

CITY COUNCIL
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City of Hogansville



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Jeff Todd, City Attorney

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COUNCIL ACTION FORM

MEETING DATE: _____ **SUBMITTED BY:** Brian V Harr, Chief of Police

AGENDA TITLE: Proposed Ordinance addition(s), Chapter 54 (Offenses)

CLASSIFICATION (City Attorney must approve all ordinances, resolutions and contracts as to form)

- | | | | |
|---|-------------------------------------|---|---|
| <input type="checkbox"/> Ordinance (No. _____) | <input type="checkbox"/> Contract | <input type="checkbox"/> Information Only | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> Resolution (No. _____) | <input type="checkbox"/> Ceremonial | <input checked="" type="checkbox"/> Discussion/Action | <input type="checkbox"/> Other |

BACKGROUND (Includes description, background, and justification)

Presently there are no ordinances to address several issues commonly encountered within the community. Adding the attached ordinances would increase the efficiency of the police department's response to community issues by reducing the impact of juvenile status offenses, possession of marijuana (less than 1 ounce) and shoplifting by allowing officers to manage and enforce these provisions without making arrest and impacting individuals with reportable state charges (Marijuana and Shoplifting).

BUDGETING & FINANCIAL IMPACT (Includes project costs and funding sources)

There will be a positive impact to the budget due to the offenses being municipal court issues and not State Court cases. This will also be more efficient for operations by reducing the time officers spend out of the city for warrants applications, transport to the detention center and State Court proceedings.

STAFF RECOMMENDATION (Include possible options for consideration)

It is recommended that all three (3) of these ordinances be adopted into Chapter 54.

Recommended Additions to Hogansville City Ordinances, Part 1, Chapter 54

Sec 54-16—Responsibility of parents, legal guardians or persons having legal custody of minors to supervise and control.

(a) No parent, legal guardian or person legally in loco parentis or other person having legal custody or control of or responsibility for a minor child between six (6) and through and including sixteen (16) years of age shall at any time, through insufficient control or supervision, allow any such child to engage in any status offense or delinquent action as defined within **O.C.G.A. section 15-11-2**. This prohibition shall apply to such acts at those locations identified within section **54-9** of this Code. Responsibility for the prevention of such status offenses and/or delinquent acts by any minor child shall be attached to the parent or other such person having legal custody or control of the child upon proof of prior notification of said child's potential to so offend. Such prior notification shall be established through conformation by local law enforcement agency records or other evidence that the parent or other such person having legal custody or control of the child was notified, within the immediately preceding twelve (12) months, of at least two (2) previous warnings or juvenile petition initiations against said child for a status offense or delinquent act at any location identified within section **54-9** of this Code.

(b) Any person who shall violate the provisions of this section shall, after trial and upon conviction, be penalized as provided in section **1.7** of this Code. The municipal court judge may, in his discretion, consider alternate sentencing, including parenting classes, for first offenders or in other appropriate circumstances.

Justification for Ordinance: Juvenile related offenses, such as curfew violations or other status offenses are on the increase. It is not productive from a community / law enforcement relations view to initiate potential immediate enforcement action that can negatively impact a family and community relations. By allowing officers to provide a parent or guardians with two (2) notices of the status offenses, law enforcement can be proactive in enforcement and can still document the incidents for future proceedings, if needed.

Sec. 54-17—Marijuana Possession.

It shall be unlawful for any person to possess one (1) ounce or less of marijuana within the city limits of Hogansville. Any person found to be guilty of violating this section shall be subject to the penalty provided in Section 1.7 of this Code.

Possession of Marijuana, OCGA 16-13-30.1

Justification for Ordinance: Presently, the offense is a finger printable offense, which required an officer to take a person into custody and make the charge with a State Court misdemeanor warrant. If added to the ordinance, the enforcement action would reduce an officer's time committed to the incident, be less of an impact on the offender financially and criminally, since the offense would be kept as a local offense.

Sec. 54-18 - Shoplifting.

- (a) *Unlawful act.* It shall be unlawful for any person to commit the offense of theft by shoplifting within the corporate limits of the city when the property which is the subject of the theft is \$500.00 or less in value.
- (b) *Defined.* A person commits the offense of theft by shoplifting when alone or in concert with another person, with the intent of appropriating merchandise to such person's own use without paying for the same or to deprive the owner of possession thereof or of the value thereof, in whole or in part, does any of the following:
- (1) Conceals or takes possession of the goods or merchandise of any store or retail establishment;
 - (2) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;
 - (3) Transfers the goods or merchandise of any store or retail establishment from one container to another;

- (4) Interchanges the label or price tag from one item of merchandise with a label or price tag for another item of merchandise; or
 - (5) Wrongfully causes the amount paid to be less than the merchant's stated price for the merchandise.
- (c) *Defendant rights.* Any defendant charged under this section shall be entitled upon request to have the case against such person transferred to the court having general misdemeanor jurisdiction in the county in which the alleged offense occurred.

Justification for Ordinance: Presently, the offense is a finger printable offense, which required an officer to take a person into custody and make the charge with a State Court misdemeanor warrant. If added to the ordinance, the enforcement action would reduce an officer's time committed to the incident, be less of an impact on the offender financially and criminally, since the offense would be kept as a local offense.