

## CHAPTER XI. PUBLIC OFFENSES

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### ARTICLE 1. UNIFORM OFFENSE CODE

- 11-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Augusta, Kansas, the code known as the "Uniform Public Offense Code," Edition of 2008, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1970," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 1970; Code 2008)
- 11-102. SAME; AMENDMENT. The following sections of the Uniform Public Offense Code are hereby deleted in their entirety: 4.3, 4.4, 4.5, 6.19, 6.20, 11.8, and 11.9. (Code 1991, 10-103, Ord. 1970; Code 2010)
- 11-103. SAME; AMENDMENT. Section 6.8 of the 2008 Uniform Public offense Code is hereby amended to read as follows: 6.8 LITTERING.
- (a) Littering is intentionally or recklessly depositing or causing to be deposited any object or substance into, upon or about:
    - (1) Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, except by direction of some public officer or employee authorized by law to direct or permit such acts; or
    - (2) Any private property without the consent of the owner or occupant of such property.
  - (b) Littering is an unclassified misdemeanor punishable by confinement for a term which shall be fixed by the court which shall not exceed six months, or a fine of not more than five hundred dollars (\$500.00) or both such confinement and fine.
  - (c) In addition to the fines in subsection (b), a person convicted of littering may be required to pick up litter for a time prescribed by and a place within the jurisdiction of the court. (Ord. 1971; Code 2010)

## ARTICLE 2. LOCAL REGULATIONS

- 11-201. FAILURE TO RETURN LIBRARY MATERIAL. It shall be unlawful for any person to fail to return any book, newspaper, magazine, pamphlet, manuscript, article, art print, photograph record, film or any other property borrowed from the Augusta Public Library and owned by or consigned to the Augusta Public Library after written notice to return the same within 30 days has been given to such person, provided such notice shall be given after the expiration of the time which by the rules of the library board the book or other library material may be kept. (Ord. 1508, Sec. 1; Code 1991, 10-201)
- 11-202. SAME; SPECIFIC PROHIBITIONS. It shall be unlawful for any person to do any one or more of the following acts:
- (a) Give a fictitious name or address at the Augusta Public Library in order to obtain possession or use of any book or other property of the Augusta Public Library;
  - (b) To use a library card of another person without permission of such owner to secure possession of any book or other property of the Augusta Public Library;
  - (c) To conceal his or her identity or place of employment or residence in any manner whatsoever in order to secure possession of any book, library card or any other property of the Augusta Public Library.
- (Ord. 1508, Sec. 2; Code 1991, 10-202)
- 11-203. SAME; NOTICE. The notice required in section 11-201 shall be given by the librarian of the Augusta Public Library and shall be substantially as follows:
- (a) The notice shall be in writing;
  - (b) Specifically state the violations alleged to exist or to have been committed;
  - (c) Specify that the person to whom the notice is issued shall have 30 days within which to correct the violations specified;
  - (d) Be addressed to and served upon the holder of the library card at the most recent address as it appears from such person's application for a library card.
- Such notice shall be deemed properly served upon such holder or owner of a library card if a copy thereof is served upon him or her personally, or if a copy thereof is sent by certified mail to the most recent address listed on his or her application for a library card.
- (Ord. 1508, Sec. 3; Code 1991, 10-203)
- 11-204. SAME; PRESUMPTION. In any prosecution charging a violation of section 11-201, proof that a particular individual was the registered holder of a particular library card which was used to secure any book or any other library property, shall constitute in evidence a prima facie presumption that the record owner or holder of such library card was the person who utilized the same to secure a particular book or any other property of the Augusta Public Library at the point where and at the time when such violation is alleged to have occurred. The foregoing stated presumption shall apply only when the procedure as prescribed by section 11-203 above has been followed. (Ord. 1508, Sec. 4; Code 1991, 10-204)

- 11-205. SAME; PENALTY. Any violation of the provisions of sections 11-201:204 shall constitute a code violation and any person violating any of these provisions shall upon conviction thereof be fined in a sum not less than \$25.00 nor in excess of \$250.00. Each book, newspaper, magazine or other material borrowed from the Augusta Public Library shall constitute a separate and distinct violation of sections 10-201:204 whether or not such material was checked out on the same day as any other material borrowed from the library. (Ord. 1508, Sec. 5; Code 1991, 10-205)
- 11-206. CURFEW; HOURS DECLARED. It shall be unlawful for any person under the age of 16 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places and including the driving of cars or being passengers thereof, except as hereinafter provided, between the hours of 11:00 p.m. and 5:00 a.m. of the following day, except on Fridays and Saturdays when the hours shall be 12:00 midnight to 5:00 a.m. of the following day, from the 1st day of September of each year to and including the 31st day of May of each year and between the hours of 12:00 midnight and 5:00 a.m. of the following day from the 1st day of June to the 31st day of August inclusive, of each year. (Code 1975, 13-603; Code 1991, 10-206)
- 11-207. SAME; CURFEW; EXCEPTION. The provisions of sections 11-206:208 shall not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or where the minor is on an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor, or when the minor is going to, attending or returning from any school function, place of amusement or other activity generally open to the public wherein minors are permitted to attend, from the place by the shortest and most direct route to the place of residence of the minor and when any school function, place of amusement or other activity, as aforesaid, shall be located outside of the limits of the city the minor shall take the most direct route from the point of entry of the city limits to the place of residence of the minor. Sections 11-206:208 of this article shall not apply to any person, regardless of age, who shall be a married person. (Code 1975, 13-604; Code 1991, 10-207)
- 11-208. RESPONSIBILITY OF PARENT, OR PERSON HAVING CUSTODY. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a person under the age of 16 years to permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 5:00 a.m. of the following day, except on Fridays and Saturdays when the hours shall be 12:00 midnight to 5:00 a.m. of the following day; from the 1st day of September of each year to and including the 31st day of May of each year and between the hours of 12:00 midnight and 5:00 a.m. of the following day from the 1st day of June to the 31st day of August, inclusive, of each year; provided, that the provisions of the exception noted in section 11-207 above, shall apply. (Code 1975, 13-605; Code 1991, 10-208)

11-209. LOITERING IN STREETS AND OTHER PUBLIC PLACES. Loitering in streets and other public places is the loitering on the public streets, school buildings or school grounds or any other public place or place accessible to the public without being engaged in some business demanding the person's presence upon such street, school building, school grounds or at such public place or place accessible to the public or habitually lurking in a public place or a place accessible to the public without being engaged in some legal business.

Loitering in streets and other public places is a Class C violation.  
(Code 1975, 13-1012; Code 1991, 10-209)

11-210. LOUDSPEAKERS, SOUND AMPLIFIERS; PERMITS. It shall be unlawful for any person to play, use or operate on the streets, alleys, or public grounds of the city any instrument known as a loudspeaker or sound amplifier, without first procuring a permit therefor from the city manager. Such permit shall be granted or refused at the discretion of the city manager.

Violation of this section is a Class C violation.  
(Code 1975, 13-1013; Code 1991, 10-210)

11-211. WINDOW PEEPING. It shall be unlawful for any person to trespass upon the property owned or occupied by another in this city for the purpose of looking or peeping into any window, door, skylight or other opening in a house, room or building, or to loiter in a public street, alley, parking lot or other public place for the purpose of wrongfully observing the actions of occupants of any such house, room or building.

Violation of this section is a Class C violation.  
(Code 1975, 13-1014; Code 1991, 10-211)

11-212. LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED. (a) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway shall operate or permit the operation of any sound amplification system from within the vehicles so that the sound is plainly audible at a distance of 50 or more feet from the vehicle.

(b) Sound amplification system - means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

(c) Plainly audible - means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot, or driveway.

(d) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply;

(1) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(2) The vehicle was an emergency or public safety vehicle;

(3) The vehicle was owned and Operated by the City of Augusta, or a gas, electric communications or refuse company;

(4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances of the City of Augusta;

(5) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

(Ord. 1636, Sec. 1; Code 2010)

11-213. SAME; PENALTY. Any person, individual, partnership, corporation or association who violates any of the provisions of this ordinance is guilty of an ordinance violation, and upon conviction, shall be punished by a fine not to exceed \$500.00 or by imprisonment of not more than six months, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and punishable as such hereunder. (Ord. 1636, Sec. 2; Code 2010)

11-214. URINATING/DEFECATING IN PUBLIC PROHIBITED. No person shall urinate or defecate in or upon any street, sidewalk, alley, plaza, park, public building, public property, private parking lot or in any place open to the public or exposed to the public view. This section shall not apply to urination or defecation utilizing appropriate fixtures in any restroom or other facility designed for the sanitary disposal of human waste. (Code 2010)

11-215. SAME; PENALTY. Any person convicted of a violation of this ordinance shall be fined in a sum not to exceed \$500.00 or may be confined for a period of time not to exceed 30 days or by both such fine and imprisonment. (Code 2010)

### ARTICLE 3. MOB ACTION

- 11-301.       **EMERGENCY; MOB ACTION.** Whenever the city manager or director of public safety or their designee determines that an emergency exists as a result of mob action or other civil disobedience causing danger of injury to or damages to persons or property, he or she shall have the power to impose by proclamation or any or all of the following regulations necessary to preserve the peace and order of the city.
- (a) To impose a curfew upon all or any portion of the city thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or public places; provided, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters and city authorized or requested law enforcement officers and personnel may be exempted from such curfew.
- (b) To order the closing of any business establishments anywhere within the city for the period of emergency, such business to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms.
- (c) To designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic.
- (d) To call upon regular and auxiliary law enforcement agencies and organizations within or without the city to assist in preserving and keeping the peace within the city.
- (Code 1975, 15-501; Code 1991, 10-301)
- 11-302.       **PROCLAMATION OF EMERGENCY.** The proclamation of emergency provided herein shall become effective upon its issuance and dissemination to the public by appropriate news media. (Code 1975, 15-502; Code 1991, 10-302)
- 11-303.       **TERMINATION.** Any emergency proclaimed in accordance with the provisions of this article shall terminate after 48 hours from the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided that such emergency may be extended for such additional periods of time as determined necessary by resolution of the governing body. (Code 1975, 15-503; Code 1991, 10-303)
- 11-304.       **PENALTY.** Any person who shall willfully fail or refuse to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized herein shall be deemed guilty of a code violation, and upon conviction therefor, shall be punished by a fine of not more than \$100.00 or by imprisonment for a period of not to exceed six months, or by both such fine and imprisonment. (Code 1975, 15-504; Code 1991, 10-304)

#### ARTICLE 4. CONTROLLED SUBSTANCES

11-401. UNLAWFUL POSSESSION OR USE OF CERTAIN SUBSTANCES OR DRUGS. Except as authorized by the Uniform Controlled Substances Act, K.S.A. 65-4101 et. seq. and amendments thereto, it shall be unlawful for any person to possess or have under such person\*s control:

(a) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(b) Any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (d)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(c) Any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105 and amendments thereto or designated in subsection (g) of K.S.A. 65-41 07 and amendments thereto;

(d) Any substance designated in subsection (g) of K.S.A. 65-4105, and amendments thereto, and designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111 and amendments thereto; or

(e) Any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109 and amendments thereto.

(Ord. 1917, Sec. 1; Code 2010)

11-402. UNLAWFUL USE OR POSSESSION OF SIMULATED CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA. No person shall use or possess with the intent to use:

(a) Any simulated controlled substance as defined in K.S.A. 65-4150(e);

(b) Any drug paraphernalia as defined in K.S.A. 65-4150(c) to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act of this state, K.S.A. 65-4101 et. seq.; or

(c) Any drug paraphernalia as defined in K.S.A. 65-4150(c) for the planting, propagation, growing or harvesting of less than five marijuana plants.

(Ord. 1917, Sec. 1; Code 2010)

11-403. PENALTIES. (a) Any party found guilty of violating the provisions of this article shall be punished by a fine not less than \$100.00 nor more than \$1000.00 and imprisoned not to exceed 180 days. Upon a second conviction of violating the provisions of this article with the exception of a violation of section 11-401 where the substance is marijuana, the fine shall be not less than \$200.00 nor more than \$1,000.00 and a sentence of imprisonment of at least five (5) days but not to exceed 180 days with no probation to be granted until five (5) days have been served.

(b) In addition to the sentence provided for above, the costs associated with any chemical tests of a controlled substance together with the costs associated with the introduction of evidence concerning such testing shall be assessed as court costs and shall be recoverable from the defendant if convicted.

(Ord. 1917, Sec. 1; Code 2010)