

CHAPTER XI. PUBLIC OFFENSES

Article 1. Uniform Public Offense Code

Article 2. Possession of Controlled Substances

ARTICLE 1. UNIFORM PUBLIC 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 Rossville, Kansas, that certain code know as the "Uniform Public Offense Code, "Edition of 2012, 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 Incorporated by the Code of the City of Rossville, Kansas," 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. 752)
- 11-102. SAME: AMENDMENT. The Uniform Public Offense Code incorporated by section 11-101 above is hereby amended by the addition of the following section:
10.1a Open Display of Firearms. (a) It shall be unlawful for any person to carry or openly display on one's person any pistol, revolver or other firearm except when on the person's land or in the person's abode or fixed place of business.
(b) The provisions of subsection (a) above shall not apply to or affect any of the exceptions as set out in subsections (b) and (c) of Section 10.1 of the Uniform Public Offense Code (Code 1984)
- 11-103. CERTAIN NOISES PROHIBITED. It shall be unlawful for any person using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as disturbs the peace, quiet and comfort of the neighboring inhabitants or general public at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners.
(b) The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 50 feet from the building or structure of 25 feet from the vehicle in which it is located shall be a prima facie evidence of a violation of this section.

(c) Upon conviction of a violation of this section, the court shall impose a fine of not less than \$100, nor more than \$499. Upon a second conviction, within a three year period, the court shall impose a fine of not less than \$200, nor more than \$499.

(d) Persons shall mean any individual and/or the parents or custodian of any individual under the age of 18 who is living with parents or custodian. (Ord. 590, Sec. 1)

11-104. CURFEW. It shall be unlawful for any minor under 18 years of age to loiter, idle, wander, stroll, play in or be upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, or places of amusement or entertainment, or vacant lots or other unsupervised places within the city between the hours of 12:00 midnight and 6:00 a.m. the following day. The provisions of this section shall not apply to such minors when accompanied by his or her parent, guardian or other adult person having the care and custody of the minor, or when a minor is upon an emergency errand or lawful duty or employment directed by his or her parent, guardian, or other adult having the care and custody of the minor, or when attending school functions and other activities under the supervision of school authorities or organizations sponsored by parent and be upon the streets of the city while returning home from any such function or activity. (Ord. 553, Sec. 1)

11-105. PARENT, GUARDIAN RESPONSIBLE. It shall be unlawful for any parent, guardian or other person having legal care or custody of a minor child under 18 years of age to allow or permit such minor child to loiter or be upon or in those places named in section 11-104 of this article within the time prohibited by section 11-104 of this article. Any minor under such age may be permitted to attend school functions and other activities under the supervision of school authorities or organizations sponsored by parents and be upon the streets of the city while returning home from any such function or activity. (Ord. 553, Sec. 2)

11-106. PENALTY. Any person violating any of the provisions of section 11-104:105 of this article shall, upon conviction thereof be fined in any sum not to exceed \$50 for the first and shall be fined in any sum not to exceed \$100 for any subsequent conviction. (Ord. 667, Sec 3)

11-107. PUBLIC CONSUMPTION. (a) It shall be unlawful for any person to possess an open container or consume any cereal malt beverage or alcoholic liquor upon any sidewalk, public street, alley, or any other public place within the city, unless the city grants a special permit to the contrary.

(b) No opened or unopened container of cereal malt beverage or alcoholic liquor shall be thrown upon or otherwise deposited upon any public sidewalk, alley or parking of the city.

(c) Anyone found or pleading guilty of the violations stated in (a) and (b) above shall be fined not less than \$25 nor more than \$200. (Ord 545, Sec 3)

11-108. PROHIBITION AGAINST POSSESSION AND/OR TRANSPORTATION OF DEADLY WEAPONS UNDER CERTAIN CIRCUMSTANCES. (a) It shall be unlawful for any person which is not an officer of the law, or a deputy to such

officer to transport in the driver's compartment of any motor vehicle or have within the immediate control of his or her person on or about public property of a public place within the city limits, any loaded firearm or automatic firearm with the magazine loaded detached or attached, which when used is likely to cause death or great bodily harm.

(b) Upon a conviction of a violation of this section, the court shall impose a fine of not less than \$50 and not more than \$499 and in addition imprisonment not to exceed 90 days.

(c) In addition to other penalties provided by law, upon conviction of a violation of this section any weapon seized in connection therewith shall remain in the custody of the trial court, and the trial court shall direct disposition of such weapon in any manner not prohibited by law. (Ord. 594, Sec. 1)

11-109. RETURNED CHECKS; SERVICE CHARGES. (a) If any person, business or corporation delivers a worthless check as hereinafter defined in payment of any fine, indebtedness or liability to the city such person, business or corporation shall be liable for the amount of the check plus a service charge of \$30.

(b) Delivering a worthless check means the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering any check, order or draft on any bank credit union, savings and loan association or depository for the payment of money or its equivalent which is dishonored by the drawee because the maker or drawer had no deposits in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order, or draft in full upon its presentation. (Ord. 614, Secs. 1:2)

11-110 SPITTING. It shall be unlawful for any person to spit any liquid, fluid or food from such person's mouth upon any other person or upon any property, real or personal, not owned by such person. Any person, upon conviction, shall be fined not less than \$100 nor more than \$1,000. (Ord. 730)

11-111 EXPECTORATE, URINATE OR DEFECATE. It shall be unlawful for any person to expectorate, urinate or defecate:

(a) on any public street, alley, sidewalk or floor of any public building, or any other place not intended or designated for such purpose where the public gathers or has access;

(b) on any private property when such conduct is visible to any other person;

(c) on any private property without the owner's consent;

Any person, upon conviction, shall be fined not less than \$100 nor more than \$1,000. (Ord. 731)

ARTICLE 2. POSSESSION OF CONTROLLED SUBSTANCES

11-200. DEFINITIONS. Words and phrases used herein shall have the same meaning as their corresponding definitions set forth in K.S.A. 65-4101 and K.S.A. 65-4150, and amendments thereto.

11-201. CONTROLLED SUBSTANCES PROHIBITED. Except as authorized by the Kansas Uniform Controlled Substances Act, K.S.A. 65-4101 through 65- 4164, and amendments thereto, it shall be unlawful for any person to possess or have under such person's control, prescribe, administer, deliver, distribute, dispense, compound, sell, offer for sale or have in such person's possession with intent to sell, deliver or distribute, any controlled substance, provided the Kansas Uniform Controlled Substances Act classifies the offense as a misdemeanor.

11-202. CONTROLLED SUBSTANCES ANALOGS PROHIBITED. Except as authorized by the Kansas Uniform Controlled Substances Act, K.S.A. 65-4101 through 65- 4164, and amendments thereto, it shall be unlawful for any person to possess or have under such person's control, prescribe, administer, deliver, distribute, dispense, compound, sell, offer for sale or have in such person's possession with intent to sell, deliver or distribute, any controlled substance analog, provided the Kansas Uniform Controlled Substances Act classifies the offense as a misdemeanor.

11-203. SIMULATED CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA; USE OR POSSESSION PROHIBITED. (a) It shall be unlawful for any person to use or possess with intent to use:

- (1) Any simulated controlled substance;
- (2) Any drug paraphernalia 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; or
- (3) Any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, sell or distribute a controlled substance in violation of the uniform controlled substances act.

(b) The provisions of subsection (a) shall apply only if the offense is classified as a misdemeanor by K.S.A. 65-4152 (b) or (d), and amendments thereto.

11-204. SIMULATED CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA; PROHIBITED ACTS. (a) It shall be unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver or cause to be delivered:

- (1) Any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of K.S.A. 65-4162, and amendments thereto;
- (2) Any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used 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, except 65-4162, and amendments thereto; or
- (3) Any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test,

analyze, pack, repack, sell or distribute a controlled substance in violation of the uniform controlled substances act.

(b) The provisions of subsection (a) shall apply only if K.S.A. 65-4153(c), and amendments thereto, classify the offense as a misdemeanor.

11-205. FACTORS FOR DETERMINING WHAT CONSTITUTES DRUG PARAPHERNALIA. In determining whether an object is drug paraphernalia, the court shall consider the factors set forth in K.S.A. 65-4151, and amendments thereto, in addition to any other logically relevant factors.

11-206. REPRESENTATION THAT NONCONTROLLED SUBSTANCE IS A CONTROLLED SUBSTANCE. (a) It shall be unlawful for any person to knowingly deliver or cause to be delivered any substance which is not a controlled substance: (1) Upon an express representation that the substance is a controlled substance or that the substance is of such nature or appearance that the recipient will be able to distribute the substance as a controlled substance; or

(2) Under circumstances which would give a reasonable person reason to believe that the substance is a controlled substance.

(b) If any one of the following factors is established, there shall be a presumption that delivery of a substance was under circumstances which would give a reasonable person reason to believe that a substance is a controlled substance: (1) The substance was packaged in a manner normally used for the illegal delivery of controlled substances.

(2) The delivery of the substance included an exchange of or demand for money or other consideration for delivery of the substance, and the amount of the consideration was substantially in excess of the reasonable value of the substance.

(3) The physical appearance of the capsule or other material containing the substance is substantially identical to a specific controlled substance.

(c) The provisions of subsection (a) shall apply only if K.S.A. 65-4155(c), and amendments thereto, classify the offense as a misdemeanor.

11-207. PENALTIES. Any person who violates any of the provisions of the above within the corporate limits of the city shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$2,500.00, or by imprisonment not to exceed one year, or both such fine and imprisonment.