

Chapter 11.60
MACHINE GUNS AND OTHER FIREARMS

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11.60.005 Definitions.

As used in this article:

- A. "Billy" shall mean a short wooden club;
- B. "Blackjack" shall mean a small leather-covered bludgeon with a short flexible shaft or strap;
- C. "Bludgeon" shall mean a short, heavy club, usually of wood, that has one end loaded or thicker than the other;
- D. "Dagger" shall mean a short pointed weapon with sharp edges;
- E. "Dirk" shall mean a dagger;
- F. "Metal knuckles" shall mean a weapon consisting of a metal strip or chain with holes or links into which the fingers fit;
- G. "Nunchaku" shall mean a weapon that consists of two hardwood sticks joined at their ends by a short length of rawhide, cord, or chain;
- H. "Slung shot" shall mean a small heavy weight attached to a thong;
- I. "Stiletto" shall mean a small dagger with a slender tapering blade;
- J. "Throwing star" shall mean any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

(History: Ord. POC-1415 §1, 86; POC-1381 §9, 86)

11.60.010 Criminal Use of Weapons.

- A. "Criminal use of weapons" is knowingly;
1. Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, nunchaku, any gun that emits an electrical charge including, but not limited to, a gun commonly referred to as a stun gun or Taser gun, metal knuckles, or throwing star, or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; or any knife, the blade of which can be fired, including but not limited to a knife commonly referred to as a ballistics knife; or
 2. Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slung-shot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character; provided, an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument; or
 3. Carrying 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; or
 4. Carrying any pistol, revolver or other firearm concealed on one's person except when on the person's land or in the person's abode or fixed place of business; or
 5. Carrying any pistol, revolver or other firearm unconcealed on one's person except when on the person's land or in the person's abode or fixed place of business; or
 6. Transporting any pistol, revolver or other firearm unless it is unloaded and encased in a container which completely encloses it; or
 7. Setting a spring gun.
- B. Subsections (A)(1), (2), (3), (4), (5) and (6) do not apply to or affect any of the following:
1. Law enforcement officers, or any person summoned by any such officers or summoned by any other lawfully authorized public officers to assist in making arrests or preserving the peace while actually engaged in assisting such officers; or
 2. Wardens, superintendents 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; or
 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 persons authorized under this exemption to possess such weapons; or

5. Use and possession of the martial arts weapon "nunchaku" by students, instructors, and/or demonstrator instructors provided that such use, possession, instruction or demonstration shall be permitted only on the premises of individuals conducting a course of martial arts instruction for a fee and who have no fewer than five students enrolled in the instructional program at any given time, and only on premises zoned for such instruction within the City zoning ordinance, provided further that the "nunchaku" weapons shall be transported to and from the training or demonstration in a compartment or area of a motor vehicle not directly accessible from the passenger compartment. In addition, the use of nunchaku weapons is permitted at tournament locations approved by the Chief of Police. (K.S.A. 21-4201)
- C. Subsections (A)(4), (5) and (6) do not apply to or affect the following:
1. Watchmen while actually engaged in the performance of the duties of their employment; or
 2. Licensed hunters or fishermen while engaged in hunting and fishing; or
 3. Private detectives licensed by the state of Kansas to carry the firearm involved, while actually engaged in the duties of their employment; or
 4. Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or
 5. The state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and any amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and any amendments thereto; or
 6. Special deputy sheriffs in counties over 100,000 population who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer.
- D. Subsection (A)(4) and (6) shall not apply to persons authorized to carry a concealed weapon pursuant to K.S.A. 75-7c01 et seq.
- E. Subsection (A)(1) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the National Firearms Registration and Transfer Record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.
- F. Violation of this Section is a Class A violation.
- (History: Ord. POC-2742 §3, 2008; POC-2690 §4, 2007; POC-2665 §4, 2007; POC-2644 §2, 2007; POC-2570 §1, 2005; POC-2556 §1, 2005; POC-1801 §17, 93; POC-1415 §2, 86; POC-1381 §9, 86; POC-1146 §5, 81; POC-979 §7, 78; POC-625 §63, part, 72; POC-598 § 58; PO-84B; PO-84 § 56)

11.60.010.5 Concealed Carry; Prohibitions.

Repealed.

(History: Ord. POC-2665 §5, 2007; POC-2652 §1, 2007; POC-2644 §3, 2007)

11.60.020 Exceptions to 11.60.010.

Repealed. See 11.60.010.5.

(History: Ord. POC-2644 §9, 2007; POC-2570 §2, 2005; POC-1483 §1, 87; POC-1381 §9, 86; POC-1146 §6, 81; POC-979 §8, 78; POC-625 §63, part, 72; POC-598 § 60; PO-84 §57)

11.60.030 Nonapplication of 11.60.010(D and E) to Certain Persons.

Repealed. See 11.60.010.5.

(History: KSA 21-4201; Ord. POC-2644 §9, 2007; POC-2570 §3, 2005; POC-1986 §11, 96; POC-1381 §9, 86; POC-1146 §7, 81; POC-979; POC-625 §63part 72)

11.60.035 Criminal Disposal of Firearms.

Criminal disposal of firearms is knowingly:

- A. Selling, giving or otherwise transferring any firearm with a barrel less than 12 inches long to any person under 18 years of age;
 - B. Selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;
 - C. Selling, giving or otherwise transferring any firearm to any person who, within the preceding five years, has been convicted of a felony, other than those specified in Subsection (F), under the laws of this or any other jurisdiction or has been released from imprisonment for a felony and was found not to have been in possession of a firearm at the time of the commission of the offense;
 - D. Selling, giving or otherwise transferring any firearm to any person who, within the preceding 10 years, has been convicted of a felony to which this subsection applies, that was not found to have been in the possession of a firearm at the time of the commission of the offense, or has been released from imprisonment for such a crime, and has not had the conviction of such crime expunged or been pardoned for such crime; or
 - E. Selling, giving or otherwise transferring any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction and was found to have been in possession of a firearm at the time of the commission of the offense.
 - F. Subsection (D) shall apply to a felony under K.S.A. 21-3401, 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419, 21-3420, 21-3421, 21-3427, 21-3502, 21-3506, 21-3518, 21-3716, 65-4127a, or 65-4127b, or Supp. 21-3442 or 65-4160: 65-4164, and amendments thereto, or any crime under a law of another jurisdiction which is substantially the same as such felony.
 - G. Violation of this Section is a Class A violation.
- (History: Ord. POC-2644 §4, 2007; POC-2055 § 5, 97)

11.60.040 Unlawful Discharge of Firearm.

- A. It shall be unlawful for any person other than those excepted by Sections 11.60.010(B) (1), (2) or (3) to discharge or shoot off any gun, pistol or other firearm within the corporate City limits except as provided below.
1. The discharge of a pistol, revolver, rifle of not more than .224 caliber or shotgun by a duly licensed hunter as described in Section 11.60.010(C), provided the requirements of Section 11.12.155 are complied with.
 2. The discharge of a gun, pistol or other firearm at any legally operated shooting gallery, pistol range, or gun club approved by the Chief of Police in writing.
 3. The discharge of a shotgun, gun, pistol or other firearm in the process of target or skeet shooting on land that is primarily rural, or devoted to agricultural use as defined in Section 18.110.040, if written permission is obtained from the landowner where the target or skeet shooting is occurring. When on land of less than 40 acres, the person discharging the firearm must have in his or her possession written permission of all landowners or persons in possession of land contiguous to the land where the target or skeet shooting is occurring. It shall be unlawful for a person otherwise lawfully target or skeet shooting within the City to discharge a firearm or other projectile within 500 feet of any property on which a residence, school, church, airport, cemetery, or public recreation facility is located to include all adjacent or contiguous property owned for such purposes.
 4. The discharge of a gun, pistol or other firearm by any duly licensed watchman, detective, special agent or other person described in Section 11.60.010(C) if such action is reasonably necessary for the protection of life or property.
 5. The discharge of a gun, pistol or other firearm with blank ammunition only by an honor guard, composed of members of the armed forces, law enforcement officers or members of veterans service organizations listed in Part I of the most recent edition of the Directory of Veterans Service Organizations issued by the Department of Veterans Affairs, in a "salute" or "honor" to an individual, in conjunction with a funeral or other "honor" ceremony, provided that the Chief of Police must approve the discharge of firearms by the honor guard, to include the type of firearm, ammunition to be used, and the location and time of the discharge. This information must be provided to the Chief of Police at least twenty-four hours prior to the proposed date of the firearms discharge provided the Chief of Police may approve the discharge on an emergency basis, as he or she deems appropriate.
- B. Notwithstanding the provisions for target and skeet shooting set forth in Section A 3, above, persons may engage in target or skeet shooting on any property zoned RUR that is annexed into the City pursuant to Ordinance No. A-2719, unless and until such property is rezoned. However, no one shall discharge any shotgun, muzzleloader, rimfire rifle, or any handgun in the direction of any property that is within 200 yards of the point of discharge where such property contains a building inhabited by people or a

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feedlot, or in the case of a center-fired rifle, in the direction of any property that is within 500 yards of the point of discharge where such property contains a building inhabited by people or a feedlot, unless the owner, if owner-occupied, or legal tenant, if tenant-occupied, of the building or feedlot has given written consent to do so. The 200 and 500 yard limitations shall be measured from the point of discharge to the property line of the property on which the inhabited building or feedlot is located. "Feedlot" shall mean any yard, enclosure or corral where livestock are confined for purposes of feeding and growth prior to slaughter. Pastures, hayfields, or cropfields where animals are allowed to graze are not deemed to be a "feedlot." Any person engaged in target or skeet shooting shall use their best efforts to ensure that no projectile or buck shot shall land outside the boundaries of the property on which the target or skeet shooting is taking place unless the owner of the property outside the boundaries on which the target or skeet shooting is taking place has given his or her written consent to such activity.

C. Violation of this Section is a Class C violation.

(History: Ord. POC-2788 §1, 2008; POC-2644 §5, 2007; POC-2403 §2, 2002; POC-1958 §1, 95; POC-1647 §1, 90; POC-1381 §9, 86; POC-1345 §1, 85; POC-1069 §1, 80; POC-968 §1, 78; POC-625 §64, 72; PO-84B; PO-84 § 58 & 59)

11.60.040.1 Exceptions.

Repealed. See 11.60.040.

(History: Ord. POC-2644 §9, 2007; POC-2403 §3, 2002)

11.60.040.2 Penalty.

Repealed. See 11.60.040.

(History: Ord. POC-2644 §9, 2007; POC-2403 §4, 2002)

11.60.045 Prohibition; School Property.

It shall be unlawful for any person, other than a law enforcement officer whether on duty or not, or a person on active military service while actually performing duties on the property, to possess any firearm, BB gun, or dangerous weapon as the word dangerous weapon is defined or regulated by Section 11.60.010, while on any school property or grounds upon which is located a building or structure used by a unified school district, an accredited non-public school for student instruction, junior college or university, when that property or grounds are used for student attendance or extracurricular activities of students enrolled in kindergarten, any of the grades 1 through 12, or post secondary school education, or at any regularly scheduled school sponsored activity or event.

(History: Ord. POC-1690 §1, 91)

11.60.045.1 Failure to Surrender or Remove.

It shall be a separate violation of this section for a person to refuse to surrender or immediately remove from school property or grounds any firearm found to be possessed in violation of 11.60.045 herein.

(History: Ord. POC-1690 §2, 91)

11.60.045.2 Exceptions.

Section 11.60.045 shall not apply to:

- A. Possession of any firearm in connection with a firearms safety course of instruction or firearms education course approved and authorized by the school; or
- B. Possession of a firearm specifically authorized in writing by the superintendent of any unified school district or the chief administrator of any school, college or university; or
- C. Possession of a firearm secured in a motor vehicle by a parent, guardian, custodian, or someone authorized to act in such person's behalf who is delivering or picking up a student; or
- D. Possession of a firearm secured in a motor vehicle by a registered voter who is on the school grounds, which contain a polling place for the purpose of voting during polling hours on an election day.

(History: Ord. POC-1690 §3, 91)

11.60.045.3 Report of Violation.

The principal or senior administrator of any school, college or university shall immediately report the violation of any provisions of Sections 11.60.045 through and including 11.60.045.2 to the Overland Park Police Department.

(History: Ord. POC-1690 §4, 91)

11.60.045.4 Penalties.

Persons convicted of violating the provisions of Sections 11.60.045 through and including 11.60.045.2 shall be fined not less than \$100 nor more than \$1,000. In addition to these fines, the court may sentence the person to incarceration in jail for a period not to exceed 30 days. The penalty provisions of this section shall not apply to Section 11.60.045.3 concerning mandatory reporting requirements.

(History: Ord. POC-1690 §5, 91)

11.60.050 B-B Guns.

"Unlawful use of air rifles, air pistols, B-B guns, or pellet guns" is the discharge of such guns within the City limits, except upon land with the written consent in his or her possession of the landowner whose land is primarily rural or devoted to agriculture and contains in area 15 acres or more. It is a defense that the defendant is within the exemption authorized under this section.

(History: Ord. POC-1349 §1, 86; POC-979 §10, 78; POC- 625 §65, 72)

11.60.060 Carrying Concealed Explosives.

"Carrying concealed explosives" is carrying any explosive or detonating substance on the person in a wholly or partly concealed manner. Violation of this Section is a Class C violation.

(History: Ord. POC-2644 §6, 2007; POC-625 §67, 72)

11.60.070 Unlawful Use of Projectiles.

It shall be unlawful for any person to shoot, launch, throw or project any arrow, dart or stone capable of doing grievous bodily harm to persons or animals except upon property of 30 acres or more, with the written consent of the occupant or landowner, provided no projectile shall be

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launched, thrown or shot within 500 feet of a residential dwelling. The sport of archery and archery exhibits, contests and events may be conducted at any legally operated archery range or club, or at an appropriate special event location, upon the written determination of the Chief of Police that such activity will be conducted according to generally accepted standards of safety and that the participants, spectators and the public will not be placed at risk. The Chief of Police may impose conditions on approval of this activity that are deemed necessary to ensure public safety including, without being limited to, the obtaining of appropriate liability insurance coverage.

(History: Ord. POC-2059 § 1, 97; POC-1648 §1, 90; POC-1349 §2, 86; POC-625 §66, 72)

11.60.080 Confiscation, Disposition of Weapons.

- A. Upon conviction of a violation of this Chapter 11.60, any weapon seized in connection therewith shall remain in the custody of the trial court.
- B. Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court be:
 - 1. Destroyed;
 - 2. Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use; or
 - 3. Forfeited to the Kansas Bureau of Investigation for law enforcement, testing, comparison, or destruction by the Kansas Bureau of Investigation forensic laboratory.
- C. If weapons are sold as authorized by Subsection (B), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency. (K.S.A. Supp. 21-4206)

(History: Ord. POC-2644 §7, 2007)

11.60.090 Severability Clause.

If any section, subsection, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional, or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portion of this Chapter or any part, thereof.

(History: Ord. POC-2644 §8, 2007)

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