

## **CHAPTER 11. PUBLIC OFFENSES**

- Article 1. Uniform Offense Code
- Article 2. Local Regulations

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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 Carbondale, Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2014, 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. Section 11.11 of said Uniform Public Offense Code relating to Cruelty to Animals is hereby omitted and deleted. One copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 475-2014" 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. 475-2014; Code 2014)

## ARTICLE 2. LOCAL REGULATIONS

### 11-201. PROHIBITING THE OPERATION OF SKATEBOARDS, ROLLER SKATES, BICYCLES, SCOOTERS, GO-CARTS, MOPEDS, TRICYCLES, ON CERTAIN SIDEWALKS.

No person shall use, operate, or ride any skateboard, roller skate, bicycle, unicycle, scooter, go-cart, moped, tricycle, or the like, upon any sidewalk that is adjacent to any of the city's industrial, commercial or retail business districts.

All industrial, commercial and retail business districts are reflected on the City of Carbondale official zoning map, which is on display and open for inspection by any interested person at City Hall during normal business hours.

A law enforcement officer detaining a person for violating this provision may impound said skateboard, roller skates, bicycle, unicycle, scooter, go-cart, moped, tricycle, or the like. In the case of a violation of this provision by a person who is 18 years or older, the item confiscated shall be released by the City Police Department if the violator appears at the City Police Department and provides self-identification. Persons under the age of 18 years must appear at the City Police Department with a parent or guardian to obtain release of the items confiscated; however, if no such parent or guardian resides in the city, the item confiscated can be released if its owner provides a letter from a parent or guardian requesting that it be released.

An impoundment fee of \$25.00 will be collected by the City Police Department prior to the release of any of the aforesaid items which have been confiscated.

Violation of this provision is a municipal offense and punishable by a fine of up to \$100.00.

(Ord. 381; Code 2014)

### 11-202. CURFEW. It shall be unlawful for any minor under the age of eighteen years to idle, loiter, loaf, lounge, stroll, wander, or play in or upon the public streets, highways, roads, alleys, sidewalks, parks, playgrounds, or other public grounds, public places or public buildings, places of amusement or entertainment, eating places, vacant lots, or any other place normally accessible to the general public, whether on foot or in a vehicle or by any other means, unsupervised by a parent, legal guardian, or other person having the lawful care and custody of such minor, having the lawful authority to be at such place between the hours of ten p.m. on any day and six a.m. on the following day, except on Fridays and Saturdays, when the hours shall be eleven p.m. to six a.m. of the following day. (Ord. 415-2006; Code 2014)

### 11-203. SAME; EXCEPTIONS. The curfew restrictions set out in Section 1 of this ordinance shall not apply under the following circumstances:

(a) When the parent or legal guardian of the person under the age of eighteen years has renounced his or her right to the care, custody, and earnings of that person.

(b) When the person under the age of eighteen years is legally married.

(c) When the person under the age of eighteen years is accompanied by his or her parent or legal guardian.

(d) When the person under the age of eighteen years is going to or from lawful employment by way of the most direct route.

(e) When the person under the age of eighteen years is engaged in interstate travel through the city.

(f) When the person under the age of eighteen years is going to or from a school activity, church activity, entertainment, dance, or recreational activity by way of the most direct route.

(g) When the person under the age of eighteen years is going to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly, or freedom of religion by way of the most direct route.

(h) When the person under the age of eighteen years is on an emergency errand directed by his or her parent, legal guardian, or other adult person having the lawful care and custody of such minor.  
(Ord. 415-2006; Code 2014)

11-204. SAME; RESPONSIBILITIES OF PARENT OR PERSON HAVING LEGAL CARE AND CUSTODY: It is unlawful for the parent, legal guardian, or other adult person exercising legal care and custody of a minor under the age of eighteen years to permit such minor to violate Section 1, except under the circumstances set out in Section 2. (Ord. 415-2006; Code 2014)

11-205. SAME; PENALTY: (a) Any police officer finding a minor under the age of eighteen years in violation of 11-205 shall ascertain the name and address of the minor, shall take such minor to the police department, and the parent, legal guardian or other adult person exercising legal care and custody of such minor shall be notified to come and take charge of the minor. In addition, any minor under the age of eighteen years violating the provisions of this ordinance may be dealt with in accordance with juvenile law.

(b) Any parent, legal guardian or other adult person exercising legal care and custody of a minor person under the age of eighteen years who shall knowingly suffer or permit such minor to violate the provisions of this ordinance shall, upon conviction thereof, be subject to a fine of not less than Twenty Dollars (\$20.00) or more than One Thousand Dollars (\$1,000.00), and costs.  
(Ord. 415-2006; Code 2014)

11-206. DRUGS, MARIJUANA, POSSESSION PROHIBITED. (a) It shall be unlawful for any person to have in his possession any marijuana in violation of the Kansas Controlled Substance Act. Marijuana means all parts of all varieties of the plant 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 resin.

(b) Violation of this section is a Class A nonperson violation; Upon conviction of a violation of this section, a person shall be sentenced to not less than 30 days nor more than six months imprisonment, and fined not less than \$200, nor more than \$500. The person convicted must serve a minimum of 48 consecutive hours before or as a condition of any probation, suspension, or reduction of sentence or parole.

(c) In addition to any other penalty or disposition imposed by law, upon a conviction of violation of this section in which the trier of fact makes a finding that the unlawful possession occurred while transporting the marijuana in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(d) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person, the convicting judge may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(Ord. 463-2012; Code 2014)

11-207.

SAME; POSSESSION OF DRUG PARAPHERNALIA STIMULATED DRUGS AND CONTROLLED SUBSTANCES PROHIBITED. No person shall use, or possess with the intent to use, or deliver, or possess with the intent to deliver:

(a) Any simulated controlled substance including any synthetic cannabis.

(b) 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 and any amendments thereto.

(c) Any drug paraphernalia to plant, propagate, cultivate, grow or harvest less than five marijuana plants.

(d) Violation of this section is a Class A nonperson violation;

(1) Upon a first conviction of a violation of this section, a person shall be sentenced to not less than 30 days nor more than six months imprisonment, and fined not less than \$200, nor more than \$500. The person convicted must serve a minimum of 48 consecutive hours before or as a condition of any probation, suspension, or reduction of sentence or parole.

(2) Upon a second conviction of a violation of this section, a person shall be sentenced to not less than 90 days nor more than one year imprisonment and fined not less than \$500 nor more than \$1000. The person convicted must serve a minimum of five consecutive days imprisonment before or as a condition of any grant of probation, suspension or reduction of sentence or parole.

(3) Upon a third and subsequent conviction of a violation of this section, a person shall be sentenced to not less than 180 days, nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$2,500. The person convicted must serve a minimum of 90 days imprisonment before or as a condition of any grant of probation, suspension or reduction of sentence or parole. (Ord. 463-2012; Code 2014)

11-208.

SAME; ABUSING TOXIC VAPORS PROHIBITED. (a) As used in this section, toxic vapors means the following substances or products containing such substances as bath salts, gasoline, alcohols (including methyl isopropyl, propyl or butyl), aliphatic acetates (including ethyl, methyl, propyl or methyl celosolve acetate), acetone, benzene, carbon tetrachloride, freons, cyclohexane, hexane, methyl ethyl keotone, methyl isobutyl keotone, naptha, nitrous oxide, perchlorethylene, toluene, trichloroethane, xylene or any product containing compressed HFC-152a as a propellant.

(b) Unlawful abuse or toxic vapors is prohibited. Unlawful abuse is possession, buying, using, smelling, or inhaling toxic vapors with the intent of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system.

(c) In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in subsection (a) as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors.

(d) Unlawful abuse of toxic vapors is a class B nonperson violation. (Ord. 463-2012; Code 2014)

11-209

NOISE CONTROL (added by Ordinance 480-2015 )

1. FINDINGS, It is found and declared that:

(a) The making and creation of loud, unnecessary or unusual noises within the limits of the city is a condition which has existed for some time and the extent and volume of such noises is increasing;

(b) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city; and

(c) The necessity in the public interest for the provisions and prohibitions enacted and contained in this article is declared as a matter of legislative determination, and the public prohibitions enacted and contained in this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants

2. STANDARDS

The standards which shall be considered in determining whether a violation of this article exists shall include, but shall not be limited to, the following:

(a) The volume of the noise;

(b) The intensity of the noise;

(c) Whether the nature of the noise is usual or unusual;

(d) Whether the origin of the noise is natural or unnatural;

(e) The volume and intensity of the background noise, if any;

(f) The proximity of the noise to residences;

(g) The nature and zoning of the area within which the noise emanates;

- (h) The density of the inhabitation of the area within which the noise emanates;
- (i) The time of the day or night the noise occurs;
- (j) The duration of the noise;
- (k) Whether the noise is recurrent, intermittent or constant; and
- (l) Whether the noise is produced by a commercial or noncommercial activity

### 3. LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED.

(A) Sound amplification system means any radio, tape player, compact disc player, CD, MP3, loud speaker, or other electronic device used for the amplification of sound.

(B) 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 on a direct line of sight. Words or phrases need not be discernible and bass reverberations are included.

(C) It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operation of the sound amplification system, including:

- (1) (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 Carbondale, or a gas, electric, communications or refuse company;
- (4) The system was used to give instructions, directions, talks, addresses, lectures or transmitting music to any persons in compliance with ordinances of the City of Carbondale;
- (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 City of Carbondale;

### 4. PROHIBITION generally

(a) It shall be unlawful for any person to make, continue or allow to be made or continued any excessive, unnecessary, unusual or loud noise which injures or endangers the comfort, repose, health, or safety of any person of reasonable sensibilities, or which interferes with the use or enjoyment of property of any person of reasonable sensibilities, unless the making and continuing of such noise is necessary for the protection and preservation of property or the health and safety of an individual; provided, that the provisions of this article shall not apply to such occasional and infrequent uses as authorized by resolution approved by the city council, upon a showing by an applicant and determination by the council that the proposed use does not offend the spirit of the findings of Carbondale Municipal Code 477-2014

(b) The acts mentioned in the following sections of this article, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.

5. HORNS AND SIGNALING DEVICES.

(a) The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonable loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time is unlawful.

(b) The use of any signaling device, except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up is unlawful.

6. SOUND PRODUCING DEVICE

(a) The use or operation of any device capable of producing or amplifying sound in such manner as to disturb the peace, quiet and comfort of any person of reasonable sensibilities is unlawful.

7. LOUDSPEAKERS, AMPLIFIERS FOR ADVERTISING

The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure is unlawful.

8. PENALTIES. For each and every calendar year in which any person, individual, partnership, corporation or association violates any of the provisions of this ordinance, upon conviction, they shall be fined a minimum of \$50.00 for the first violation, a minimum \$200.00 for the second violation and a minimum of \$500.00 for every violation thereafter or by a term of imprisonment not to exceed six months or by both such fine and imprisonment. Each day any violation is found to exist or continues to exist shall be a separate offense and punishable as such hereunder.