlawful for any person to consume any alcoholic beverage on the street, sidewalks or alleys within the City limits while such person is an operator or passenger in or on any vehicle, whether moving or stopped, and such consumption is open to public view.

(d) No arrest shall be made for a violation of subsection (a) or (c) if at the time of the suspected violation, the person displays written proof that he is a licensed alcoholic beverage salesman, or agent, or displays a valid permit as required herein issued by the Chief of Police. It

shall be a defense to the charge of carrying and/or consumption of an alcoholic beverage salesman or agent at the time of the arrest if the person produces written proof thereof at or before the time of trial. It shall be a defense to the charge of carrying and/or consumption of an alcoholic beverage if at the time of trial the person produces a permit as required herein, issued by the Chief of Police, which permit was valid and in effect at the time of the arrest.

(e) It shall be unlawful for any person to violate the provisions of this section, or any part hereof, and upon conviction, such person shall be guilty of a misdemeanor, and shall be punished in accordance with the *Florida Statutes*.

(Ordinance No. 8803, Sections 1-4, 9-8-88)

Editor's note: Ordinance No. 8803, Sections 1-4, adopted Sept. 8, 1988, was non-amendatory of the Code; inclusion as Section 14.7 was at the Editor's discretion.

Cross references: *Disorderly intoxication*, Section 14.2; *Curb drinking of alcoholic beverages*, Section 12.36. State law reference: *Penalty for Misdemeanor*, Sections 775.082 and 775.083 *Florida Statutes*

Section 14.8 Disposition of lost or abandoned personal property

(a) It shall be the duty of any person upon finding or coming into possession of any personal property to return same to the owner, if possible, otherwise deliver same to the police department. All unclaimed or abandoned articles coming into the possession of the Chief of Police or any policeman or other employee of the City, disposition of which is not otherwise provided by law, shall be held by the Chief of Police for a period of thirty [30] days, and thereafter, if of appreciable value and unclaimed, retained by the police department for departmental use if such use is approved by the Chief of Police, or sold at public sale. Personal property known to be found in a public place shall be held for a period of six [6] months and thereafter disposed in accordance with the provisions of this section or as otherwise provided by law. If not of appreciable value, articles shall be disposed of pursuant to a court order.

(b) Unclaimed personal property from a criminal proceeding, or seized as evidence by and in the custody of the police department, if of appreciable value and unclaimed by the owner within sixty [60] days after the conclusion of the criminal proceeding, shall either be sold at public auction or retained by the police department for departmental use if such use is approved by the Chief of Police. If the property is unclaimed within sixty [60] days after the conclusion of the criminal proceeding, and the property is retained by the police department for official use, title to the property shall permanently vest in the City. If not of appreciable value, articles shall be disposed of pursuant to a court order.

(c) No sale of personal property shall be made until notice of the time and place of such sale shall have been mailed to the owner of any article to be offered for sale at least thirty [30] days prior to the date thereof, providing the owner's name and address can be ascertained by the Chief of Police. Such sale shall not be made until notice of the time and place of such sale shall have been advertised in a newspaper of general circulation in the City. This sale shall be pursuant to court order.

(d) The Chief of Police shall keep a record of personal property received by him, the date same was received, the amount received at such sale for each article sold, and the balance if

any remaining after the expenses of such sale have been reimbursed to the department. The Chief of Police shall immediately pay to the administrative supervisor the balance remaining after such sale.

(e) The administrative supervisor shall at any time within sixty [60] days after the sale of personal property refund any balance so retained to any person furnishing satisfactory proof of ownership of any articles sold at such sale.

(f) In the event that the balance remaining after the sale of personal property shall not be claimed by the rightful owner thereof within sixty [60] days after such sale, the administrative supervisor shall place the unclaimed balance into the general revenue fund of the City.
(Ordinance No. 9003, Sections 1-6, 4-12-90)

Editor's note: Ordinance No. 9003, adopted April 12, 1990, did not specifically amend this Code; hence, inclusion of Sections 1-6 as Section 14.8 was at the discretion of the Editor. See also Section 14.3.5.

Section 14.9 Prohibiting the use of a mobile home, a motor home, an automobile, etc. for living quarters or preparation of meals in the absence of a permit

(a) It shall be unlawful for any person to use or occupy any mobile home, motor home, camp car, auto car, trailer, truck, or any type vehicle, within the corporate limits of the City, as a place of residence, domicile, living quarters, eating quarters, preparing meals, sleeping quarters, except within a duly licensed mobile home park, auto tourist camp, trailer park, within the City.

(b) A permit may be obtained from the Administrative Supervisor's office to allow motor homes, travel trailers and campers within limits of Crescent City for a 2-week period, one unit per household only, with a fourteen [14] day permit to be obtained within a forty-eight [48] hour period.

(c) Any person found guilty of this section shall be deemed in violation of a municipal Ordinance and shall be punished in accordance with Section 1-15 of the City Code.
(Ordinance No. 9404; 8-11-94)