

## **Title 9**

### **PUBLIC PEACE, MORALS AND WELFARE**

#### **Chapters:**

**9.04 Criminal Code**

**9.08 Gambling**

**9.12 Juvenile Loitering**

**9.16 Shoplifting**

**9.20 Alcohol Consumption by Underage Persons**

**9.22 Regulation of Tobacco Products**

#### **Chapter 9.04**

#### **CRIMINAL CODE**

##### **Sections:**

**9.04.005 Purchase, Possession, and Consumption of Marijuana & Drug Paraphernalia**

**9.04.010 Impersonating an officer.**

**9.04.020 Disorderly conduct.**

**9.04.030 Riot.**

**9.04.040 Disruption of lawful assembly.**

**9.04.050 Discharge of weapons and explosives--Hunting permits.**

**9.04.060 Concealed weapons prohibited.**

**9.04.070 Use of dangerous weapons.**

**9.04.080 Public indecency--Indecent exposure--Obscenity.**

**9.04.090 Cruelty to animals.**

**9.04.100 Sale of poison.**

**9.04.110 Throwing harmful objects.**

**9.04.120 Hitching animals to ornamental railings or trees.**

**9.04.130 Harming public bridges or property.**

**9.04.140 Harming street utilities.**

**9.04.150 Harming public lamp posts, trees or public structures.**

**9.04.160 Malicious mischief.**

**9.04.170 Escape from confinement.**

**9.04.180 Supplying prohibited items to incarcerated persons.**

**9.04.190 Defacing posted materials.**

**9.04.200 Connection with houses of ill-fame.**

**9.04.210 Soliciting for prostitution.**

**9.04.220 Nuisance abatement.**

**9.04.230 Impeding police, firemen or other officials by vehicle at scene of disaster.**

**9.04.240 Interference with police officer, firemen, town employees and public officials in the performance of their duties.**

**9.04.250 Resisting arrest--Escaping-- Rescuing a prisoner.**

**9.04.260 Disobeying an order of a police officer or fireman—  
Refusing to aid a police officer.**

**9.04.270 Complicity.**

- 9.04.280 Criminal attempt.
- 9.04.290 Accessory to an offense.
- 9.04.300 Trespass.
- 9.04.310 Petty theft.
- 9.04.320 Tampering with public utilities.
- 9.04.330 Criminal mischief.
- 9.04.340 Unreasonable noise.
- 9.04.350 Prima facie unreasonable noise.
- 9.04.360 Harassment.

## **9.04.005 Purchase, Possession, and Consumption of Marijuana and Drug Paraphernalia**

### **Definitions**

**Drug Paraphernalia** means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or other introducing marijuana or any other illegal drug into the human body.

**Marijuana** means include all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “Marijuana” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

**Openly** means occurring or existing in a manner that is unconcealed, undisguised, or obvious.

**Publicly** means a place to which the public or a substantial number of the public have access, and includes but is not limited to streets, highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings or facilities.

- A. It shall be unlawful for any person under the age of 21 years to purchase, transfer, dispense, possess and or consume any quantity of marijuana, except as allowed for medicinal purposes.
- B. It shall be unlawful for any person to openly and publicly consume, any quantity of marijuana.

It shall be unlawful for any person under the age of 21 years to knowingly purchase or possess drug paraphernalia.

(Ord. 2017-01)

**9.04.010 Impersonating an officer.**

If any person in the town impersonates a police officer or police chief by wearing a star or other badge, or by any other means or acts whatever, such person shall, on conviction, be fined.

(Ord. 2010-23, 6-17-2010) (Ord. 1 Ch. 10 § 1, 1907)

**9.04.020 Disorderly conduct.**

A. It is unlawful for any person to commit disorderly conduct within the town. A person commits disorderly conduct if he intentionally, knowingly or recklessly:

1. Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace; or
2. Abuses or threatens a person in a public place in an obviously offensive manner; or
3. Makes unreasonable noise in a public place except in an amateur or professional contest of athletic skill; or
4. Fights with another in a public place except in an amateur or professional contest of athletic skill; or
5. Not being a peace officer, discharges a firearm in a public place except when engaged in lawful target practice or hunting; or
6. Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm.

B. It is an affirmative defense to prosecution under subsection (A)(2) of this section that the actor had significant provocation for his abusive or threatening conduct.

(Ord. 7-1995 § 9, 1995)

**9.04.030 Riot.**

Any two or more persons who assemble together within the corporate limits of the town with the intent to do an unlawful act, or being assembled, mutually agree to do an unlawful act, forcibly or violently, against the property of the town, or against the person or property of another, or against the peace, or to the terror of others, and makes any movement or preparation e, and every person present at such meeting or assembly who shall in any manner tacitly or otherwise, encourage the perpetration or commission of such unlawful act, shall, on conviction, be fined for each and every offense.

(Ord. 1 Ch. 10 § 3, 1907)

#### **9.04.040 Disruption of lawful assembly.**

It is unlawful for any person to commit a disruption of lawful assembly within the town. A person commits a disruption of lawful assembly if, intending to prevent or disrupt any lawful meeting, procession, or gathering, he significantly obstructs or interferes with the meeting, procession, or gathering by physical action, verbal utterance or any other means.

(Ord. 7-1995 § 10, 1995)

#### **9.04.050 Discharge of weapons and explosives--Hunting permits.**

- A. If any person fires or discharges any canon, gun, fowling piece, pistol, or firearms of any description, or fires, explodes or sets off any squib, cracker or other thing containing powder or other combustible or explosive material in the town without the permission of the board of trustees or written permission from the mayor (which permission shall limit the time for firing, and shall be subject to revocation at any time after the same has been granted), shall, on conviction thereof, be fined.
- B. The chief of police of the town, or his designee, is authorized to approve the hunting of deer and elk, in lawful season, by hunters licensed by the state of Colorado Division of Wildlife, upon lands within the incorporated limits of the town located adjacent to and east of Deer Creek Village Golf Course and the discharge of lawful firearms for such hunting purposes upon said lands.
- C. No person shall enter upon said lands within the town for the purpose of hunting deer or elk without first obtaining a permit e from the chief of police of the town, which permit shall specify the dates and hours during which such hunting shall occur.

(Ord. 5-1992 § 1, 1992; Ord. 1 Ch. 10 § 7, 1907)

#### **9.04.060 Concealed weapons prohibited.**

It is unlawful for a person to knowingly and unlawfully wear or carry concealed on or about his person, a knife. (**Knife** means any dagger, dirk, or stiletto with a blade over three and one half inches in length, or any other dangerous instrument capable of inflicting cutting, stablign, or tearing wounds, but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense as defined in CRS 18-12-101.)

It is unlawful for a person to knowingly and unlawfully wear or carry concealed on or about his person, firearm, or other deadly weapon within the town. It shall be an affirmative defense that the defendant was:

- A. A person in his own dwelling or place of business or on property owned or under his control at the time of the act; or
- B. A person in a private automobile or other private means of conveyance who carries a

weapon for lawful protection of his or another's person or property while traveling; or

- C. A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to CRS 18-12-105.1 to carry the weapon by the chief of police of a city or city and county or the sheriff of a county; or
- D. A peace officer, level I or level Ia, as defined in CRS 18-1-901 (3) (1) (I) or (3) (1) (II); or
- E. A peace officer, level II, as defined in CRS 18-1-901 (3) (1) (III), while on duty.

(Ord. 7-1995 § 11, 1995)

#### **9.04.070 Use of dangerous weapons.**

It is unlawful for any person to do any of the following acts within the town:

- A. Knowingly and unlawfully aim a firearm at another person; or
- B. Recklessly or with criminal negligence discharge a firearm or shoot a bow and arrow; or
- C. Knowingly set a loaded gun, trap, or device designed to cause an explosion upon being tripped or approached, and leave it unattended by a competent person immediately present; or
- D. Have in his possession a firearm while he is under the influence of intoxicating liquor or of a controlled substance, as defined in CRS 12-22-303 (7). Possession of a permit issued under CRS 18-12-105.1 is no defense to a violation of this section; or
- E. Knowingly aim, swing, or throw a throwing star or nunchaku as defined in this subsection at another person, or knowingly possess a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container. For purposes of this subsection "nunchaku" means an instrument consisting of two sticks, clubs, bars, or rods to be used as handles, connected by a rope, cord, wire, or chain, which is in the design of a weapon used in connection with the practice of a system of self-defense, and "throwing star" means a disk having sharp radiating points or any disk-shaped bladed object which is hand-held and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense.

(Ord. 7-1995 § 12, 1995)

#### **9.04.080 Public indecency--Indecent exposure--Obscenity.**

It is unlawful for any person to commit any act of public indecency, indecent exposure, wholesale obscenity, or promotion of obscenity, within the town.

- A. Public indecency: any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:
1. An act of sexual intercourse; or
  2. An act of deviate sexual intercourse; or
  3. A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or
  4. A lewd fondling or caress of the body of another person; or
  5. Urinating or defecating in any place except sanitary facilities constructed for the purpose and connected to an authorized sewage collection system or authorized individual sewage system.
- B. Indecent Exposure. A person commits indecent exposure if he knowingly exposes his genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.
- C. Wholesale Obscenity. A person commits wholesale promotion of obscenity if, knowing its content and character, such person wholesale promotes or possesses with intent to wholesale promote any obscene material.
- D. Promotion of Obscenity. A person commits promotion of obscenity if, knowing its content and character, such person:
1. Promotes or possesses with intent to promote any obscene material; or
  2. Produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(Ord. 7-1995 § 13, 1995)

#### **9.04.090 Cruelty to animals.**

Any person who, within the corporate limits of the town, inhumanly, unnecessarily or cruelly beats, injures, or otherwise abuses any dumb animal shall, upon conviction thereof, be fined.

(Ord. 1 Ch. 10 § 15, 1907)

#### **9.04.100 Sale of poison.**

If any person shall vend, give, or deliver within this town any deadly poison, knowing the same to be such, without marking the vial or thing containing the same in legible characters, "POISON," or if any person other than a druggist sells, gives, or delivers any such poison knowing

the same to be such, or if any druggist fails to keep in a book kept solely for such purpose, a record of the date, name of the person to whom sold and delivered, quality and kind of poison sold, which book shall be kept for one year subject to the inspection of the officers of the town, shall, in each and every case, upon conviction thereof, be fined for each and every offense.

(Ord. 1 Ch. 10 § 18, 1907)

#### **9.04.110 Throwing harmful objects.**

Any person who throws a stone or other missile upon or at any building, tree or other public or private property, or upon or at any person in any street, public place, enclosed or unenclosed ground within the corporate limits of the town, shall, upon conviction thereof, be fined for each offense.

(Ord. 1 Ch. 10 § 20, 1907)

#### **9.04.120 Hitching animals to ornamental railings or trees.**

Any person who hitches or fastens any horse or other animal to any ornamental fence or railing, or to any ornamental or shade tree, or injures or destroys any ornamental or shade tree, shrub, fence or railing, in or upon any public place, or upon any public ground, street, alley or other public place or upon any place, or upon any private premises, without the permission of the owner, shall on conviction, be fined.

(Ord. 1 Ch. 10 § 26, 1907)

#### **9.04.130 Harming public bridges or property.**

Any person or persons who injure or destroy, or assist in injuring or destroying, any bridge or its appurtenances or the jail or any other building or property belonging to the town shall, on conviction, be fined.

(Ord. 1 Ch. 10 § 27, 1907)

#### **9.04.140 Harming street utilities.**

Any person who willfully, maliciously or negligently injures, pulls down or in any manner breaks any lamp post, bracket, street lamp or hydrant or any public property shall, upon conviction thereof, be fined.

(Ord. 1 Ch. 10 § 28, 1907)

#### **9.04.150 Harming public lamp posts, trees or public structures.**

Any person who hitches any horse, mule or other animal to any of the lamp posts of this town, or trees planted along the sidewalks of this town, or who shall, for the purpose of advertising any business, or for any other cause whatever, place or cause to be placed, any writing, printing, painting or other device upon any public lamp post or tree or public structure or private house,

store or other building, or upon any fence or other structure, without permission from the owner or occupant of the same in this town, shall, upon conviction thereof, be fined.

(Ord. 1 Ch. 10 § 29, 1907)

**9.04.160 Malicious mischief.**

Any person who wilfully throws stones or other missiles against or in any way defaces or injures the windows, walls or other parts of any building or buildings, whether occupied or unoccupied, within the town or who wilfully in any manner injures the awnings, awning posts, fences, enclosures or other improvements of any character whatever, either of private or public property, or who wilfully fills up, obstructs or otherwise damages any ditch or ditches lawfully constructed in the town, or who wilfully marks or defaces any tree or flowers planted for the shade or ornament of the streets or private lots in the town shall, upon conviction thereof, be fined for each offense.

(Ord. 1 Ch. 10 § 30, 1907)

**9.04.170 Escape from confinement.**

Any person who assists or aids or attempts to assist or aid, any person confined in the town jail or place where persons may be confined for violating town ordinances, to escape from jail or places of confinement shall, upon conviction thereof, be fined.

(Ord. 1 Ch. 10 § 31, 1907)

**9.04.180 Supplying prohibited items to incarcerated persons.**

If any person, without the consent of the persons in charge of the town jail or other place where persons may be confined for violating the town ordinances, introduces into the town jail or cells or gives to any person or persons confined in said jail either while in jail or while being conveyed from the jail to any other place in said town, any spirituous or malt liquors, or any tool or implement or other thing, such persons shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined.

(Ord. 1 Ch. 10 § 32, 1907)

**9.04.190 Defacing posted materials.**

Any person who maliciously tears down, defaces or covers up any lawfully posted advertisement or bill of any railroad company, or of any corporation, company or person, such person shall, upon conviction thereof, be fined.

(Ord. 1 Ch. 10 § 33, 1907)

**9.04.200 Connection with houses of ill-fame.**

Any person who shall be intimate, or in any way connected with or contribute to the support



of any bawdy house, house of prostitution, assignation or ill-fame, or place for the practice of fornication within the corporate limits of the town, or within one mile of the outer boundaries of the town, shall be deemed guilty of a misdemeanor, and, on conviction thereof, be fined.

(Ord. 1 Ch. 10 § 35, 1907)

**9.04.210 Soliciting for prostitution.**

A person commits soliciting for prostitution if he:

- A. Solicits another for the purpose of prostitution; or
- B. Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- C. Directs another to a place knowing such direction is for the purpose of prostitution.

(Ord. 7-1995 § 14, 1995)

**9.04.220 Nuisance abatement.**

All nuisances prohibited by this chapter shall be abated and removed in the manner provided for the abatement and removal of nuisances provided, that the mayor of the town may, if it is deemed necessary for the public safety, remove and abate any such nuisances summarily without notice as the mayor may deem best.

(Ord. 1 Ch. 10 § 39, 1907)

**9.04.230 Impeding police, firemen or other officials by vehicle at scene of disaster.**

It is unlawful for any person to drive a vehicle to or close by the scene of a fire, explosion, traffic accident, riot or impending riot, other disaster or investigation in such a manner as to obstruct or impede the arrival, departure or operation of any fire truck, police vehicle ambulance or any other emergency vehicle, or to fail to move a vehicle from the scene when ordered to do so by a police officer, fireman, emergency personnel or military personnel in the performance of their duties in coping with such fire, explosion, traffic accident, riot or impending riot, other disaster or investigation.

(Ord. 5-1998 (part), 1998)

**9.04.240 Interference with police officer, firemen, town employees and public officials in the performance of their duties.**

- A. It is unlawful for any person to knowingly resist, interfere with or impede or obstruct any police officer, fireman, town employee or other public official who is attempting to discharge or is in the course of discharging an official duty.
- B. It is unlawful for any person to threaten violence, reprisal or any other injurious act to any police officer, fireman, town employee or other public official who is engaged in the

performance or attempted performance of his official duties or to make such a threat by reason of or on account of the performance or attempted performance of his official duties.

(Ord. 5-1998 (part), 1998)

**9.04.250 Resisting arrest--Escaping-- Rescuing a prisoner.**

- A. It is unlawful for any person to prevent or attempt to prevent a police officer, acting under color of his official authority, from effecting an arrest of any person by the use or threatened use of force or physical violence or any other means which creates a substantial risk of causing physical injury to such police officer.
- B. The term "police officer" as used in this section means any person defined as a peace officer under state law who is in uniform or who has displayed his credentials to the person whose arrest is attempted.
- C. A police officer is "acting under color of his official authority" when in the course of his duties he is called upon to make or does in fact make a good faith judgment based on surrounding facts and circumstances that an arrest should be made. It is no defense to a prosecution under this section that the arrest was unlawful if the police officer was acting under color of his authority and did not use unreasonable or excessive force in effecting the arrest.
- D. It is unlawful for any person to escape or attempt to escape from or in any manner aid another, who is in the custody of a police officer, to escape, or attempt to rescue or rescue a person from the custody of a police officer or from the custody of any person aiding such police officer after being commanded by such police officer to do so. Provided, however, the provisions of this section shall not apply whenever the escapee is being held on account of a felony or charged with or held for any felony. In that situation, charges may be filed under State Statute and not this code.

(Ord. 5-1998 (part), 1998)

**9.04.260 Disobeying an order of a police officer or fireman-- Refusing to aid a police officer.**

- A. It is unlawful for any person to knowingly disobey the lawful or reasonable order of any police officer, fireman, emergency personnel or military personnel given incident to the discharge of the official duties of such police officer or fireman, or incident to the duties of emergency personnel or military personnel when coping with an emergency, explosion or other disaster.
- B. A person commits an unlawful act when, upon command by a person known to him as a police officer, he unreasonably refuses to aid such police in coping with any emergency situation.

(Ord. 5-1998 (part), 1998)

#### **9.04.270 Complicity.**

A person is legally accountable as principal for the behavior of another constituting a violation of any provision of any town ordinance, if, with intent to promote or facilitate the commission of the offense, he aids, abets or advises the other person in planning or committing the offense.

(Ord. 5-1998 (part), 1998)

#### **9.04.280 Criminal attempt.**

- A. A person commits criminal attempt, if, acting with the kind of culpability otherwise required for commission of a violation of a town ordinance, he engages in conduct constituting a substantial step towards the commission of the offense. A substantial step is any conduct, whether act, omission or possession, which is strongly corroborative of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense if the crime attempted was actually perpetrated by the accused.
- B. A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his complicity under Section 9.04.270 of this chapter were the offense committed by the other person, even if the other person is not guilty of committing or attempting the offense.
- C. It is an affirmative defense to a charge under this subsection that the defendant abandoned his effort to commit the offense or otherwise prevented its commission under circumstances manifesting the complete and voluntary renunciation of his criminal intent.

(Ord. 5-1998 (part), 1998)

#### **9.04.290 Accessory to an offense.**

- A. A person is an accessory to an offense if, with an intent to hinder, delay, or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of a violation of a town ordinance, he renders assistance to such person.
- B. "Renders assistance" means to:
  - 1. Harbor or conceal the other; or
  - 2. Warn such person or impending discovery or apprehension; or
  - 3. Provide such person with money for transportation, weapon, disguise or other things to be used in avoiding discovery or apprehension; or
  - 4. By force, intimidation, or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection apprehension, prosecution, conviction

or punishment of such person.

(Ord. 5-1998 (part), 1998)

**9.04.300 Trespass.**

- A. It is unlawful for any person to enter upon the premises of another when such person is not licensed, invited or otherwise privileged to do so.
- B. It is unlawful for any person to remain on the premises of another if such person has been advised that his or her permission, license or privilege to be there has been revoked by the owner of the premises or owner's authorized agent.
- C. For purposes of this Code Section, "premises" means public or private real property, buildings, and other improvements thereon, and the stream banks and beds of any non-navigable fresh water streams flowing through such real property."
- D. Exemption to Trespass (Cedaredge Golf Club): It shall not be unlawful for Cedaredge Golf Club patrons to unknowingly enter premises adjacent to the Golf Course as incidental to golf play. However, this exemption shall be immediately revoked after the receipt of warning, verbal or otherwise, from the adjacent premises owner or owner's agent that a golfer is not allowed on adjacent premises.
- E. Non-Exemption to Trespass (Cedaredge Golf Club): It shall be unlawful for any person to enter the Cedaredge Golf Club Golf Course without registering with Cedaredge Golf Shop personnel or otherwise having permission, license or privilege from authorized Golf Club personnel." (Ord. 2012-6)

**9.04.310 Petty theft.**

- A. It is unlawful for any person to knowingly obtain or exercise control over anything of value, having a value of less than three hundred dollars (\$300.00), of another without authorization or by threat of deception, or knowing said thing of value to have been stolen; and
  - 1. Intend to deprive the other person permanently of the use or benefit of the thing of value; or
  - 2. Knowingly use, conceal or abandon the thing of value in such a manner as to deprive the other person permanently of its use or benefit; or
  - 3. Use, conceal or abandon the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use and benefit; or
  - 4. Demand any consideration to which he is not legally entitled as a condition of restoring the thing of value to the other person.

- B. If any person wilfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or any other mercantile establishment, whether on or off the premises of such store or mercantile establishment, such concealment shall constitute prima facie evidence that such person intended to commit the offense of petty theft.
- C. The offense of petty theft shall not include theft from the person of another.

(Ord. 5-1998 (part), 1998)

#### **9.04.320 Tampering with public utilities.**

It is unlawful for any person to interfere with, tamper with, damage, destroy, or operate any part of any utility system, including power, gas, telephone, CATV systems, or to connect to such systems, or utilize service from such systems without lawful authorization to do so.

(Ord. 5-1998 (part), 1998)

#### **9.04.330 Criminal mischief.**

Any one person who knowingly damages the real or personal property of one or more other persons in the course of a single criminal episode, which property has an aggregate value of less than one hundred dollars (\$100.00), commits the crime of criminal mischief. This section shall have no application when the value of the property damage is in excess of one hundred dollars (\$100.00).

(Ord. 5-1998 (part), 1998)

#### **9.04.340 Unreasonable noise**

- A. It is unlawful for any person to make, continue or cause or permit to be made or continued any unreasonably excessive or unnecessary or unusually loud noise or any noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.
- B. Unreasonable noise is declared to be a nuisance which may be abated pursuant to law.
- C. Violators under this section are subject to the penalties set forth in Section 1.16.010.

(Ord. 2001-7 (part), 2001)

#### **9.04.350 Prima facie unreasonable noise.**

The following circumstances shall be prima facie evidence that the sound in question is "unreasonable noise" for the purposes of Section 9.04.340 (A).

- A. The operation or use of any musical instrument, radio, television, tape player, CD player, phonograph or other devices emitting sound between the hours of eleven p.m. and seven

a.m. in such manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located. (In the downtown Main Street and Highway 65 business district said distance shall be one hundred fifty feet.)

- B. Unmuffled or improperly muffled engine exhausted noise.
- C. Sound broadcast from speakers or similar equipment from a motor vehicle or premises which is audible within vehicles on the street with windows closed or within buildings or other premises with the windows closed.

(Ord. 2001-7 (part), 2001)

**9.04.360 Harassment.**

- A. A person commits harassment if, with intent to harass, annoy, or alarm another person he or she:
  - 1. Strikes, shoves, kicks, or otherwise touches a person or subjects him or her to physical contact; or
  - 2. In a public place directs obscene language or makes an obscene gesture to or at another person; or
  - 3. Follows a person in or about a public place; or
  - 4. Engages in conduct or repeatedly commits acts that alarm or seriously annoy another person and that serve no legitimate purpose; or
  - 5. Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone which is obscene; or
  - 6. Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose or legitimate conversation; or
  - 7. Makes repeated communications at inconvenient hours or in offensively coarse language; or 9.04.360
  - 8. Repeatedly insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response.
- B. As used in this section, unless the context otherwise requires, "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.
- C. Any act prohibited by paragraph (5) of subsection (A) 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.

(Ord. 2003-2, 2003)

## **Chapter 9.12**

### **JUVENILE LOITERING**

Sections:

**9.12.010 Definitions.**

**9.12.020 Loitering and disorderly assembly prohibited—  
Establishment of curfew.**

**9.12.030 Loitering on private property prohibited.**

**9.12.040 Disobedience of a lawful order prohibited.**

**9.12.050 Defenses.**

**9.12.060 Parental responsibility.**

**9.12.070 Severability.**

**9.12.080 Enforcement.**

#### **9.12.010 Definitions.**

Certain terms, as used in this chapter, shall have the following meanings:

**Cruising** means driving or riding in or on a motor vehicle repeatedly up and down a street, road, or highway or repeatedly around a given area, or driving or riding aimlessly about.

**Disorderly assembly** means an assemblage of three or more persons which: (1) creates a significant danger of damage or injury to property or persons as exhibited by threats or tumultuous or violent conduct, or (2) obstructs traffic on or into a street, road, highway, sidewalk, building entrance or other public or private passageway, or (3) involves a trespass upon or interference with the use of public or private property, or (4) causes a significant public disturbance or disruption of the night-time peace by means of unreasonable noise or obviously offensive conduct, such as screaming, loud music, loud use of obscene language, squealing of tires, public urination or the open performance of sexual acts.

**Juvenile** means any person under the age of eighteen (18) years.

**Knowingly** means with actual knowledge or with knowledge which a parent, guardian or other person having custody of a juvenile should be reasonably expected to have concerning the whereabouts of a juvenile in the custody of such person.

**Loiter** means to remain idle in essentially one location, to be dilatory, to stand idly around, to linger, delay, tarry, abide or wander about, whether on foot or in or on a motor vehicle, including, without limitation, standing around, hanging out, sitting, kneeling, sauntering, prowling or cruising.

**Private place** means any privately owned property or business, including any parking lot, vacant lot, yard, building, place of amusement, eating establishment, and the like.

**Public place** means any publicly owned property or facility including any street, road, highway,

sidewalk, alley, parking lot, park, playground, common area, school or other public building where juveniles may congregate or be found, except for public facilities that are holding events or activities expressly open to juveniles at the time when juveniles may be found there.

**Specified night-time hours** means between the hours of ten p.m. and six a.m.

(Ord. 2007-6 (part), 2007: Ord. 1-1994 § 1, 1994)

#### **9.12.020 Loitering and disorderly assembly prohibited--Establishment of curfew.**

- A. It is unlawful for any juvenile to loiter or engage in a disorderly assembly in any public place during specified night-time hours.
- B. It will be unlawful for any juvenile to be upon or remain in any street, alley, or public place in town during the specified night-time hours.

(Ord. 2007-6 (part), 2007: Ord. 1-1994 § 2, 1994)

#### **9.12.030 Loitering on private property prohibited.**

It is unlawful for any juvenile to loiter, congregate or be found upon any private property without the consent or permission of the owner or occupant of said property at any time when the property or business is closed to the public.

(Ord. 1-1994 § 3, 1994)

#### **9.12.040 Disobedience of a lawful order prohibited.**

It is unlawful for any juvenile engaged in any activity prohibited by this chapter to disobey the order of a police officer of the town during specified night-time hours to return to his or her residence within the town, or to leave the town if he or she resides outside of the town or to disperse from any disorderly assembly.

(Ord. 1-1994 § 4, 1994)

#### **9.12.050 Defenses.**

The following shall not be in violation of this chapter:

- A. Any juvenile accompanied by his or her parent, guardian, or other person having legal custody of the juvenile;
- B. Any juvenile accompanied by a person over the age of twenty-one (21) years who has written and signed authorization by his or her parent, guardian, or other person having legal custody of the juvenile to accompany said juvenile for a specific period of time and purpose.
- C. Any juvenile traveling to or from lawful employment when the juvenile is carrying an



employer's written and signed statement specifying the type, hours, and place of employment; provided, that such travel within the town occurs within one-half hour prior to the work starting time or one-half hour after the work quitting time.

- D. Any assemblage of juveniles engaged in an activity or event sponsored by an established and reputable organization, such as a school, church, or engaged in an activity or event clearly involving First Amendment exercise of free speech or religious rights or the right to petition the government for redress of grievances such as attending political, educational, religious, or civic meetings, when such assemblage is otherwise lawful and orderly or within thirty (30) minutes of the beginning or end of such activity in order to allow said juveniles to travel directly between said activity and their residence.

(Ord. 2007-6 (part), 2007: Ord. 1-1994 § 5, 1994)

#### **9.12.060 Parental responsibility.**

It is unlawful for the parent, guardian, or other adult person having the care and custody of a juvenile under the age of eighteen (18) years to knowingly permit or allow such juvenile to engage in conduct in violation of this chapter.

(Ord. 1-1994 § 6, 1994)

#### **9.12.070 Severability.**

If any section, subsection, clause or phrase of this chapter is, for any reason, held to be invalid, such holding shall not affect the validity of the remaining portions of this chapter.

(Ord. 1-1994 § 7, 1994)

#### **9.12.080 Enforcement.**

Violators of this chapter shall be punished upon conviction as follows:

- A. Any violation of this chapter by a juvenile may be tried in the municipal court and upon conviction thereof the juvenile shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each violation.
- B. Any violation of this chapter by an adult parent shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment not to exceed one year, or both such fine and imprisonment, for each violation.
- C. Each violation of this chapter shall be deemed a separate and distinct offense from any other violation of this chapter or of any other state or local law, rule or regulation.
- D. Any violation of this chapter by a juvenile shall constitute a delinquent act as defined in CRS 19-2-102(4) and may be referred to the district attorney for prosecution in the district court under Article 2 of the Colorado Children's Code.

(Ord. 1-1994 § 8, 1994)

## **Chapter 9.16**

### **SHOPLIFTING**

Sections:

**9.16.010 Prohibited.**

**9.16.020 Willful concealment constitutes prima facie evidence.**

**9.16.030 Detention and questioning based on probable cause—  
Liability.**

**9.16.040 Violation--Penalty.**

#### **9.16.010 Prohibited.**

It is unlawful for any person to wilfully take possession of any goods, wares or merchandise having a value of less than four hundred dollars (\$400.00), and owned or held by or offered or displayed for sale by any store or mercantile establishment with the intention of converting such goods, wares or merchandise to his own use without paying the purchase price thereof.

(Ord. 7-1995 § 15, 1995; Ord. 2-1991 § 1, 1991)

#### **9.16.020 Willful concealment constitutes prima facie evidence.**

If any person wilfully conceals unpurchased goods, wares or merchandise owned or held by or offered or displayed for sale by any store or other mercantile establishment, such concealment shall constitute prima facie evidence that such person intended to commit the offense of shoplifting.

(Ord. 2-1991 § 2, 1991)

#### **9.16.030 Detention and questioning based on probable cause--Liability.**

If any person conceals upon his person or otherwise carries away any unpurchased goods, wares or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any peace officer, acting in good faith and upon probable cause based upon reasonable grounds e, may detain and question such person, in a reasonable manner for the purpose of ascertaining whether the person is guilty of theft. Such questioning of a person by a merchant, merchant's employee, or peace or police officer does not render the merchant, merchant's employee or peace officer severally or criminally liable for slander, false arrest, false imprisonment, malicious prosecution or unlawful detention.

(Ord. 2-1991 § 3, 1991)

#### **9.16.040 Violation--Penalty.**

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the penalties set forth in section 1.16.020 of the Code of the Town of Cedaredge. (Ord. 2010-24, 6-17-2010) (Ord.

2-1991 § 4, 1991)

## **Chapter 9.20**

### **ALCOHOL CONSUMPTION BY UNDERAGE PERSONS**

Sections:

**9.20.010 Underage consumption of alcohol prohibited.**

**9.20.020 Affirmative defenses.**

**9.20.030 Evidence of violation.**

**9.20.040 Evidence of contents of container.**

**9.20.050 Construction.**

**9.20.060 Furnishing ethyl alcohol to underage persons prohibited.**

**9.20.070 Violation--Penalty.**

#### **9.20.010 Underage consumption of alcohol prohibited.**

It is unlawful for any person under the age of twenty-one (21) years to possess or consume ethyl alcohol anywhere within the jurisdiction of the town. Illegal possession and consumption of ethyl alcohol by an underage person shall be a strict liability offense.

(Ord. 5-1995 § 1, 1995)

#### **9.20.020 Affirmative defenses.**

It shall be an affirmative defense to the offense described in Section 9.20.010 that the ethyl alcohol was possessed and consumed by a person under the age of twenty-one (21) years in the following circumstances:

- A. While such person is legally upon private property with the knowledge or consent of the owner or legal possessor of such private property and the ethyl alcohol was possessed or consumed with the consent of his parent or legal guardian who was present during such possession or consumption; or
- B. When the existence of ethyl alcohol in a person's body is due solely to the ingestion of a confectionery which contained the ethyl alcohol within the limits prescribed by CRS 25-5-410(1)(i)(II); or the ingestion of any substance which was manufactured, designed, or intended primarily for a purpose other than oral human ingestion; or the ingestion of any substance that was manufactured, designed, or intended solely for medicinal or hygienic purposes; or solely from the ingestion of a beverage which contained less than one-half of one percent of ethyl alcohol by weight.

(Ord. 5-1995 § 2, 1995)

#### **9.20.030 Evidence of violation.**

Prima facie evidence of a violation of this chapter shall consist of:

- A. Evidence that the defendant was under the age of twenty-one (21) years and possessed or

consumed ethyl alcohol anywhere within the jurisdiction of the town; or

- B. Evidence that the defendant was under the age of twenty-one (21) years and manifested any of the characteristics commonly associated with ethyl alcohol intoxication or impairment while present anywhere within the jurisdiction of the town.

(Ord. 5-1995 § 3, 1995)

**9.20.040 Evidence of contents of container.**

During any trial for violation of this chapter, any bottle, can, or any other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or container shall be admissible as evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "liqueur," "cordial," "alcohol," or "liquor" shall constitute prima facie evidence that the contents of the bottle, can or other container was composed in whole or in part of ethyl alcohol.

(Ord. 5-1995 § 4, 1995)

**9.20. 050 Construction.**

The ordinance codified in this chapter shall be construed in a manner such that its application shall be at least as restrictive or more restrictive than the provisions of CRS 18-13-122.

(Ord. 5-1995 § 5, 1995)

**9.20.060 Furnishing ethyl alcohol to underage persons prohibited.**

Except as provided in Section 9.20.020, it is unlawful for any person to sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of ethyl alcohol to or for any person under the age of twenty-one (21) years. Violation of this section shall be a strict liability offense.

(Ord. 5-1995 § 6, 1995)

**9.20.070 Violation--Penalty.**

Any person convicted of violating the provisions of this chapter may be incarcerated and fined as more particularly provided in Chapter 1.16 of this code, as amended.

(Ord. 5-1995 § 7, 1995)

**Chapter 9.22**

## REGULATION OF TOBACCO PRODUCTS

Sections:

- 9.22.010 Definitions.
- 9.22.020 Possession and use of tobacco products by minors.
- 9.22.030 Furnishing tobacco products prohibited.
- 9.22.040 Vending machines.
- 9.22.050 Retail sale of tobacco products.
- 9.22.060 Sale of single cigarettes prohibited.
- 9.22.070 False or altered identification.
- 9.22.080 Penalty.
- 9.22.090 Savings clause.

### 9.22.010 Definitions.

For the purposes of this chapter, the following words or phrases shall have the meanings set forth:

**Minor** means any person under the age of eighteen (18).

**Self-service display** means any retail tobacco display to which customers have direct physical accesses, including cigarette vending machine.

**Smoking** means the carrying or possession of a lighted cigarette, cigar, pipe, and includes lighting of the same.

**Tobacco product** means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, and chewing or dipping tobacco. This definition does not include any nicotine-containing product, which is used for the purpose of helping a person stop smoking, such as nicotine gum or nicotine patches.

**Vending machine** means any mechanical, electric or electronic self-service device, which, upon insertion of money, tokens or other form of payment, dispenses a tobacco product.

(Ord. 2004-10 (part), 2004)

### 9.22.020 Possession and use of tobacco products by minors.

- A. It is unlawful for any minor to knowingly possess, consume, or use, either by smoking, ingesting, absorbing, or chewing, any tobacco product.
- B. It is unlawful for any minor to knowingly obtain or attempt to obtain any tobacco product by misrepresentation of age or by any other method.
- C. It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label that identifies the package or container as containing a tobacco product.

(Ord. 2004-10 (part), 2004)

**9.22.030 Furnishing tobacco products prohibited.**

- A. Any person who knowingly furnishes any tobacco product to any minor by gift, sale, or any other means commits a violation hereof.
- B. It shall be an affirmative defense to a prosecution under this section that the person furnishing the tobacco product was presented with and reasonably relied upon a document which identified the person receiving the tobacco product as being eighteen (18) years of age or older.

(Ord. 2004-10 (part), 2004)

**9.22.040 Vending machines.**

It is unlawful for any person to sell a tobacco product by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in:

- A. Factories, businesses, offices, or other places not open to the public; or
- B. Places to which minors are not permitted access.

(Ord. 2004-10 (part), 2004)

**9.22.050 Retail sale of tobacco products.**

- A. It is unlawful for any business proprietor, manager, or other person in charge or control of a retail business of any kind to engage, employ or permit any minor to sell any tobacco product from such retail business.
- B. It is unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to use a self-service display of tobacco products or stock a tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of an adult business employee for each transaction. The provisions of this subsection shall not apply to stores possessing a valid retail liquor store license, as defined by the Colorado Liquor Code, issued by the city and to vending machines meeting the requirements of Section 9.22.040.
- C. Any person who sells or offers to sell any cigarettes or tobacco products at retail shall display a warning sign, as specified in this subsection.
- D. Said warning sign shall be displayed in a prominent place in the building and on such machine at all times and shall have a minimum height of three inches and a width of six inches, and shall read as follows:

WARNING:

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO PURCHASE

OR POSSESS CIGARETTES AND TOBACCO PRODUCTS. UPON CONVICTION A FINE OF UP TO \$1,000 AND IN ADDITION MAY BE REQUIRED TO PERFORM USEFUL PUBLIC SERVICE AND ATTEND EDUCATIONAL PROGRAMS

(Ord. 2004-10 (part), 2004)

**9.22.060 Sale of single cigarettes prohibited.**

It is unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to sell or offer to sell single cigarettes or any pack of cigarettes containing fewer than twenty (20) cigarettes.

(Ord. 2004-10 (part), 2004)

**9.22.070 False or altered identification.**

It is unlawful for any person under the age of eighteen (18) years to misrepresent that person's identity or age, or use any false or altered identification for the purpose of purchasing any tobacco product.

(Ord. 2004-10 (part), 2004)

**9.22 .080 Penalty.**

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the penalties set forth in section 1.16.020 of the Code of the Town of Cedaredge.

(Ord. 2010-24, 6-17-2010) (Ord. 2004-10 (part), 2004)

**9.22.090 Savings clause.**

Should any provision of this chapter be found by a court of competent jurisdiction to be unconstitutional or otherwise unenforceable, the rest of the provisions hereof shall remain in full force and effect.

(Ord. 2004-10 (part), 2004)