

Title 9

PUBLIC PEACE AND WELFARE

Chapters:

- 9.04 Alcoholic Beverages**
- 9.08 Offenses Against Public
Peace or Decency**
- 9.12 Loitering**
- 9.16 Curfew**
- 9.20 Public Nuisance Abatement**

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Chapter 9.04

ALCOHOLIC BEVERAGES

Sections:

9.04.010 Public consumption restricted.

9.040.020 Definitions.

9.040.030 Right to grant exceptions.

9.040.050 Violation–Penalty.

9.04.010 Public consumption restricted.

A. It is unlawful for any person to consume or possess in any open container any alcoholic beverage while:

1. On public property, unless authorized by a governmental entity that has jurisdiction over the property;

2. On any mall, adjacent parking area or other outside area of any combination of privately owned retail establishments, like a shopping center, where the general public is invited for business purposes;

3. On an adjacent parking area or other outside area of any other retail establishment;

4. In any parked vehicle located on any of the places enumerated in this subsection.

B. Subsection A of this section does not apply to the consumption of alcoholic beverages by passengers in the living quarters of a motor home equipped with a toilet and central heating or the passengers of a chartered bus in transit if the owner or operator has consented to the consumption of the beverages.

C. No person shall take off a premises any alcoholic beverage if the owner or person in charge of a premises from which said alcoholic beverage is taken is prohibited from making off-premise sales under the Cecil County alcoholic beverages board of license commission.

D. No person shall possess out of doors an open container containing alcoholic beverages within fifty (50) feet of the outside of any premises licensed to dispense of alcoholic beverages.

E. Licensed premises shall include the building and land used in connection with the operation of the business conducted under the

license, including the parking lot.

F. No person shall possess any open container containing alcoholic beverage within any mall or shopping center or in vehicles upon public streets, avenues, malls, shopping centers, alleys or parks within the corporate limits of the Town of Elkton.

G. No person shall possess any open container containing an alcoholic beverage on any property not their own unless permission to possess said container or to consume has been granted by the owner, lessor or their authorized agent. That such permission has been granted shall be an affirmative defense which the defendant may establish by adequate proof. (Amended during 1996 codification; prior code § 30-4)

9.04.020 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

“Public property” means and includes any building, ground, park, street, highway, alley, sidewalk, station, terminal or other structure, road or parking area located on land owned, leased or operated by the state, the county or the municipality. (Prior code § 30-2)

9.04.030 Rights to grant exceptions.

The Mayor and Commissioners of the Town of Elkton reserve the right at their discretion and in the best interests of the citizens of the Town of Elkton to grant on special occasions and other events an exception to the provisions of this chapter. (Prior code § 30-3)

9.04.040 Violation –Penalty.

A violation of these sections is deemed a civil offence and, upon conviction before any judge of the district court or circuit court of Cecil County, shall be subject to a fine for the first offense not to exceed one hundred dollars (\$100.00). A repeat offender may be assessed a fine not to exceed two hundred dollars (\$200.00) for each conviction of this chapter. (Prior code § 30-4)

Chapter 9.08

OFFENSE AGAINST PUBLIC PEACE OR DECENCY

Sections:

- 9.08.010 Discharge of firearms.**
- 9.08.020 Duty of parents or guardians regarding firearms.**
- 9.08.030 Fortunetelling.**
- 9.08.040 Violation–Penalty.**

9.08.040 Violation–Penalty.

Any violations of any of the provisions of this chapter, convicted thereof, shall be guilty of a misdemeanor and shall be punished as provided in the Charter, Section C14-1A. (Prior code § 83-10)

9.08.010 Discharge of firearms.

It is unlawful for any person to fire, discharge or set off any gun, rifle, pistol, revolver or other firearm, air rifle, cannon, torpedo, squib or other dangerous weapon of any character within the town without a written permit from the chief of police; provided that this section shall not apply to members of any military unit when the command or direction of an officer thereof, or property, or to the use of firearms by members of the police department in the lawful discharge of their duty. (Prior code § 83-3)

9.08.020 Duty of parents or guardians regarding firearms.

It is unlawful for the parent, guardian or other adult person having the care and custody of a minor knowingly to permit such minor to violate the provisions of Section 9.08.010 or to carry a firearm, air rifle, torpedo, squib or other dangerous weapon of any character within the town with the intent to violate any provision of that section. (Prior code § 83-4)

9.08.030 Fortunetelling.

It is unlawful within the town for any person to demand or accept any remuneration or gratuity for forecasting or foretelling or for pretending to forecast or foretell the future of any person by cards, palm reading or any other scheme, practice or device. (Prior code § 83-5)

Chapter 9.12

Loitering

**Repealed by Ord. 4-2007;
Effective 9/5/2007**

Chapter 9.16

CURFEW

Sections:

- 9.16.010 Definitions.**
- 9.16.020 Curfew for Juveniles.**
- 9.16.030 Exceptions.**
- 9.16.040 Parental Responsibility.**
- 9.16.050 Operator Responsibility.**
- 9.16.060 Enforcement.**
- 9.16.070 Penalties.**

9.16.010 Definitions.

A. *Curfew hours* means: (1) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday or Thursday, until 6:00 A.M. of the following day; and (2) 12:01 A.M. on any Saturday or Sunday.

B. *Emergency* means an unforeseen circumstance or combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious injury or loss of life.

C. *Establishment* means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

D. *Guardian* means: (1) a person is the legal guardian of a minor; or (2) a person or agency to who legal custody of a minor has been given by court order.

E. *Knowingly* means consciously, willfully, intentionally, and includes knowledge that a parent or guardian may reasonably be expected to have concerning the whereabouts of a minor in their care and custody.

F. *Minor or juvenile* means any unemancipated person under 17 years of age.

G. *Operator* means any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment. The term includes the members of partners of an association or partnership

and the officers of a corporation.

H. *Parent* means a person who is: (1) a natural, adoptive or step-parent of another person; or (2) at least 18 years of age and authorized by a parent or guardian to have care or custody of a minor.

I. *Public place* means any place to which the public or substantial group of the public has access and includes, but is not limited to: (1) streets, highways, alleys, sidewalks, and any public right-of-way of a street or highway; and (2) the common areas of transportation facilities, schools, hospitals, apartment houses, office buildings, shopping centers, parks, playgrounds, parking lots, theaters, restaurants, bowling alleys, taverns, cafes, arcades and shops.

J. *Remain* means to: (1) linger, tarry or stay unnecessarily in a public place; or (2) fail to leave the premises of an establishment of place open to the public when requested to do so by a law enforcement officer or an operator or employee of the place or establishment. (Ord. 3-2002, eff: 4/9/02)

9.16.020 Curfew for Juveniles.

It shall be unlawful for a minor to remain in any public place or on the premises of an establishment within the Town of Elkton during curfew hour. (Ord. 3-2002, eff.: 4/9/02)

9.16.030 Exceptions.

The curfew for juveniles imposed in this chapter shall not apply when the minor is:

A. accompanied by the minor's parent or guardian; or

B. on an errand at the direction of the minor's parents or guardian, without any detour or stop, until the hour of 12:30 A.M.; or

C. accompanied by a person at least 18 years of age and authorized by the minor's parent or guardian to have temporary care or custody of the minor for a designated period of time within a specified area; or

D. with consent of the minor's parent or guardian, involved in interstate travel through the Town of Elkton of beginning or ending in

the Town of Elkton; or

E. engaged in a legal employment activity, or going to or returning home from a legal employment activity, without any detour or stop; or

F. involved in an emergency; or

G. on the property where the minor resides or on the sidewalk abutting the minor's residence, or abutting the residence of a next-door neighbor, if the adult resident of that property has given permission for the minor's presence; or

H. attending, or returning directly home from, without any detour or stop, and with one (1) hour of the end of: (1) a school, religious, or recreational activity supervised by adults and sponsored by the Town of Elkton, the Cecil County Government, a civic organization, or a voluntary association that taxes responsibility for the minor; or (2) a place of public entertainment, such as a movie, play, or sporting event; or

I. exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, by first delivering to the Town of Elkton, a written communication which: (1) is signed by the minor and countersigned, if practical, by the parent or guardian of the minor; (2) includes the parent or guardian's home address and telephone number; and (3) specifies when, where, and in what manner the minor will be situated in a public place during curfew hours; or

J. remaining in a public place in a case of reasonable necessity if the minor's parent or guardian has communicated to the Elkton Police Department facts: (1) establishing the reasonable necessity; and (2) designating the specific public place and the points of origin and destination for the minor's travel; and (3) the times the minor will be in the public place or traveling to or from the public place. (Ord. 3-2002, eff: 4/9/02)

9.16.040 Parental Responsibility.

It shall be unlawful for a parent or guardian of a minor knowingly permit, or by

insufficient control, allow the minor to remain in any public place or on the premises of any establishment within the Town of Elkton during curfew hours. (Ord. 3-2002, eff: 4/9/02)

9.16.050 Operator Responsibility.

A. It shall be unlawful for the owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

B. An owner, operator, or any employee of owner, operator, or employee promptly notified the Elkton Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave. (Ord. 3-2002, eff: 4/9/02)

9.16.060 Enforcement.

A. If a law enforcement officer reasonably believes that a minor is in a public place in violation of § 9.16.020, the officer shall notify the minor that he or she is in a violation of the ordinance and shall require the minor to tell the law enforcement officer his or her name, address, telephone number, and how to contact the minor's parent or guardian.

B. The law enforcement officer shall issue the minor a written warning that the minor is in violation of the ordinance and order the minor is in violation of the ordinance and order the minor to promptly go home. The Elkton Police Department shall provide written notice to the minor's parent or guardian of the violation.

C. The Elkton Police Department procedures may permit the law enforcement officer to take the minor home if appropriate under the circumstances.

D. Notwithstanding subsection B of this Section, the law enforcement officer shall take the minor into custody and transport the minor to the Elkton Police Department facility when: (1) the minor has received one (1) previous written warning for a violation of the ordinance; or (2) the law enforcement officer has reasonable grounds to believe that the

minor has committed a delinquent act; or (3) taking the minor into custody is otherwise authorized under § 3-814 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

E. When a minor is taken into custody pursuant to subsection (D) of this Section, the parent or guardian of the minor shall immediately be notified by the Elkton Police Department and be required to come the Elkton Police Department facility to take custody of the minor. The law enforcement officer shall determine whether, consistent with constitutional safeguards, the minor or the parent or guardian, or both, are in violation of the ordinance.

F. When a parent or guardian has arrived at the Elkton Police Department facility and the appropriate information has been recorded, the minor shall be released to the custody of the parent or guardian. If the parent of guardian cannot be located or fails to take charge of the minor, then the minor shall be released to the Department of Social Services, the Department of Juvenile Justice, or to an adult who will, on behalf of a parent or guardian, assume the responsibility of caring for the minor, pending the availability of the parent or guardian. (Ord 3-2002. Eff: 4/9/02)

9.16.070 Penalties.

A. (1) If, after receiving a warning notice of a first violation of the ordinance by a minor, a parent or guardian violates by the minor, this shall constitute a first offense by the parent or guardian and shall be deemed an infraction, punishable as set forth under the Code, Title 1, Chapter 1.08, § 1.08.010, et seq..

(2) A parent or guardian who violates § 9.16.040, after having received a previous warning notice and subsequently a civil citation for violation of the ordinance, shall be deemed as having committed a repeat offense, punishable as set forth under the Code, Title 1, Chapter 1.08, § 1.08.010, et seq..

B. (1) If, after a warning notice, the operator of an establishment violates §9.16.050 of this Chapter a second time, this

shall constitute a first offense by the operator shall be an infraction, punishable as set forth under the Code, Title 1, Chapter, 1.08, § 1.08.010, et seq..

(2) An operator of an establishment who violates § 9.16.050, after having received a previous warning notice and subsequently a citation for violation of the ordinance, shall be deemed as having committed a repeat offense, punishable as set forth under the Code, Title 1, Chapter 1.08, § 1.08.010, et seq.. (Ord. 3-2002, eff: 4/9/02)

Chapter 9.20

PROPERTY NUISANCE ABATEMENT

Sections:

- 9.20.010 Public nuisance.**
- 9.20.020 Creation and maintenance of a public nuisance unlawful.**
- 9.20.030 Responsibility for property management.**
- 9.20.040 Enforcement; notice; period for compliance; abatement plan.**
- 9.20.050 Injunction.**
- 9.20.060 Final order of abatement.**
- 9.20.070 Requirement for notification of Property Nuisance Abatement Ordinance.**

9.20.010 Public Nuisance.

A public nuisance shall be created by a person:

A. when possessing, manufacturing, selling, dispensing, using or permitting the use of any controlled substance(s) set forth under the Criminal Law Article, Annotated Code of Maryland, as amended, upon any real property in the town; and/or

B. when engaging in prostitution, soliciting for prostitution, or other sexual activity prohibited under the Criminal Law Article, Annotated Code of Maryland, as amended, upon any real property in the town; and/or

C. when possessing, discharging, displaying a firearm or other weapon prohibited under the Criminal Law Article, Annotated Code of Maryland, as amended, or prohibited by other local ordinance, State or Federal statute or regulation upon any real property in the town; and/or

D. when engaging in any criminal activity which threatens the life, health, safety or welfare of any other person, upon any real property in the town.

9.20.020 Creation and maintenance of a

public nuisance unlawful.

It shall be unlawful for a person owning a commercial or residential property in the town to rent, lease, or otherwise provide the use of real property to a person who creates or maintains a public nuisance, as set forth under this chapter.

9.20.030 Responsibility for property management.

A. Every owner of real property within the town is required to manage the property in a manner so as not to create or allow a public nuisance or to have an adverse impact on adjoining properties or the neighborhood or to violate the provisions of this chapter. The owner shall remain liable for violations thereof regardless of any contract or agreement with any third party regarding the property.

B. Every building or unit within a building used for the purpose of unlawfully manufacturing, delivering, selling, storing or giving away any controlled substance, and every building wherein or upon which such acts take place, is a public nuisance which shall be enjoined, abated and prevented, whether it is a public or private nuisance.

C. As used in this chapter: ADVERSE IMPACT includes consideration of, but is not limited to, the following: (1) any search warrants served on the property where controlled substances were seized; (2) investigate purchases of controlled substances on or near the property by law enforcement officers or their agents; (3) arrests of persons who frequent the property for violation of controlled substance laws; (4) increased volume of traffic associated with the property; and (5) the number of complaints made to law enforcement officers of illegal activity associated with the property.

BUILDING includes, but is not limited to any structure or any separate part or portion thereof, whether permanent or not, or the ground itself.

9.20.040 Enforcement; notice; period for compliance; abatement plan.

A. The Town or a person adversely impacted by a public nuisance set forth under this chapter may bring a civil action for injunctive relief to abate the nuisance against a property owner in violation of this chapter, provided that the Town or said person adversely impacted by the public nuisance has given the property owner, its agent or representative, written notice to abate said public nuisance. Notice shall be hand-delivered to the property owner, its agent or representative, by a law enforcement officer or delivered by United States Postal Service, certified mail, return receipt requested. The notice shall describe the public nuisance, any adverse affect on the adjoining properties and/or the surrounding area, direct the property owner to abate the public nuisance. The property owner to abate the public nuisance, the time for compliance and the penalty for failure to abate a public nuisance. The property owner shall have forty-five (45) days from the date the notice is received to abate the public nuisance before a formal complaint is filed with the court; provided, however, that if the violation cannot be abated within the time period specified, the Mayor and Commissioners may extend the time period for compliance for a reasonable period of time upon submission of an acceptable abatement plan by the property owner. In determining whether the abatement plan is acceptable, consideration by the Mayor and Commissioners shall include, but shall not be limited to: (a) the sufficiency and dates of all actions undertaken to abate the public nuisance; and (b) the sufficiency of a plan detailing further actions which are needed to abate the public nuisance; and (c) the length of time necessary to complete the abatement of the public nuisance. Said abatement plan shall minimally provide a description of all action taken, or to be taken, by the property owner to abate the public nuisance, along with a schedule in which action is to be taken. Upon receipt by the town of any written request, accompanied by an abatement plan, from a property owner for additional time to abate a public nuisance, the Mayor and

Commissioners shall respond in writing within thirty (30) business days granting or denying the property owner's request.

B. Any complaint filed under this chapter shall be accompanied by a b affidavit for purposes of showing that the owner has had an opportunity to abate the public nuisance, including time extensions, if any. The affidavit shall contain a description of all attempts to notify and locate the owner, its agent or representative.

9.20.050 Injunction.

The Town or other person shall have the following remedy:

A. Failure to abate the public nuisance within the time period specified by this chapter, including any extensions, if any, shall be subject to an application for a temporary restraining order or preliminary injunction. The court may, upon a showing of good cause, issue an ex parte restraining order or preliminary injunction preventing the defendant and all other persons from continuing or causing the reoccurrence of the public nuisance pending a decision. Any violation of the order or injunction is a contempt of court, and where such order or injunction is posted, mutilation or removal thereof while the same remains in force is a contempt of court if such posted order or injunction contains a notice to that effect.

B. If the existence of the public nuisance is established in the action, an order of abatement shall be entered as part of the final judgment in the case. Plaintiff's costs in the action, including those of abatement, shall constitute a lien upon the building or unit within a building. The lien is enforcement and collectible by execution issued by order of the court.

C. If the court finds the owner has been making reasonable efforts to abate the public nuisance, has not been guilty of contempt of court in the proceedings, will immediately abate any such public nuisance that may exist at the building and prevent it from being a public nuisance within a period of one year thereafter, the court may order the building or

unit within a building to be delivered to the owner, its agent or representative, and no order of abatement shall be entered. If the owner meets the requirements of the subsection, the order of abatement shall be canceled.

complaints made to law enforcement of illegal activity associated with the property. It shall be a violation of this agreement and grounds for eviction if any of the adverse impact offenses occur as a result of activity on this property.”

9.20.060 Final order of abatement.

Any final order of abatement issued under this chapter shall:

A. Provide for the immediate closure of the building or unit within a building against its use for any purpose and for keeping it closed for such period of time as the court may determine; and

B. State that while the order of abatement remains in effect the building or unit within a building shall remain in the custody of the court.

9.20.070 Requirement for notification of Property Nuisance Abatement Ordinance.

Upon adoption of this chapter, all written leases, rental contracts and agreements that give individuals or groups of individuals the right or privilege to occupy real property for the purpose of such property as a residence, dwelling, refuge, shelter or other purpose shall contain the following provision: “The Town of Elkton has adopted a Property Nuisance Abatement Ordinance, which states it is a public nuisance, and for any person, firm, or corporation, whether owner, lessor, lessee, sublessor, sublessee or occupant of any premises in the town, to permit those premises to be used in such a manner so as to create an adverse impact on adjoining properties or the surrounding neighborhood. ‘Adverse impact’ includes consideration of, but not limited to, the following: (a) any search warrants served on the property where controlled substances were seized; (b) investigative purchases of controlled substances on or near the property by law enforcement officers or their agents; (c) arrests of persons who frequent the property for violation of controlled substances law; (d) increased volume of traffic associated with the property; or (e) the number of

**Chapter 9.24
Alarm Devices**

Sections:

- 9.24.010 Definitions.**
- 9.24.020 False Alarm Investigations and Report.**
- 9.24.030 Deactivation of Audible Alarms.**
- 9.24.040 Other Requirements for Alarm Users.**
- 9.24.050 False Alarm Fee Collection; Disbursement of Fees.**
- 9.24.060 Severability.**

9.24.010 Definitions.

The following words and terms, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. "Alarm device" – any device which when activated is intended to transmit a signal directly or indirectly to request police services to respond on an emergency basis, inclusive of audible signals at or near the exterior of the protected premises and/or devices that transmit via telephone, cable or by other means a request for police services to a private or government operated central alarm station for the purpose of replaying a request for police services, and/or a device which transmits a request for emergency services directly to a police agency. Alarm devices in motor vehicles are not included under this definition.

B. "Alarm user" – any person, as defined under this Code, Title 1, Chapter 1.04, §1.01.010, upon whose premises an alarm device is installed within the town.

C. "Chief of Police" – the Chief of Police, Elkton Police Department.

D. "Elkton Police Department" – the police department of the Town of Elkton.

E. "False alarm" – the activation of an alarm device which results in the response by police personnel to any alarm user's premises within the town where no police emergency services are required, as determined by such

police personnel or the Chief of Police after investigation. A false alarm shall not include alarm signals which result from hurricane, gale, tornado or other weather conditions, earthquake or any major disruption of electric, telephone or other public utility failure or transient interruption. Notice to the Elkton Police Department of an alarm error by an alarm user or by a private or government operated central alarm station prior to police arrival on the alarm user's premises shall not be a false alarm under this definition.

9.24.020 False Alarm Investigation and Report.

Whenever a responding officer shall determine that a false alarm has been transmitted, a written report shall be submitted by such officer to the Chief of Police stating the name of the business, public/private institution or government, address and telephone number, together with a statement of the circumstances surrounding such alarm and the officer's opinion as to the likely cause of the alarm.

9.24.030 Deactivation of Audible Alarms.

No alarm user shall install, operate and maintain an alarm device that shall emit and uninterrupted audible signal for a period of longer than fifteen (15) minutes. Police responding to an audible alarm are hereby authorized to disable an alarm device with liability for any damage to such device if the audible signal shall sound for more than fifteen (15) minutes without interruption. Any such alarm device which has a mechanism to reset the alarm shall be equipped so that successive sounding of the alarm device shall be limited to no more than three fifteen (15) minute intervals. The sounding of an alarm device for more than fifteen (15) minutes or for more than three (3) fifteen-minute intervals shall constitute a false alarm, whether or not an actual emergency on the alarm user's premises triggered the alarm device.

9.24.040 Other Requirements for Alarm Users.

A. The alarm user's premises shall prominently display an address and/or building number and business premises name sized and illuminated by street or other lighting so as to be clearly visible from the street frontage or parking lot.

B. Alarm devices shall be equipped with a standby power source sufficient to maintain the device in an armed state for at least eight (8) hours in the event of a primary electrical service power failure.

C. No direct connection with the Police Department shall be permitted without written authorization from the Chief of Police.

9.24.050 False Alarm Fee Collection; Disbursement of Fees.

A. If the Elkton Police Department responds to more than four (4) false alarms at the premises of an alarm user, that alarm user shall be charged a fee. The fee is based on the number of false alarms at the alarm user's premises during a twelve (12) month period and as follows:

1. Fifth to ninth false alarm \$50.00 for each false alarm
2. Tenth false alarm \$150.00 for each false alarm
3. Eleventh or more \$250.00 for each false alarm

B. The Chief of Police or his designee shall determine whether a false alarm has occurred and the frequency of such false alarms. That alarm user shall be notified by the Elkton Police Department each time that an alarm occurs at the alarm user's premises.

C. The Town's finance department shall notify alarm users of amounts owed to the Town and shall make demands for payment therefore, pursuant to the provisions of this chapter. Invoices for false alarm fees are to be paid within thirty (30) days of the invoice date and deemed delinquent is not paid. Delinquent false alarm fees shall bear interest at 1.5% per month until paid. False alarm fees for alarm users who are the owners of the premises on which a false alarm occurs shall be treated in the same manner as property taxes for enforcement of payments. Any administrative costs and/or legal fees the Town incurs in the collection of the false alarm fee(s) shall be the responsibility of the alarm user.

D. Tenants who have installed alarm systems shall be responsible for false alarm fees. Nonpayment of fees that are ninety (90) days in arrears by tenants shall constitute a municipal infraction and any violator shall be fined the amount of the unpaid false alarm fees, including interest, plus any administrative costs and/or legal fees the Town incurs in the collection of the fees.

E. The Town may proceed by a suit in a court of competent jurisdiction to collect said fees from an alarm user after demand for payment of outstanding false alarm(s) has not been satisfied.

F. False alarm fees collected by the finance department shall be deposited in and accounted for in the General Fund.

9.24.060 Severability.

If any section, paragraph, clause, provision or portion of this Chapter shall be adjudged invalid, unenforceable or held unconstitutional, the same shall not affect the validity of the balance of this ordinance as a whole or any part or provision other than the part held to be invalid, unenforceable or unconstitutional.