

## CHAPTER XI. PUBLIC OFFENSES

Article 1. Uniform Offense Code

Article 2. Local Regulations

Article 3. Possession of Marijuana, Drug Paraphernalia  
and Other Controlled Substances

---

### 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 Marysville, Kansas, that certain code known as the “Uniform Public Offense Code for Kansas Cities”, Edition of 2010, 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 Marysville”, 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.

11-102. **SAME; CHANGES.** The following paragraphs of Uniform Public Offense Code are changed to read as follows:

(a) **9.5. MAINTAINING PUBLIC NUISANCE.** Maintaining a public nuisance is by act, or by failure to perform a legal duty, intentionally causing or permitting a condition to exist which injures or endangers the public health, safety and welfare. See Chapter VIII, Health and Welfare, of the Code of the City of Marysville as it relates to nuisances.

(b) **10.13. 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 after application to the Zoning Administrator and good cause is shown that such fencing is necessary for protection of property and/or person.

**ARTICLE 2. LOCAL REGULATIONS**

- 11-201. CURFEW. It shall be unlawful for any person to wander, lounge, loaf, loiter or play in, about or upon any public street, alley, sidewalk, vacant lot, parking lot, park, playground, public place or other place normally accessible to the general public for public use, whether on foot, in a vehicle, or by any other means, as follows:  
(a) Under the age of 16 years, after the hour of 12:00 midnight and before the hour of 6:00 a.m.  
(b) Under the age of 18 years and one day, after the hour of 12:30 a.m. and before the hour of 6:00 a.m.
- 11-202. SAME; NOT APPLICABLE. The curfew shall not apply to those children who are:  
(a) Accompanied by a parent or legal guardian.  
(b) In route by the most direct and accessible route from their homes to an authorized place of employment; or  
(c) In route by the most direct and accessible route from an authorized place of employment, authorized place of entertainment, or authorized place of attendance to their residences.
- 11-203. AUTHORIZED DEFINED. The term authorized as used in this article shall denote prior authorization by a parent or legal guardian.
- 11-204. PARENTS/LEGAL GUARDIANS. It shall be unlawful for any parent or legal guardian of any child under the age of 18 years to suffer, permit or allow such child to wander, lounge, loaf, loiter or play in, about or upon any public street, alley, sidewalk, vacant lot, parking lot, park, playground, public place or other place normally accessible to the general public for public use, during the hours of curfew applicable to such child in violation of Article 11-201.
- 11-205. SPECIAL PERMISSION. The governing body of the city, on specific occasions and in response to written request, shall have the authority to suspend the hours of curfew stated in Article 11-201.
- 11-206. PENALTY. Any person convicted of violating the terms of this article shall be sentenced to a term of confinement in the Marshall County jail, which term shall be fixed by the court and shall not exceed thirty days. In addition to or instead of the confinement, a person may be sentenced to pay a fine which shall not exceed \$500.00.
- 11-207. TRESPASS. Trespass upon city property is entering or remaining upon realty owned or leased by the city without permission, when the realty is marked or posted with no trespassing signs in a manner reasonably likely to come to the attention of intruders, or are locked, fenced, otherwise enclosed, shut or secured against passage or entry.

- 11-208. SAME;PENALTY. Conviction of the offense of trespassing upon city property shall be punishable by 30 days in jail and by a fine not less than \$25.00 nor more than \$100.00 for the first such conviction. Each subsequent conviction of the offense of trespass upon city property shall be punishable by jail confinement not to exceed 6 months and by a fine of not less than \$100.00 nor more than \$500.00.
- 11-209. LITTERING; PENALTIES. No person shall intentionally or recklessly throw, place, drop or deposit or cause to be deposited any object or substance into, upon or about:
- (a) 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.
  - (b) Any private property without the consent of the owner or occupant of such property.
  - (c) Littering shall be deemed an unclassified misdemeanor offense, punishable by a fine not to exceed \$500.00 and confinement in jail not to exceed 30 days. (Ord. 1723, Secs. 1:2; Code 2011)
- 11-210. 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 attempt to operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 100 feet or more 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 systems form within the vehicle which can be heard at a distance of 100 feet or more. Measurements 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 the charge under this section that the operation was not otherwise prohibited by law from operating the sound amplification system and that any or any of the following apply: (i) The system was being operating to request medical or vehicular assistance to warn of a hazardous road conditions; (ii) The vehicle was an emergency or public safety vehicle; (iii) The vehicle was owned and operated by the City of Marysville or a gas, electric, communications or refuse company. (iv) The system was used for the purposes 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 Marysville, and (v) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical production, and other activities

11-211            No person shall operate a motor-driven cycle, including without limitation, any motorized-type scooter or other motor-driven cycle, upon any street, road, or highway in this city without a valid driver's license. Upon conviction, such person shall be sentenced to not more than 10 days in jail and/or fined not more than \$200 or either fine and imprisonment.

11-215.            **REPEAT OFFENDERS.** The municipal court shall have the authority to double the maximum fine allowed for repeat offenders of the public offense code and shall have the authority to triple the maximum fine allowed under this code upon 3 or more convictions of the same offense by the same person.

**ARTICLE 3. POSSESSION OF MARIJUANA, DRUG PARAPHERNALIA AND  
OTHER CONTROLLED SUBSTANCES**

- 11-301.           **POSSESSION OF MARIJUANA.** Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person to possess or have under such person's control any marijuana as defined by K.S.A. 65-4101(o) or Simulated or Fake Marijuana), as defined by K.S.A. 65-4105 (d) (32), (33) and (34) and amendments thereto.
- 11-302.           **Penalty for Possession of Marijuana, Simulated or Fake Marijuana.** The penalty for violation of this section shall be a fine of not less than \$1,500.00 and not more than \$2,500.00 or by imprisonment for a period not exceeding one year or by both such fine and imprisonment as may be just for any one offense, and is a Class A misdemeanor, as defined by the Uniform Public Offense Code and amendments thereto, as adopted from time to time by the City of Marysville.
- 11-303.           **POSSESSION OF DRUG PARAPHERNALIA OR SIMULATED CONTROLLED SUBSTANCES.** No person shall use or possess with the intent to use:
- (a) Any simulated controlled substances which shall include, but not be limited to, those items as set forth in K.S.A. 65-4150(a), and amendments thereto.
- (b) Any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, pre-pack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance, in violation of the Uniform Controlled Substances Act. Drug paraphernalia shall include, but not be limited to those items set forth in K.S.A. 65-4150(b), as amended.
- 11-304.           **PENALTY FOR POSSESSION OF DRUG PARAPHERNALIA.** The penalty for a violation of this article shall be a fine of not less than \$1,500 and not more than \$2,000 or by imprisonment for a period not exceeding one year, or by both such fine and imprisonment as may be just for any one offense and is a Class A violation, as defined in the Uniform Public Offense Code, as adopted by the City of Marysville (Ord. 1626, Sec. 1; Code 2011)
- 11-305.           **SEVERABILITY.** All items and words herein shall be interpreted and defined by the definitions set out in Chapter 65 of the Kansas Statutes Annotated, as the same now exists or is hereafter amended. Should any paragraph, sentence, subdivision, clause, phrase or section of this code be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this code as a whole or any part or provision thereof, other than the part or parts as declared to be invalid, illegal, or unconstitutional. (Ord. 1626, Sec. 1; Code 2011)

**ARTICLE 4: SMOKING PROHIBITED IN ENCLOSED PLACES OF EMPLOYMENT,  
PUBLIC PLACES AND PUBLIC SIDEWALKS ABUTTING ACUTE  
CARE HOSPITALS**

11-401.           PURPOSE. It is the purpose of this Article that the City promotes public health by decreasing citizens exposure to secondhand smoke and creates smoke free environments for workers and citizens through regulation in the work place and all public places.

11-402.           DEFINITIONS. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a)   *Bar* means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

(b)   *Employee* means any person who performs services for an employer, with or without compensation.

(c)   *Employer* means a person, partnership, association, corporation, trust, or other organized group of individuals, including the City or any agency thereof, which utilizes the services of one (1) or more employees.

(d)   *Enclosed* means a space bound by walls (with or without windows) continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, offices, rooms, all space therein screened by partitions, which do not extend to the ceiling or are not solid, "office landscaping" or similar structures and hallways.

(e)   *Permanently Designated* means a hotel or motel room may be designated as a smoking room only one time a year.

(f)   *Place of Employment* means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care or health care facility.

(g)   *Public Place* means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundering facilities, public transportation facilities, reception areas, production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place."

(h)   *Restaurant* means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers at no cost or for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include an attached bar.

- (i) *Service Line* means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- (j) *Smoking* means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other tobacco product.
- (k) *Sports Arena* means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice skating rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

11-403.

PROHIBITION OF SMOKING IN ENCLOSED PLACES IN ENCLOSED PLACES OF EMPLOYMENT AND ALL ENCLOSED PUBLIC PLACES; PROHIBITION OF SMOKING ON SIDEWALKS ABUTTING HOSPITALS.

- (a) The possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes or other tobacco products, shall be prohibited in all enclosed places, of employment within the City including the area within 10 feet radius of a public entrance or exit.
- (b) The possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes or other tobacco products, shall be prohibited in all enclosed public places within the City, including but not limited to the following places:
  - (1) Any vehicle of public transportation, including but not limited to buses, limousines for hire and taxicabs;
  - (2) Elevators;
  - (3) Restrooms;
  - (4) Libraries, educational facilities, childcare and adult day care facilities, museums, auditoriums, aquariums and art galleries;
  - (5) Any health care facility, health clinic or ambulatory care facilities, including but not limited to laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors' offices and dentists' offices;
  - (6) Any indoor place of entertainment or recreation, including but not limited to gymnasiums, theaters, concert halls, bingo halls, billiard halls, betting establishments, bowling alleys, arenas and swimming pools;
  - (7) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance;
  - (8) Bars;
  - (9) Restaurants;
  - (10) Convention facilities;
  - (11) All public areas and waiting rooms of public transportation facilities, including but not limited to bus and airport facilities;
  - (12) Any other area used by the public or serving as a place of work, including open office landscaping;
  - (13) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including, but not limited to joint committees, or agencies of the City

or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City;

(14) All enclosed facilities owned by the City; and

(15) Rooms in which meetings or hearings open to the public are held, except where such rooms are in a private residence.

(c) No one shall possess lighted smoking materials in any form, including but not limited to lighted cigarettes, cigars, pipes or other tobacco products in a manner that impedes entrance to or exit from a building where smoking is prohibited pursuant to this Section.

(d) It shall be unlawful for any person to violate the provisions of this section.

11-404. **RESPONSIBILITIES OF PROPRIETORS, OWNERS AND MANAGERS.**

(a) A person having control of a place listed above shall not knowingly permit, cause, suffer or allow any person to violate the provisions set forth above in that place. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of a place has asked that the lighted cigarette, cigar, pipe or other tobacco product be extinguished and asked the person to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products.

(b) A person having control of a place shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) near all entrances where smoking is prohibited by this Article. Such signage shall consist of letters not less than one inch in height.

(c) It shall be the responsibility of employers to provide smoke-free workplaces for all employees.

(d) Each employer having any enclosed place of employment located within the City shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

(e) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

11-405. **WHERE SMOKING IS NOT REGULATED.** Notwithstanding any other provision of this Ordinance to the contrary, the following shall not be subject to the smoking restrictions of this Ordinance:

(a) Private residences, not serving as enclosed places of employment or enclosed public places;

(b) Twenty-five percent (25%) of hotel and motel rooms may be permanently designated as smoking rooms or a higher percentage adjusted by the hotel or motel when on a given date it has a seventy-five percent (75%) or greater occupancy rate due to the booking of guests for conventions or meetings and

needed to meet the demands of the convention or meeting, provided the hotel or motel cleans those added rooms in a manner sufficient to remove the odor and particulate residue of smoking from those rooms before they are again occupied as non-smoking rooms.

11-406.

PENALTY FOR VIOLATION OF THIS ARTICLE.

(a) A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an ordinance violation, punishable by a fine not exceeding fifty dollars (\$50.00).

(b) A person having control of a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an ordinance violation, punishable by:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation.

(2) A fine not exceeding two hundred dollars (\$200) for a second violation within a one (1) year period.

(3) A fine not exceeding five hundred dollars (\$500) for a third or subsequent violations within a one (1) year period.

(4) Each day on which a violation of this Article occurs shall be a separate and distinct violation

11-407.

CONSTRUCTION. This Article shall be liberally construed so as to further its purposes. The provisions of this ordinance are severable. If any provision or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.