

## **CHAPTER XI. PUBLIC OFFENSES**

Article 1. Uniform Offense Code

Article 2. Local Regulations

---

### **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 McLouth, Kansas, that certain code known 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. One copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of McLouth, 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. 2012-5; Code 2012)

## ARTICLE 2. LOCAL REGULATIONS

- 11-201. CURFEW. (a) It shall be unlawful for any person under 16 years of age to loiter, lounge, loaf, wander, or play in or upon any public street, sidewalk, alley, or any place open to the public within the city after the hour of 11:00 p.m. and before the hour of 6:00 a.m.
- (b) It shall be unlawful for any person over 16 years of age, but under 18 years of age to loiter, lounge, loaf, wander, or play in or upon any public street, sidewalk, alley, or any place open to the public within the city after the hour of 12:00 midnight and before the hour of 6:00 a.m. (Ord. 100; Code 1984)
- 11-202. SAME; EXCEPTIONS. The curfew restrictions set out in section 11-201 of this article shall not apply under the following circumstances:
- (a) When the person under 18 years of age is accompanied by his or her parent or guardian;
- (b) When the person under 18 years of age is on an emergency errand and has in his or her possession a written statement signed and dated that day by said person's parent or guardian stating that the same person is on an emergency errand and stating the nature of that emergency;
- (c) When the person under 18 years of age is attending a school function or other activity under the supervision of a school or sponsored by parents or while returning home from any such function or activity by way of the most direct route;
- (d) When the person under 18 years of age is going to or from a place of lawful employment by way of the most direct route.
- (Code 1984)
- 11-203. SAME; VIOLATIONS. (a) Any police officer finding a minor in violation of section 11-201 shall ascertain the name and address of the minor and warn the minor that he or she is in violation of the curfew and shall direct the minor to proceed at once to his or her home or usual place of abode.
- (b) If any minor refuses to heed the warning or direction by any police officer or refuses to give his or her correct name and address, he or she shall be taken to the police department and the parent, guardian or other adult having the care and custody of the minor shall be notified to come and take charge of the minor.
- (Code 1984)
- 11-204. SAME; PERMITTING VIOLATION OF CURFEW. It shall be unlawful for a parent, guardian or other person lawfully entitled to the care, custody or control of any person under 18 years of age to knowingly suffer or permit such person to violate section 11-201. (Code 1984)
- 11-205. LOITERING.
- (a) Definitions.
- (1) Loitering shall mean to stand, stay or remain idle in one location and shall include the concepts of spending time idly loafing or walking about aimlessly, and shall also include the colloquial expression "hanging around."
- (2) Public Place shall mean any place to which the general public has

access and a right to resort for business, entertainment or other lawful purposes, but does not necessarily mean a place devoted or dedicated solely to uses of the public. It shall include the front or immediate area of any store, shop, restaurant, tavern, or other place of business or public ground, area or park.

(b) Certain Types of Loitering Prohibited. No person shall loiter in a public place in such manner as to:

(1) Create or cause to be created a danger of a breach of the peace.

(2) Create or cause to be created any disturbance or annoyance to the comfort and repose of any person, which shall create a danger of a breach of the peace.

(3) Obstruct, hinder, or impede the free passage of pedestrians or vehicles upon any public street, public highway, public sidewalk or any other public place or building.

(4) Obstruct, molest, or interfere with any person lawfully in or upon any public place as defined in this article. This paragraph shall include the making of unsolicited remarks of an offensive, disgusting or insulting nature or which are calculated to annoy or disturb the person to whom, or in whose hearing, they are made, and tending reasonably to arouse alarm, anger or resentment in such person.

(c) Violation. Whenever the presence and conduct of any person in any place is causing or is likely to cause any of the conditions enumerated in this section, any police officer of this city may, if necessary for the preservation of the public place or safety, order the person to leave that place and to disperse. Any person who shall thereafter refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this code.

(Ord. 93-2; Code 2012)

11-206. URINATING UPON PUBLIC OR PRIVATE PROPERTY. Any person within the corporate limits of the city who urinates upon any highway, street, alley or upon the premises of any public place or building or upon private property, in open view of any person, when the same has not been designated or designed as a restroom, shall be guilty of a violation of this code. (Ord. 93-2; Code 2012)

11-207. CURFEW FOR MUNICIPAL PARKING LOTS. (a) It shall be unlawful for any person to enter and remain in any municipal parking lot of the city as a pedestrian or while a driver or passenger of a motor vehicle, between the hours of 11:00 p.m. and 6:00 a.m.

(b) Each municipal parking lot upon which these restrictions apply shall, at the effective date hereof, be posted with a sign, sufficient in size and legibility to enable reasonable notice of the restrictions contained in paragraph (a) hereof, and the sign shall be posted at the entrance way to each individual lot so restricted.

(c) A violation of this provision shall be a violation of the code and shall be subject to a fine of \$20, plus any fees required to be submitted to the State on account of municipal judge training and other funds.

(Ord. 93-2; Code 2012)

11-208. STATE OF EMERGENCY; WHEN IMPOSED; CONDITIONS. Whenever in the judgment of the mayor, or in the event of his or her inability to act, the president of the council, determines that an emergency exists as a result of mob

action or other civil disobedience or because of hazardous chemicals (solids, liquids and gaseous) spills, other emergencies involving public health, safety and welfare, causing or threatening to cause danger, death or injury to or damages to persons or property, he or she shall have power to impose by proclamation any or all of the following regulations necessary to preserve the peace, public safety and order of the city:

(a) To impose a curfew upon all of 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 other public places; provided, however, 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 the emergency, such businesses include, but not 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.

(Ord. 93-2; Code 2012)

11-209. SAME; WHEN EFFECTIVE. The proclamation of emergency provided for in this section shall become effective upon its issuance and dissemination to the public by appropriate news media. (Ord. 93-2; Code 2012)

11-210. SAME; TERMINATION. Any emergency proclaimed in accordance with the provisions of this section shall terminate after 48 hours after the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided, however, that such emergency may be extended for such additional periods of time as determined necessary by resolution of the mayor and council. A violation of the state of emergency curfew provisions shall be a violation of this code. (Ord. 93-2; Code 2012)

11-211. MINOR IN POSSESSION OF TOBACCO PROHIBITED. All cigarettes and tobacco products in the possession of a minor, defined as a person under the age of 18 years old, are declared as common nuisances and contraband. (Ord. 97-5; Code 2012)

11-212. SAME; PURCHASE OR POSSESSION PROHIBITED. Purchase or possession of cigarettes or tobacco products by a person under the age of 18 years is prohibited.

(a) It shall be unlawful for any person who is under the age of 18 years of age to possess or attempt to possess cigarettes or tobacco products within the corporate city limits of McLouth, Kansas.

(b) It shall be unlawful for any person who is under the age of 18 years of age to purchase or attempt to purchase cigarettes or tobacco products within the corporate city limits of McLouth, Kansas.

(Ord. 97-5; Code 2012)

11-213. SAME; SELLING TOBACCO TO A MINOR PROHIBITED. Selling, giving or furnishing cigarettes or tobacco products to a person under the age of 18 years old is prohibited.

(a) It shall be unlawful for any person to directly or indirectly sell, give or furnish cigarettes or tobacco products to any person under the age of 18 years of age within the corporate city limits of McLouth, Kansas.

(b) It shall be unlawful for any person to buy cigarettes or tobacco products for any person under the age of 18 years of age within the corporate city limits of McLouth, Kansas.

(Ord. 97-5; Code 2012)

11-214. SAME; PROCEDURE. When a person is stopped by a law enforcement officer for a cigarette or tobacco infraction:

(a) The person shall not be taken before a judge.

(b) The law enforcement officer may issue a uniform Notice to Appear or written cigarette or tobacco citation on a form approved by the Secretary of Revenue or the Secretary's designee. The notice shall contain the name and address of the person, the person's date of birth, the offense charged, the time and place when and where the person shall appear in court, the signature of the law enforcement officer and any other pertinent information. The Notice To Appear shall be before the municipal judge of McLouth, Kansas. The time specified in the notice shall be at least five days after the alleged infraction unless the person demands an earlier hearing, and the Court is in session before the end of five days.

(c) The Notice To Appear shall provide a place where the person may make a written entry of appearance, waive the right to a trial and plead guilty or no contest. The notice to appear shall provide a space where the law enforcement officer shall enter the fine specified and appropriate court costs as provided by law.

(d) If the notice to appear does not do so, the law enforcement officer shall provide a person charged with a cigarette or tobacco infraction a form explaining the person's right to appear and right to a trial and the person's right to pay the appropriate fine and court costs prior to the appearance date, and that failure to either pay the appropriate fine and costs or appear at the specified time may result in the issuance of a warrant for that person. The law enforcement officer shall provide the person with the address of the court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine and court costs shall be mailed.

(e) Payment may be made by mail or in person, and may be made by personal check. The cigarette or tobacco infraction citation shall not have been complied with if a check is not honored for any reason or if the fine and court costs are not paid in full prior to the time specified in the notice to appear. When a person charged with a cigarette or tobacco infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest. No warrant shall issue for a cigarette or tobacco ordinance violation unless the person charged has received service of a notice to appear and failed to appear for the infraction.

(Ord. 97-5; Code 2012)

- 11-215. SAME; PENALTIES. (a) Any person, individual, corporation or association in violation of 11-206 or 11-207 of this article shall be guilty of an infraction, pursuant to K.S.A. 79-3322(c).
- (b) The fine for violation of section 11-206, purchase or possession of cigarettes or tobacco products by any person under the age of 18 years old, shall be \$25.
- (c) The fine for violation of section 11-207, selling, giving or furnishing cigarettes or tobacco products to a person under the age of 18 years old, shall be \$200.  
(Ord. 97-5; Code 2012)
- 11-216. SAME; DEFENSES. (a) In determining whether a violation of 11-207 was committed by a licensed retail dealer whose employee sold, furnished or distributed the cigarettes or tobacco products, the court shall consider it to be a mitigating circumstance if the employee had completed a training program, approved by the Secretary of Revenue or the Secretary's designee, in the avoidance of sale of, furnishing of or distribution of cigarettes and tobacco products to persons under 18 years of age.
- (b) It shall be a defense to prosecution under 11-207 if:
- (1) The defendant is a licensed retail dealer or person authorized by law to distribute samples;
- (2) The defendant sold, furnished or distributed the cigarettes or tobacco products to the person under the age of 18 years old with reasonable cause to believe the person of legal age to purchase or receive cigarettes or tobacco products; and
- (3) To purchase or receive the cigarettes or tobacco products, the person under the age of 18 years old exhibited to the defendant a driver's license, state-issued 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 or tobacco products; or
- (4) The defendant engages in the lawful sale, furnishing or distribution of cigarettes or tobacco products by mail; and
- (5) The defendant sold, furnished or distributed the cigarettes 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 18 or more years old.  
(Ord. 97-5; Code 2012)
- 11-217. SAME; EXCEPTIONS. Sections 11-205:210 shall not apply to the possession and consumption of tobacco products by a person under 18 years old when such possession and consumption is permitted and supervised and such tobacco products are furnished by the person's parent or legal guardian. (Ord. 97-5; Code 2012)
- 11-218. LOUD NOISE PROHIBITED. The following shall be unlawful: All noises or noise producing activities that are repetitive, excessive, unreasonable, or unusually loud and that would disturb, offend, or annoy a person of ordinary sensitivity, including, but not limited to:

- (a) Unreasonable noise during quiet hours, including:
    - (1) Any sound resulting from the erecting, constructing, excavating, demolishing, altering, or repairing of any structure, as to cause a sound plainly audible to neighboring inhabitants of a reasonable and ordinary sensitivity between the hours of 10:00 p.m. and 6:00 a.m.;
    - (2) The repairing, rebuilding, or modifying of any motor vehicle, motorcycle, or motorboat in such a manner as to cause a sound plainly audible to neighboring inhabitants of a reasonable and ordinary sensitivity between the hours of 10:00 p.m. and 6:00 a.m.;
    - (3) The operating of any power tool, garden tool, lawnmower, snow blower, or other similar equipment or device in residential areas in such a manner as to cause a sound plainly audible to neighboring inhabitants of reasonable and ordinary sensitivity between the hours of 10:00 p.m. and 6:00 a.m.;
    - (4) The operating, playing, permitting, or causing to be operated or played any sound amplification or producing device or similar equipment in a manner as to cause a sound plainly audible to neighboring inhabitants of a reasonable and ordinary sensitivity between the hours of 10:00 p.m. and 6:00 a.m.;
    - (5) The creation of noise in connection with loading or unloading any vehicle, in the opening and destruction of bales, boxes, crates, and containers, in residential areas in such a manner as to cause a sound plainly audible to neighboring inhabitants of reasonable and ordinary sensitivity between the hours of 10:00 p.m. and 6:00 a.m.
    - (6) Exemptions. The prohibitions set forth in subsection (a) shall not apply to:
      - (A) Emergency work necessary to restore property to a safe condition or to protect a person and property from imminent danger;
      - (B) Emergency vehicles;
      - (C) Alarm systems;
      - (D) Trash and waste removal operations;
      - (E) Aircraft or railroad activities;
      - (F) Church bells and campanile chimes.
    - (b) Unreasonable noises at any time, including:
      - (1) Repetitive, loud animal noises, including persistent and unabated dog barking;
      - (2) Participating in a party or gathering of persons from which noise is produced at a sufficient volume as to disturb the peace or repose of neighboring inhabitants of reasonable and ordinary sensitivity, except that this provision shall not apply to peaceful assemblies or gatherings for the purpose of protest or demonstration.
- (Ord. 2012-03; Code 2012)