

CHAPTER XI. PUBLIC OFFENSES

SECTIONS

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ARTICLE 1. UNIFORM PUBLIC OFFENSE CODE [UPOC]

11-101. UNIFORM CODE INCORPORATED. There is hereby incorporated by reference the "Uniform Public Offense Code for Kansas Cities", 2016 Edition, ("UPOC") prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. § 12-3009 through §12-3012, inclusive, as amended. No fewer than three copies of said uniform ordinance shall be marked or stamped "Official Copy as Incorporated by Ordinance No. 2802C", 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 ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Code 2000)
(Ord. 1904C; 08-06-01)
(Ord. 1958C; 11-04-02)
(Ord. 2023C; 09-15-03)
(Ord. 2083C; 09-20-04)
(Ord. 2137C; 11-07-05)
(Ord. 2193C; 11-06-06)
(Ord. 2304C; 02-04-08)
(Ord. 2351C; 10-06-08)

(Ord. 2418C; 11-02-09)
(Ord. 2463C; 09-20-10)
(Ord. 2515C; 10-17-11)
(Ord. 2578C; 10-01-12)
(Ord. 2639C; 10-21-13)
(Ord. 2690C; 10-06-14)
(Ord. 2757C; 11-02-15)
(Ord. 2802C; 09-19-16)

11-101A. PURCHASE OR POSSESSION OF CIGARETTES, TOBACCO PRODUCTS OR VAPOR PRODUCTS BY A MINOR. Section 5.6 of the UPOC incorporated in Section 11-101 above is hereby amended to read as follows:

PURCHASE OR POSSESSION OF CIGARETTES, TOBACCO PRODUCTS OR VAPOR PRODUCTS BY A MINOR

It shall be unlawful for any person:

- (a) Who is under 21 years of age to purchase or attempt to purchase cigarettes, vapor products or tobacco products; or
- (b) Who is under 18 years of age to possess or attempt to possess cigarettes, vapor products or tobacco products. (K.S.A. § 79-3321:3322, as amended).

Violation of this section shall be an ordinance cigarette or tobacco infraction for which the fine shall be a minimum of \$25 and a maximum of \$100. In addition, the judge may require a juvenile to appear in court with a parent or legal guardian and/or may require a person charged with violating this section to complete a tobacco education program.

(Ord. 2788C; 06-20-16)
(Ord. 2802C; 09-19-16)

11-101B. SELLING, GIVING OR FURNISHING CIGARETTES, TOBACCO PRODUCTS OR VAPOR PRODUCTS BY A MINOR. Section 5.7 of the UPOC incorporated in Section 11-101, above is hereby amended to read as follows:

SELLING, GIVING OR FURNISHING CIGARETTES, TOBACCO PRODUCTS OR VAPOR PRODUCTS BY A MINOR

- (a) It shall be unlawful for any person to:
 - (1) Sell, furnish or distribute cigarettes, vapor products, or tobacco products to any person under 21 years of age; or
 - (2) Buy any cigarettes, vapor products, or tobacco products for any person under 21 years of age.
- (b) It shall be a defense to a prosecution under this section if:
 - 1. The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;
 - 2. The defendant sold, furnished or distributed the cigarettes, vapor products, or tobacco products to the person under 21 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, vapor products or tobacco products; and

3. To purchase or receive the cigarettes, vapor products, or tobacco products, the person under 21 years of age exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes, vapor products, or tobacco products.
 4. For purposes of this section the person who violates this section shall be the individual directly selling, furnishing or distributing the cigarettes, vapor products, or tobacco products to any person under 21 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.
- (c) It shall be a defense to a prosecution under this subsection if:
1. The defendant engages in the lawful sale, furnishing or distribution of cigarettes, vapor products, or tobacco products by mail; and
 2. The defendant sold, furnished or distributed the cigarettes, vapor products, or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53- 601 and amendments thereto, that the person was 21 or more years of age.
- (d) As used in this section, sale means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration. (K.S.A. Supp. § 79-3302, 79-3321:79-3322)

Violation of this section shall constitute a Class B violation punishable by a minimum fine of \$200 and a maximum fine of \$1,000.

(Ord. 2788C; 06-20-16)
(Ord. 2802C; 09-19-16)

11-101C. VAPOR PRODUCTS, DEFINED. For purposes of Sections 11-101A and 11-101B, the term "vapor products" is defined to mean: Any non-combustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, which can be used to produce vapor for human consumption from a solution or other form that may or may not contain nicotine. Vapor product includes, but is not limited to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, personal vaporizer, e-pen, vapor pen or similar product or device and any vapor cartridge, container of nicotine or any other solution or substance that is intended to be used to produce a vapor for human consumption. Vapor product does not include any medical inhaler or other device that has been specifically approved for medical use by the United States Food and Drug Administration.

(Ord. 2788C; 06-20-16)
(Ord. 2802C; 09-19-16)

11-102. ANTI-SCAVENGER. The UPOC incorporated in Section 11-101, is hereby amended by adding a new section 6.15a, entitled “Anti-Scavenger,” to read as follows:

ANTI-SCAVENGER. It shall be unlawful for any person not licensed by the City and not under contract with the owner or occupant, to remove from private property or public right-of-way any recyclable item which has been placed by the occupant for collection by a person holding a permit to collect solid waste; provided, however, that this section shall not apply to law enforcement officers and other City employees acting in accordance with law.

(Ord. 1161C; 05-07-90)
(Code 2000)
(Ord. 1895C; 06-18-01)
(Ord. 1958C; 11-04-02)
(Ord. 2023C; 09-15-03)
(Ord. 2083C; 09-20-04)
(Ord. 2137C; 11-07-05)
(Ord. 2149C; 01-03-06)
(Ord. 2193C; 11-06-06)
(Ord. 2304C; 02-04-08)
(Ord. 2351C; 10-06-08)
(Ord. 2418C; 11-02-09)
(Ord. 2463C; 09-20-10)
(Ord. 2515C; 10-17-11)
(Ord. 2578C; 10-01-12)
(Ord. 2639C; 10-21-13)
(Ord. 2690C; 10-06-14)
(Ord. 2757C; 11-02-15)
(Ord. 2802C; 09-19-16)

11-103. CRIMINAL USE OF WEAPONS. Section 10.1 of the UPOC incorporated in Section 11-101 above is hereby amended to read as follows:

CRIMINAL USE OF WEAPONS

- (a) Criminal use of weapons is knowingly:
 - (1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sand club, metal knuckles, or throwing star.
 - (2) Possessing with intent to use the same unlawfully against another, a billy, blackjack, slungshot, or any other dangerous or deadly weapon or instrument of like character.
 - (3) Setting a spring gun.
- (b) Criminal use of weapons as defined in subsection (A) is a Class A violation.
- (c) Subsections (A)(1) and (A)(2) shall not apply to:
 - (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

- (2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
- (3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or
- (4) Manufacture of, transportation to, or sale of weapons to a person authorized under (C)(1) through (C)(3) of this section to possess such weapons.

(Ord.1797C; 5-17-99)
 (Code 2000)
 (Ord. 1904C; 08-06-01)
 (Ord. 1958C; 11-04-02)
 (Ord. 2023C; 09-15-03)
 (Ord. 2083C; 09-20-04)
 (Ord. 2137C; 11-07-05)
 (Ord. 2193C; 11-06-06)
 (Ord. 2230C; 05-21-07)
 (Ord. 2304C; 02-04-08)
 (Ord. 2351C; 10-06-08)
 (Ord. 2418C; 11-02-09)
 (Ord. 2463C; 09-20-10)
 (Ord. 2515C; 10-17-11)
 (Ord. 2578C; 10-01-12)
 (Ord. 2639C; 10-21-13)
See 2014 HB 2578
 (Ord. 2690C; 10-06-14)
 (Ord. 2757C; 11-02-15)
 (Ord. 2802C; 09-19-16)

11-103A. CRIMINAL CARRYING OF A WEAPON. Section 10.1.1 of the UPOC incorporated in Section 11-101 above is hereby amended to read as follows:

CRIMINAL CARRYING OF A WEAPON

- (a) Criminal carrying of a weapon is knowingly carrying:
 - (1) Any bludgeon, sandclub, metal knuckles, or throwing star;
 - (2) Concealed on one's person, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character;
 - (3) On one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance.
- (b) Subsection (a) shall not apply to:
 - (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - (2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

- (3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or
 - (4) The manufacture of, transportation to, or sale of weapons to a person authorized under (b)(1) through (b)(3) of this section to possess such weapons.
- (c) Criminal carrying of a weapon is a Class A violation.

(Ord. 2802C; 09-19-16)

11-104. AIR GUN, AIR RIFLE, PAINTBALL GUN, BOW AND ARROW, SLINGSHOT OR BB GUN. Section 10.6 of the UPOC incorporated in Section 11-101 above shall be amended to read as follows:

AIR GUN, AIR RIFLE, PAINTBALL GUN, BOW AND ARROW, SLINGSHOT OR BB GUN

- (a) The unlawful operation of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is the shooting, discharging or operating of any air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun, within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
Unlawful operation of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is a Class C violation.
- (b) The unlawful possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is the possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun with the intent to shoot, discharge, or operate the air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun within the city, except within the confines of a building or other structure from which the projectiles cannot escape.

Unlawful possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is a Class C violation.

(Ord. 1797C; 5-17-99)
(Code 2000)

- (Ord. 1958C; 11-04-02)
- (Ord. 2023C; 09-15-03)
- (Ord. 2083C; 09-20-04)
- (Ord. 2137C; 11-07-05)
- (Ord. 2193C; 11-06-06)
- (Ord. 2304C; 02-04-08)
- (Ord. 2351C; 10-06-08)
- (Ord. 2418C; 11-02-09)
- (Ord. 2463C; 09-20-10)
- (Ord. 2515C; 10-17-11)
- (Ord. 2578C; 10-01-12)
- (Ord. 2639C; 10-21-13)
- (Ord. 2690C; 10-06-14)
- (Ord. 2757C; 11-02-15)
- (Ord. 2802C; 09-19-16)

11-104A. UNLAWFUL DISCHARGE OF A FIREARM. Section 10.5 of the UPOC incorporated in Section 11-101 above shall be amended to read as follows:

UNLAWFUL DISCHARGE OF A FIREARM.

- (a) Unlawful discharge of a firearm is the discharge or firing of any gun, rifle, pistol, revolver or other firearm within or into the corporate limits of the City of Leawood.
- (b) This section shall not apply if:
 - 1. The firearm is discharged in the lawful defense of one's person, another person or one's property;
 - 2. The firearm is discharged at a private or public shooting range;
 - 3. The firearm is discharged to lawfully take wildlife only if expressly authorized in writing by the City's Governing Body;
 - 4. The firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, parks and tourism;
 - 5. The firearm is discharged by special permit of the chief of police;
 - 6. The firearm is discharged using blanks and is used by a ceremonial firing squad or used in a starting gun for a bona fide authorized sporting event; or
 - 7. The firearm is discharged in lawful self-defense or defense of another person against an animal attack.

Unlawful discharge of a firearm is a Class B violation.

(Ord. 2639C; 10-21-13)
(Ord. 2690C; 10-06-14)
(Ord. 2757C; 11-02-15)
(Ord. 2802C; 09-19-16)

11-105. BARBED WIRE. Section 10.13 of the UPOC incorporated in Section 11-101 above shall be amended to read as follows:

BARBED WIRE.

It shall be unlawful for any person to construct, set up or maintain any barbed wire or barbed wire fence or enclosure within the city, except on property zoned for and actually used for agricultural purposes.

Violation of this section is a Class C violation.

(Ord. 1797C; 5-17-99)
(Code 2000)
(Ord. 1904C; 08-06-01)
(Ord. 1958C; 11-04-02)
(Ord. 2023C; 09-15-03)
(Ord. 2083C; 09-20-04)
(Ord. 2137C; 11-07-05)
(Ord. 2193C; 11-06-06)
(Ord. 2304C; 02-04-08)
(Ord. 2351C; 10-06-08)

(Ord. 2418C; 11-02-09)
(Ord. 2463C; 09-20-10)
(Ord. 2515C; 10-17-11)
(Ord. 2578C; 10-01-12)
(Ord. 2639C; 10-21-13)
(Ord. 2690C; 10-06-14)
(Ord. 2757C; 11-02-15)
(Ord. 2802C; 09-19-16)

11-105A. SMOKING. Sections 10.24, 10.25 and 10.26 of the UPOC incorporated in Section 11-101 above, pertaining to smoking, shall be omitted and deleted.

[See Article 9 of Chapter 11 of the Code of the City of Leawood, 2000]

(Ord. 2463C; 09-20-10)
(Ord. 2515C; 10-17-11)
(Ord. 2578C; 10-01-12)
(Ord. 2639C; 10-21-13)
(Ord. 2690C; 10-14-14)
(Ord. 2757C; 11-02-15)

11-106. CRUELTY TO ANIMALS. Section 11.11 of the UPOC incorporated in Section 11-101 above, pertaining to Cruelty to Animals, is hereby omitted and deleted

[See Code Section 2-103 of the Code of The City of Leawood, 2000]

(Ord. 1797C; 5-17-99)
(Code 2000)
(Ord. 1958C; 11-04-02)
(Ord. 2023C; 09-15-03)
(Ord. 2083C; 09-20-04)
(Ord. 2137C; 11-07-05)
(Ord. 2193C; 11-06-06)
(Ord. 2304C; 02-04-08)
(Ord. 2418C; 11-02-09)
(Ord. 2463C; 09-20-10)
(Ord. 2515C; 10-17-11)
(Ord. 2578C; 10-01-12)
(Ord. 2639C; 10-21-13)
(Ord. 2690C; 10-06-14)
(Ord. 2757C; 11-02-15)

11-107. CRIMINAL LITTERING

- (a) Except as provided in section 14-110 regarding littering from a motor vehicle, and amendments thereto, criminal 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) Criminal littering is an unclassified misdemeanor punishable:
 - (1) Upon a first conviction by a fine of not less than \$250 nor more than \$1,000;
 - (2) Upon a second conviction by a fine of not less than \$1,000 nor more than \$2,000; and
 - (3) Upon a third or subsequent conviction by a fine of not less than \$2,000 nor more than \$4,000.
- (c) In addition to the fines in subsection (b), a person convicted of littering shall be required to pick up litter for a time prescribed by and a place within the jurisdiction of the court.

(Ord. 2083C; 09-20-04)
(Ord. 2137C; 11-07-05)
(Ord. 2351C; 10-06-08)
(Ord. 2418C; 11-02-09)

11-108. DIRT BIKES, TRAIL BIKES AND ALL TERRAIN VEHICLES PROHIBITED.

- (a) Operating a dirt bike or trail bike or all terrain vehicle on public or private property in the City is prohibited, except when operated for the purpose of ingress, egress, loading or unloading upon a private driveway.
- (b) For purposes of this ordinance the following terms shall have the indicated meanings:
 - (1) Dirt bike and trail bike are each defined to mean a small motorcycle designed and built with special tires and suspension for riding on unpaved roads and over rough terrain. Such terms do not include dirt bikes or trail bikes which are legally licensed to operate on the highways and roadways of this state, when operated on such highways and roadways.
 - (2) All terrain vehicle is defined to mean any motorized non-highway vehicle 48 inches or less in width, having a dry weight of 1,000 pounds or less, traveling on three or more low-pressure tires. As used in this section, 'low-pressure tire' means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.
- (c) All terrain vehicles do not include the following:
 - (1) an unmodified golf cart;
 - (2) a motorized vehicle designed for use by children [such as battery operated vehicles sold in toy stores or vehicles with a weight limitation of 100 pounds or less];

- (3) an unmodified utility cart with seating for two people and containing a bed or flatbed; or
- (4) City owned and operated maintenance vehicles.

(Ord. 2211C; 02-05-07)

(Ord. 2418C; 11-02-09)

11-109. BATTERY. – Repealed [See ‘Uniform Public Offense Code’]

(Ord. 1797C; 05-17-99)

(Code 2000)

(Ord. 1904C; 08-06-01)

11-110. NUDITY IN A PUBLIC PLACE. It shall be unlawful for a person to knowingly or intentionally appear in a state of nudity in a public place, provided, however, that this section shall not prohibit breastfeeding as is specifically allowed under K.S.A. 65-1,248 and amendments thereto.

- (a) For purposes of this section, the term nudity shall mean the exposure of the human bare buttocks, anus, genitals, the areola or the nipple of the female breast or a state of dress which fails to opaquely or fully cover the anus, genitals or the areola or the nipple of the female breast; the showing of the covered male genitals in a discernibly turgid state; the exposure of any device, costume, or covering which gives the realistic appearance of or simulates the human bare buttocks, anus, genitals, the areola or the nipple of the female breast.
- (b) For purposes of this section, the term public place shall mean any location open to the public, or any location visible from public property or public right-of-way. These locations shall be considered public places regardless of whether they are for profit or not for profit and regardless of whether they are open to the public at large or whether entrance is limited by a cover charge or membership requirement.

(Ord. 2792C; 07-05-16)