

## Chapter 28

### OFFENSES AND MISCELLANEOUS PROVISIONS\*

#### Article I. In General

- Sec. 28-1. Viewing athletic event from street without paying.
- Sec. 28-2. Obstruction of a city official.
- Sec. 28-3. Riots and Affrays.
- Sec. 28-4. Disorderly Conduct.
- Sec. 28-5. Profanity.
- Sec. 28-6. Disturbing Public meetings.
- Sec. 28-7. Lewd Houses.
- Sec. 28-8. Drunkenness.
- Sec. 28-9. Firearms; Shooting near Streets.
- Sec. 28-10. Indecency.
- Sec. 28-11. Reserved.
- Sec. 28-12. Noise.
- Sec. 28-13. Reserved.
- Sec. 28-14. Spitting.
- Sec. 28-15. Destruction of Property Generally.
- Sec. 28-16. Carrying a Concealed Weapon Generally.
- Sec. 28-17. Alarm Systems; False Alarms.
- Sec. 28-18. Throwing Candy or Presents from Moving Vehicles.
- Sec. 28-19. Display, Loan, Rental, Sale, Dissemination, Distribution of Video Movies to Minors.
- Sec. 28-20. Disorderly House.
- Secs. 28-21-28-29. Reserved.

#### Article II. Truancy

- Sec. 28-30. "Public Place" defined.
- Sec. 28-31. Minors being on Streets and in other Public Places during School Days Prohibited; Exceptions.
- Sec. 28-32. Parental Negligence Prohibited; Penalty for Violation of Section 28-31; Affirmative Defense.
- Sec. 28-33. Disposition of Truant Minors.
- Sec. 28-34. Parental Duties Regarding Suspended or Expelled Minors.
- Sec. 28-35. Penalty for Violation of Section 28-34.
- Sec. 28-36. Court Jurisdiction
- Sec. 28-37. Affirmative Defense.
- Secs. 28-38—28-47. Reserved

#### Article III. Curfew for Minors

- Sec. 28-48. "Public Place" Defined
- Sec. 28-49. Minors being on Streets and Other Public Places during Certain Hours Prohibited; Exceptions
- Sec. 28-50. Parental Responsibility; Action Upon Violations.
- Sec. 28-51—28-79. Reserved.

## Article IV. Loitering

- Sec. 28-80. Idle Standing or Congregating on Streets.  
Sec. 28-81. Loitering for Purpose of Engaging in Drug-Related Activity.  
Sec. 28-82. Loitering for Purpose of Procuring Others to Engage in Sexual Acts for Hire.  
Sec. 28-83. Day Labor Prohibitions.

---

\***State Law References** – Limitations on home rule powers of municipal corporations, O.C.G.A. §36-35-6(a)(2); Criminal Code of Georgia, O.C.G.A. §16-1-1 et seq.

## CHAPTER 28. OFFENSES & MISCELLANEOUS PROVISIONS

### ARTICLE I. IN GENERAL

#### Sec. 28-1. Viewing Athletic Event from Street without Paying.

It shall be unlawful for any person to stand on or park on or to occupy in any way any public street adjacent to an athletic field in the city and to observe or look at any athletic contest or other form of entertainment on the field when an admission charge is being made, without first purchasing a ticket thereto or paying the admission fee then being charged.

(Code 1968, §14-1)

**Cross Reference**-Viewing contests on athletic field by parking vehicles §36-35.

#### Sec. 28-2. Obstruction of a City Official.

(1) It shall be unlawful for anyone who knowingly or willfully resists, obstructs, hinders, or opposes any city police officer, or other official appointed or requested to enforce the ordinances of the City of Elberton during the performance of their official duty.

(2) It shall be unlawful for anyone to give a false name, address, or date of birth to a law enforcement officer in the lawful discharge of their official duties.

(3) It shall be unlawful for anyone to knowingly or willfully resist, obstruct, hinder, or oppose any city firefighter, or volunteer firefighter assisting the City Fire Department in the lawful discharge of their official duties.

(4) It shall be unlawful for a person not to obey the reasonable, official requests of a peace officer, fireman, rescue squad member or emergency medical technician when the order is intended to promote the public safety during a fire or other emergency.

(Code 1968, §14-2; Ord. No. 2018, §1, 12-1-97)

#### Sec. 28-3. Riots and Affrays.

(a) *Engaging in; Inducing.* It shall be unlawful for any person to engage in any riot or affray or be guilty of any conduct calculated to produce a riot or affray.

(b) *Suppressing; Summoning Bystanders; Obstructing Officers.* Every person between the ages of 18 and 50 years shall be subject to a summons by the city authorities to suppress any riot, affray

or other disturbance of the peace. In such cases a verbal summons is sufficient. No person shall obstruct or hinder the police or persons so summoned in the discharge of their duties.  
(Code 1968, §§ 14-3, 14-4)

**Sec. 28-4. Disorderly Conduct.**

It shall be unlawful for any person to commit any of the below listed acts which constitute disorderly conduct within the city:

- (a) Acts in a violent or tumultuous manner toward another person whereby such person is placed in reasonable fear of the safety of such person's life, limb, or health;
- (b) Acts in a violent or tumultuous manner toward another person whereby the property of such person is placed in danger of being damaged or destroyed.
- (c) Engages in mutual combat in a public place;
- (d) Issues threats of violence or behaves in such a manner that the behavior or verbiage would place any city official in immediate fear of receiving injury or become the victim of violence;
- (e) Uses obscene, indecent, or vulgar language in a public place which threatens an immediate breach of the peace;
- (f) Uses to or of another person in such person's presence, opprobrious or abusive word which by their very utterance tend to incite to an immediate breach of the peace, that is to say, words which as a matter of common knowledge and under ordinary circumstances will, when used to or of another person's in such person's presence, naturally tend to provoke violent resentment, that is words commonly called "fighting words";
- (g) Lewd behavior when the person performs any of the following acts in a public place:
  - 1. An act of sexual intercourse;
  - 2. A lewd exposure of the sexual organs;
  - 3. A lewd appearance in a state of partial or complete nudity;
  - 4. A lewd caress or indecent fondling of the body of another person.
- (h) Screaming or yelling in a public place with the intent to cause an immediate breach of the peace;
- (i) Failing to follow the lawful, reasonable directions of a peace officer during the performance of their official duties.

For the purposes of this ordinance, the following definition shall apply; "public place" means any street, highway, alley or right-of-way, to include sidewalks, any park, playground, mall, or other place or building open to the public; the area outside of a residence, apartment, duplex, or other dwelling where the actions of the person can be viewed by any person not related to the actor; any cemetery, school yard, body of water or watercourse; any privately or publicly owned place of amusement, entertainment or public accommodation including parking lots, and other areas

adjacent thereto; and any vacant lot or land, situated and lying within the corporate limits of Elberton, Georgia.  
(Code 1968, §14-5; Ord. No. 2018, §1, 12-1-97)

**Sec. 28-5. Profanity.**

It shall be unlawful for any person to use upon the streets or in the presence of another, any vulgar, profane or obscene language.  
(Code 1968, § 14-6)

**Sec. 28-6. Disturbing Public Meetings.**

It shall be unlawful for any person to disturb any public meeting or any place of amusement, whether by loud talking or indecent or profane language or to create any disturbance by any sound or noise whatsoever.  
(Code 1968, § 14-7)

**Sec. 28-7. Lewd Houses.**

It shall be unlawful for the owner and for the occupant of any house within the city to occupy, cause to be occupied, or permit the house to be occupied for lewd purposes.  
(Code 1968, § 14-8)

**Sec. 28-8. Drunkenness.**

It shall be unlawful for any person within the city to appear upon the streets or at any public place or gathering, or at a private place of another when the person so appearing is in a drunken or intoxicated condition whether such person is boisterous or not. (Code 1968, § 14-9)

**Sec. 28-9. Firearms; Shooting near Streets.**

It shall be unlawful for any person to fire any firearm within the city within 400 yards of any street, alley, or building; or at any point upon the land of any citizen without the express consent of the owner.  
(Code 1968, § 14-10)

**Sec. 28-10. Indecency.**

It shall be unlawful for any person to be guilty of any act of indecency within the city or appear in any public place in an indecent costumer or naked, or make any indecent exposure of the person's body.  
(Code 1968, § 14-11)

**Sec. 28-11. Reserved**

**Editor's Note** – Section 28-11, pertaining to curfew for minors, and derived from Code 1968, §§ 14-12 and 14-13 has been deleted by the editor as being superseded by Ord. No. 2002, adopted February 3, 1997, and herein set out as Art. III, §§ 28-48 – 28-50.

**Sec. 28-12. Noise.**

(a) *Creating at Night.* It shall be unlawful for any person to make any noise at night calculate to disturb the public peace of the city or the rest or quiet of any citizen of the city. No person shall play or operate any musical instrument, television set, radio, tape cassette, tape player or any similar device or instrument, in any manner whatsoever, whether from a residence, moving vehicle, or stationary vehicle, in a manner loud enough to disturb the peace, tranquility and rest of others between the hours of 7:00 p. m. and 7:00 a. m.

(b) *Loudspeakers, Permit Required.* The following uses of loudspeakers are unlawful:

- (1) *Permanent Installation.* It shall be unlawful for any person to install in a permanent manner or cause to be installed in a permanent manner or to operate the loudspeaker after being so installed, for the purpose of advertising any business, any outdoor loudspeaker or outdoor amplifier through which speech or music may be reproduced.
  - a. The downtown development authority (DDA) is excepted from this prohibition and may install permanent loudspeakers that may be used for the public good. The city manager may issue permits for the use of the system within the city upon such conditions as he may deem proper having due regard for the traffic hazards and the best interest of the public.
- (2) *Advertising for Business Without Permit.* It shall be unlawful for any person to use or operate or cause to be operated, for the purpose of advertising any business, any outdoor loudspeaker or outdoor amplifier in the reproduction of speech or music, without first having procured a permit so to do from the city manager.
- (3) *Use Without Permit.* It shall be unlawful for any person to operate or cause to be operated over, on or upon the streets, sidewalks, or public property in the city any loudspeaker or amplifier without first having procured a permit so to do from the city manager.

The city manager may issue permits for the temporary use of loudspeakers or amplifiers within the city upon such conditions as he may deem proper, having due regard for the traffic hazards and the best interests of the public.

(Code 1968, §§ 14-14, 14-15; Ord. No. 2089, § 1, 7-9-01)

**Sec. 28-13. Reserved.**

**Editor’s Note** – Ord. No. 2067, § 1, adopted August 7, 2000, repealed § 28-13 in its entirety. Formerly said section pertained to idle standing or congregating on streets as enacted by Code 1968, § 14-17.

**Sec. 28-14. Spitting.**

It shall be unlawful for any person to spit on any paved sidewalk or curbing thereto or upon any paved platform, driveway or walkway surrounding any passenger depot or any filling station, or on the walls or floor of any public building or private building frequented by the public.

(Code 1968, § 14-18)

**Sec. 28-15. Destruction of Property Generally.**

It shall be unlawful for any person to in any manner injure, deface or mar any property within the city, private or public, by writing on, cutting, or pasting advertisements or other devices on without the consent of the person in charge of the property; or for any person to break, injure or deface any street lamp, lamp post, telephone or telegraph post or wire, or any property whatsoever belonging to the city.

(Code 1968, § 14-19)

### **Sec. 28-16. Carrying a Concealed Weapon Generally.**

(1) It shall be unlawful for a person, within the corporate limits of the city, to carry about their person, unless in an open manner and fully exposed to view, any bludgeon, metal knuckles, firearms, knife designed for the purposes of offense or defense, or any other dangerous or deadly weapon or instrument of like character outside of their home, place of business, or motor vehicle, except as permitted by this section.

(2) This section shall not permit, outside of their home, motor vehicle, or place of business, the concealed carrying of a pistol, revolver, or concealed firearm by any person unless that person has on their person a valid license issued under the O.C.G.A. section 16-11-129, and the pistol, revolver, or firearm may only be carried in a shoulder holster, waist belt holster, or other holster hip grip, or other similar device, in which event the weapon may be concealed by the person's clothing, or a handbag, purse, attache' case, briefcase, or other closed container. Carrying on the person in a concealed manner other than as provided in this subsection shall not be permitted and shall be a violation of this section.

(3) This section prohibits, even with a valid permit issued under the O.C.G.A. section 16-11-129, the carrying of a concealed weapon at a "public gathering", school property or school functions, athletic or sporting event, churches or church functions, political rallies or functions, publicly owned or operated buildings, or any establishment at which alcoholic beverages are sold for consumption on the premises.

(4) Exempt from these provisions are certified law enforcement officers and others designated under O.C.G.A. section 16-11-130 written or may be amended.

(Code 1968, § 14-20; Ord. No. 2018; § 1, 12-1-97)

### **Sec. 28-17. Alarm Systems; False Alarms.**

(a) An alarm system is a device designed for the detection of unauthorized entry on premises or for alerting others of the commission of an unlawful act, or smoke or fire detection, and which, when activated, gives a signal, visual or audible, and transmits or causes to be transmitted a signal or message or both.

(b) It shall be unlawful to have or maintain on any premises an audible type burglar, robbery, or fire or smoke alarm unless there is posted at the main entrance to such premises a prominent notice of crime prevention decals or telephone numbers where the person authorized to enter such premises and turn off such alarms can be reached at all times. It shall be unlawful for such person to fail to appear and turn off such alarm within one hour after being notified by the police to do so. In the case of false fire alarm, to avoid damage to the property, the Fire Department will need an access key or response time in a matter of minutes by a designated person.

(c) It shall be unlawful for anyone to activate any robbery, burglar, fire or smoke alarm for the purpose of summoning police or fire department except in the event of an actual or attempted burglary, robbery or fire. It is also unlawful for anyone to notify the police or fire department of an

activated alarm and having known that such activation was apparently caused by an electrical or other malfunction of the alarm system to fail, at the same time, to notify the police or fire department of such apparent malfunction.

(d) For the purposes of this section the term “false alarm” shall mean a signal from an alarm system, a telephone call or other contact with the police or fire department when an emergency situation does not exist. For a police or fire department response to any false alarm, the chief of police shall charge and collect from the person having owned or maintaining such burglary and/or alarm system on the premises owned or occupied by such person, fees as follows:

- (1) For a response to a premises at which an actual false alarm has occurred within the preceding six month period, such response referred to as “first response”, no fee shall be charged, but the person having or maintaining such burglar and/or alarm system shall, within three working days after notice to do so, make a written report to the chief of police on forms prescribed by him setting forth the cause for such false alarm, the corrective action taken, whether such alarm has been inspected by an authorized serviceman, and such other information as the chief of police may require to determine the cause of such false alarm and the corrective action necessary.
- (2) For a second response to a premises within six months after a first response, no fee shall be charged, but a written report shall be required as for the first response.
- (3) For a third response to a premises within a 12 month period, no fee shall be charged, and for all succeeding responses within the 12 month period, a fee shall be charged. If the third false alarm or any succeeding false alarm is a result of failure to take necessary corrective action prescribed by the chief of police, then the chief of police may order the monitoring to be stopped or disconnection of the alarm system, and it shall be unlawful to reconnect such alarm system until such corrective action is taken.
- (4) No charge for false alarms shall be made during the first 30 days of an alarm system installation.

(3) All banks and branch banks and savings and loan associations shall be excluded from the false alarm fee provisions of this section.

(Code 1968, § 14-21; Ord. NO. 1068, § 1, 8-7-95)

### **Sec. 28-18. Throwing Candy or Presents from Moving Vehicles.**

It shall be unlawful for any person within the corporate limits of the city to throw candy or presents from any type of moving vehicle on the streets of the city during parades, street shows, or any other use of the streets of the city.

(Code 1968, § 14-22)

**Cross Reference** – Traffic and Vehicles, ch. 36.

**Sec. 28-19. Display, Loan, Rental, Sale, Dissemination, Distribution of Video Movies to Minors.**

(a) *Purpose.* The mayor and council of the city find that the display, loan, rental, sale, dissemination and distribution of certain video movies to minors, and the resulting effect of such on the children of this community, have become a matter of increasingly grave concern to the citizens of the city. The reasonable restriction of such displays, loans, rentals and sales, and the consequent protection of minors from the display, loan, rental, sale, dissemination and distribution of certain video movies, are in the best interest of the morals, general welfare and good order of the citizens, and especially the children, of the city. The accomplishment of these ends can best be achieved by placing reasonable restrictions on the display, loan, rental, sale, dissemination and distribution of certain video movies to minors, so that adverse impacts of such video movies on children and the community as a whole may be kept to a minimum.

(b) *Definitions.* As used in this section, the words and terms defined shall have the following meanings:

*Certain Video Movies* mean a video movie with an R or X rating, as designated by the Classification and Rating Administration of the Motion Pictures Association of America.

*Commercial Establishment* means any place of business in which minors are permitted.

*Minor* means any person under 18 years of age.

*R-rated Video Movie* means any video movie with an R rating as designated by the Classification and Rating Administration of the Motion Picture Association of America.

*Sexually Explicit Cover* shall mean any cover, container, or package which depicts:

- (1) Stimulation of human genitals, or otherwise emphasizing the genitals.
- (2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, buggery, cunnilingus, fellatio, pederasty, homosexuality, sadomasochism, or similar acts.
- (3) Fondling or other erotic touching of human genitals pubic regions of female breasts.

*Video Movie* means a videotape, videocassette, video disc, any prerecorded video display or visual depiction, and prerecorded device that can be converted to a visual depiction, or other reproduction of a motion picture. X-rated video movie means any video movie with an X rating as designated by the Classification and Rating Administration of the Motion Picture Association of America.

(c) *R-rated Video Movies.* The display of R-rated video movies is not restricted. It shall, however, be unlawful for any person to loan, rent, sell, or otherwise disseminate or distribute for a monetary consideration to any minor a videocassette with an R-rating, unless that minor is at least 17 years of age or is accompanied by an adult.

(d) *X-rated Video Movies.* The display, loan, rentals, and sale of X-rated video movies shall be as provided in this subsection:

- (1) *Display.* X-rated video movies may be displayed in a commercial establishment only in an area set aside and clearly posted for adults only, and minors shall not be allowed entry into

such areas. Such areas shall be visible from the cash register or sales center of the commercial establishment. No video movies frequently rented, loaned, or sold to children under 12 years of age shall be located in the vicinity of or adjacent to an adults only area, and any video movie with a sexually explicit cover shall be displayed in such a manner as to not be readily visible to patrons in other areas of the commercial establishment.

(2) *Rental and Sale.* The rental, loan, sale, dissemination or distribution of X-rated video movies for monetary consideration to minors is expressly and strictly prohibited.

(e) *Proof of Age.* The owner of any commercial establishment engaged in part or in whole in the rental and/or sale of video movies to the general public, together with his employees and agents, shall have the right to require proof of age from any patron so as to ensure compliance with this section.

(f) *Penalty for Violation.* Notwithstanding any other section of this Code, no criminal penalty is provided for the violation of this section. The business license of any person may be suspended or revoked by the Mayor and Council for violation of any part of this section. Such suspension or revocation shall be only after at least five days' notice and an opportunity for hearing afforded to the license holder.

(Code 1968, § 14-23) **Cross Reference** – Businesses, ch. 10.

#### **Sec. 28-20. Disorderly House.**

(a) Any person who keeps and maintains, either by himself or others, a common, ill-governed and disorderly house, to the encouragement of gaming, drinking, illicit drug activity, or other misbehavior, to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, before any person is charged under this subsection, written notice shall be given the owner of the property and the person in possession thereof by the city manager stating the general, customary and common habits of the house, giving fair notice of this subsection and the conduct prescribed thereby.

(b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble or remain in their house, apartment or upon their property, after receiving oral notice from a police officer that boisterous, noisy, drunken or carousing activities have caused complaint and annoyance to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, no person shall be charged under this subsection unless the owner or person in possession of the premises has been afforded an opportunity to disburse the assembly or offending person from the premises. This subsection shall not preclude a police officer from arresting any individual for criminal trespass where such individual knowingly and without authority remains on private property after being notified by the owner or lawful occupant to depart.

(Ord. No. 2108, § 1, 11-4-02)

#### **Secs. 28-21—28-29. Reserved.**

## CHAPTER 28. OFFENSES & MISCELLANEOUS PROVISIONS

### ARTICLE II. TRUANCY

#### **Sec. 28-30. "Public Place" Defined.**

For the purpose of this article, the following definition shall apply: "public places" means any street, highway, alley or right-of-way, to include sidewalks, any park, playground, mall, or other place or building open to the public; any cemetery, school yard, body of water or watercourse; any privately or publicly owned place of amusement, entertainment or public accommodation including parking lots and other areas adjacent thereto; and any vacant lot or land, situate and lying within the corporate limits of Elberton, Georgia.

(Ord. No. 2001, § 1, 2-3-97)

#### **Sec. 28-31. Minors being on Streets and in other Public Places during School Days Prohibited; Exceptions.**

It shall be unlawful for any minor between the age of four years and 18 years to loiter, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places, public buildings, places of amusement, eating places, vacant lots, or any place unsupervised by an adult having the lawful authority to be at such places between the hours of 8:30 a. m. and 2:30 p. m. on any day in which Elbert County Schools are in session, provided however, that the provisions of the section shall not apply in the following incidents:

- (1) When a minor is accompanied by his/her parent, guardian, or other adult person 21 years of age or older having the lawful care and custody of the minor;
- (2) When the minor is upon an emergency errand directed by his/her parent, guardian, or other adult person 21 years of age or older having the lawful care and custody of the minor;
- (3) When the minor is going to or returning directly home from lawful employment that makes it necessary to be in the above-referenced places during the prescribed period of time;
- (4) When the minor is in a motor vehicle with parental consent for normal travel with interstate and intrastate travel through the city being excepted in all cases from this article;
- (5) When the minor is enrolled in a valid home study program as authorized by O.C.G.A. Section 20-2-690;
- (6) When the minor has completed all course study requirements for high school graduation;
- (7) When the minor is legally married;
- (8) When the minor has written proof from school authorities that he/she is excused from school attendance at that particular time; or

- (9) When the minor is participating in an approved school or study activity which requires the minor to be off school property.

(Ord. No. 2001, § 2, 2-3-97)

**Sec. 28-32. Parental Negligence Prohibited; Penalty for Violation of Section 28-31; Affirmative Defense.**

(a) No parent or legal guardian of a minor between the ages of four years and 18 years of age shall negligently allow a minor to violate Section 28-31 above. For purposes hereof, three violations within two consecutive school semesters shall constitute negligence as a matter of law.

(b) Upon conviction of negligently allowing a minor to violate Section 28-31 above, a person shall be guilty of a misdemeanor and punished in accordance with Sections 1-17 and 1-18 of the Code of Ordinances of the city. Each violation of this section shall constitute a separate offense.

(c) It shall be an affirmative defense if the parent or legal guardian has initiated the jurisdiction of the juvenile court against the minor prior to the time that the minor was found in violation of Section 28-31 above. Any minor who violates Section 28-31 above is subject to the jurisdiction of the juvenile court, or if 17 years of age, the municipal court of the city.

(Ord. No. 2001, §§ 3, 4, 2-3-97)

**Sec. 28-33. Disposition of Truant Minors.**

A police officer shall transport any minor found in violation of Section 28-31 above to a designated school district facility. A minor transported to the school district facility will be released to the custody of the school officials or to the custody of his/her parent or legal guardian.

(Ord. No. 2001, § 5, 2-3-97)

**Sec. 28-34. Parental Duties Regarding Suspended or Expelled Minors.**

If a minor is suspended or expelled from school, that minor's parent or legal guardian, for the duration of the suspension or expulsion shall:

- (1) Personally supervise the minor or arrange for a responsible adult 21 years of age or older to supervise the minor at the times that the minor would have been required to be in attendance at school had he/she not been expelled or suspended; and
- (2) Prohibit the minor from being in any public place at the times the minor would have been required to be in attendance at school had he/she not been suspended or expelled unless:
  - a. The minor is accompanied by his/her parent or legal guardian or a responsible adult, 21 years of age or older, selected by the parent or legal guardian to supervise the minor; or
  - b. The minor is employed pursuant to an age or schooling certificate during the actual working hours or traveling directly to or from the job site.

Minors who violate this section shall be returned to place of residence or to a parent or guardian or adult custodian.

(Ord. No. 2001, § 6, 2-3-97)

**Sec. 28-35. Penalty for Violation of Section 28-34.**

Upon conviction of a violation of Section 28-34, a person shall be guilty of a misdemeanor and punishable in accordance with Sections 1-17 and 1-18 of this Code of Ordinance. Each violation of this section shall constitute a separate offense.  
(Ord. No. 2001, § 7, 2-3-97)

**Sec. 28-36. Court Jurisdiction.**

Any minor who violates Section 28-34 above is subject to the jurisdiction of the juvenile court, or if age 17, to the jurisdiction of the municipal court of the city.  
(Ord. No. 2001, § 8, 2-3-97)

**Sec. 28-37. Affirmative Defense.**

It shall be an affirmative defense if the parent or legal guardian has initiated the jurisdiction of the juvenile court against the minor prior to the time that he/she violated section 28-34 above.  
(Ord. No. 2001, § 9, 2-3-97)

**Secs. 28-38 – 28-47. Reserved**

**CHAPTER 28. OFFENSES & MISCELLANEOUS PROVISIONS**

**ARTICLE III. CURFEW FOR MINORS**

**Sec. 28-48 – “Public Place” Defined.**

For the purpose of this article, the following definition shall apply: “public place” shall mean any street highway, alley or right-of-way, to include sidewalks, any park, playground, mall, or other place or building open to the public; any cemetery, school yard, body of water or watercourse; any privately or publicly owned place of amusement, entertainment or public accommodation including parking lots, and other areas adjacent thereto; and any vacant lot or land, situate and lying within the corporate city limits of Elberton, Georgia.  
(Ord. No. 2002, § 1, 2-3-97)

**Sec. 28-49. Minors being on Streets and other Public Places during Certain Hours Prohibited; Exceptions.**

It shall be unlawful for any minor under the age of 18 years to loiter, wander, stroll, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds public places, public buildings, places of amusement, eating places, vacant lots, or any place unsupervised by an adult having the lawful authority to be at such places between the hours of 11:00 p. m. on any day and 6:00 a. m. of the following day; provided, however, that on Fridays and Saturdays the effective hours are between 12:00 midnight and 6:00 a. m. of the following day; and provided further that the provisions of this section shall not apply in the following instances;

- (1) When a minor is accompanied by his/her parent, guardian, or other adult person 21 years of age or older having the lawful care and custody of the minor;
- (2) When the minor is upon an emergency errand directed by his/her parent, guardian, or other adult person 21 years of age or older having the lawful care and custody of the minor;

- (3) When the minor is returning directly home from lawful employment that makes it necessary to be in the above-referenced places during the prescribed period of time;
- (4) When the minor is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or free exercise of religion; and
- (5) When the minor is in a motor vehicle with parental consent for normal travel with interstate and intrastate travel through the City of Elberton being excepted in all cases from this article.

A minor who violates this section shall be given a warning for the first violation. For second and subsequent violations the minor shall be referred to the juvenile court, and if 17, to the municipal court for prosecution and punishment as permitted by the jurisdiction of those respective courts.

(Ord. No. 2002, § 2, 2-3-97)

**Sec. 28-50. Parental Responsibility; Action Upon Violations.**

(a) It shall be unlawful for the parent, guardian, or other person having custody or control of any child under the age of 18 years to permit or by insufficient control to allow such child to be in or upon the public streets or any other places listed in section 28-49 above within the city and between the hours of 11:00 p. m. on any day and 6:00 a. m. the following day or on Fridays and Saturdays between the hours of 12:00 midnight and 6:00 a. m. the following day except in circumstances set out in subsections (1) through (5) of section 28-49.

(b) A person charged with violation of this section for the first and second time shall be given a warning citation. Upon a third and subsequent violation, the person shall be charged with such violation in the municipal court of the city and, if found guilty, such person shall be subject to punishment as provided in Sections 1-17 and 1-18 of this Code of Ordinances.

(Ord. No. 2002, § 3, 2-3-97)

**Secs. 28-51 – 28-79. Reserved.**

**CHAPTER 28. OFFENSES & MISCELLANEOUS PROVISIONS**

**ARTICLE IV. LOITERING**

**Sec. 28-80. Idle Standing or Congregating on Streets.**

It shall be unlawful for any person to stand upon or occupy or for persons to congregate upon the streets of the city in idleness or without some ostensible business, or in a manner that will inconvenience pedestrians or vehicles.

(Ord. No. 2067, § 1, 8-7-00)

**Sec. 28-81. Loitering for Purpose of Engaging in Drug-Related Activity.**

(a) It shall be unlawful for any person to loiter in or near any thoroughfare, place open to the public, or near any public or private place in a manner and under circumstances manifesting the purposes to engage in drug related activity contrary to any of the provisions as follows:

- (1) Such person is a known unlawful drug user, possessor or seller. For purposes of this section, a “known drug user, possessor, or seller” is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any controlled substance as defined in O.C.G.A. Title 16, Chapter 13, or such person has been convicted of any violation of any substantially similar laws of any political subdivision of this state or of any other state; or a person who displays physical characteristics of drug intoxication or usage, such as “needle tracks” burned or callused thumb and index fingers, underweight condition, or nervous and excited behavior.
- (2) Such person is currently subject to a lawful order or mandate prohibiting his or her presence in a high drug activity geographic area.
- (3) Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity including, by way of example only, such person acting as a “lookout”, hailing or stopping cars, or repeatedly stopping cars, or repeatedly beckons to, stops, or attempts to stop or engage in conversation with passersby whether such passersby are on foot or in a motor vehicle.
- (4) Such person is physically identified by the officer as a member of a “gang” or association which has as its purpose illegal drug activity.
- (5) Such person transfers small objects or packages in a furtive fashion.
- (6) Such person takes flight or manifestly endeavors to conceal himself upon the appearance of a police officer.
- (7) Such person manifestly endeavors to conceal any object which reasonably could be involved in an unlawful drug-related activity.
- (8) Such person possess any instrument, article, or thing whose customary or primary purpose is for the sale, administration or use of controlled substances such as, but not limited to, crack pipes, push wires, portable or hand scales, hypodermic needles, razor blades, or other cutting tools.
- (9) The area involved is by public repute known to be an area of unlawful drug use and trafficking.
- (10) Any vehicle involved is registered to a known unlawful drug user, possessor, or seller, or a person for whom there is an outstanding warrant for a crime involving drug-related activity.

(b) No arrest shall be made for a violation of subsection (a) of this section unless the arresting officer first affords the person an opportunity to explain his other conduct, and not one shall be convicted of violating subsection (a) of this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.

(c) Any person who violates any provisions of this section shall, upon conviction be punished as provided for in section 1-9.  
(Ord. No. 2067, § 1, 8-7-00)

**Sec. 28-82. Loitering for Purpose of Procuring Others to Engage in Sexual Acts for Hire.**

It shall be unlawful for any person to loiter in public for the purpose of soliciting or procuring others to engage in any sexual acts for hire.  
(Ord. No. 2067, § 1,8-7-00)

**Sec. 28-83. Day Labor Prohibitions.**

It shall be unlawful for any person to:

- (1) Pick up or hire day laborers on private property without the permission of the property owner.
- (2) Assemble on private property for the purpose of soliciting work as a day laborer without the permission of the property owner and after being directed to cease such action by the property owner or other lawful authority.

(Ord. No. 2067, §1, 8-7-00)