

CHAPTER XI. PUBLIC OFFENSES

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

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 Cheney, 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. One copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Cheney, Kansas," 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. 871; Code 2016)

11-102. SAME; ADDITIONAL OFFENSES. The following Article is hereby added to the Uniform Public Offense Code, as adopted in Section 11-101 of the Code of the City of Cheney, Kansas:

“ARTICLE 14. ADDITIONAL OFFENSES”

14.1. THEFT OF SERVICES

(a) “Theft of Services” is obtaining services of the value of less than \$1,000 from another by deception, threat, coercion, stealth, tampering or use of false token or device.

(b) “Services” within the meaning of this section, includes, but is not limited to, labor, professional service, cable television service, public or municipal utility or transportation service, telephone service, lodging, entertainment and the supplying of equipment for use. For purposes of this section, rural water districts and rural electric cooperatives shall be considered public utilities.

(c) “Tampering” within the meaning of this section, includes, but is not limited to:

- (1) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

- (2) defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;

- (3) preventing any such meters from properly measuring or registering;

- (4) knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not

been measured; or any telephone or cable television service which has not been authorized; or

(5) causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.

(d) In any prosecution under this section, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, specified in subsection (c), shall be prima facie evidence of intent to violate the provisions of this section by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, water, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured.

(e) Theft of Services of the value of less than \$1,000 is a class A violation.

14.2. UNLAWFULLY DEPOSITING SOLID WASTE.

Unlawfully Depositing Solid Waste is depositing or causing to be deposited any solid waste into, upon or about:

(a) any highway, street, alley, right-of-way, sidewalk, park or other public place, unless within a receptacle provided for public solid waste or any lake, stream, watercourse, or other body of water except by direction of some public official or employee authorized by law to direct or permit such acts; or

(b) any private property without the consent of the owner or occupant of such property.

For the purpose of this section, "Solid waste" means and shall include putrescible waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods and nonputrescible materials such as paper, tin cans, bottles, glass, ashes, lawn and tree waste, appliances, furniture, electronics, construction waste, batteries, tires, motor oil and hazardous materials.

(c) Unlawfully Depositing Solid Waste is a class C violation.

14.3. RESISTING ARREST.

(a) Resisting Arrest is the use or force, or threat of force, to resist, obstruct or interfere with the arrest of a person or persons by a law enforcement officer or by a private person summoned and directed by a law enforcement officer to make the arrest, even if the person being arrested or other person resisting, obstructing or interfering with the arrest believes the arrest is unlawful.

(b) Resisting Arrest is a class A violation.

14.4. INTIMIDATION OF A WITNESS OR VICTIM.

Intimidation of a witness or victim is knowingly and maliciously preventing or dissuading, or attempting to prevent or dissuade:

(a) any witness or victim from attending or giving testimony at any civil or criminal trial, proceeding or inquiry authorized by law; or

(b) any witness, victim or person acting on behalf of a victim from:

(1) making any report of the victimization of a victim to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer;

(2) causing a complaint, indictment or information to be sought and prosecuted, or causing a violation of probation, parole or assignment to a

community correctional services program to be reported and prosecuted, and assisting in its prosecution;

(3) causing a civil action to be filed and prosecuted and assisting in its prosecution; or

(4) arresting or causing or seeking the arrest of any person in connection with the victimization of a victim.

(c) Intimidation of a Witness or Victim is a class B violation.

14.5. INTERFERENCE WITH PARENTAL CUSTODY.

(a) Interference with parental custody is leading, taking, carrying away, decoying or enticing away any child under the age of 16 years with the intent to detain or conceal such child from its parent, guardian, or other person having the lawful charge of such child, when done by a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.

(b) It is not a defense to a prosecution under this section that the defendant is a parent entitled to joint custody of the child either on the basis of a court order or by virtue of the absence of a court order.

(c) Interference with Parental Custody is a class A violation.

14.6. URINATING IN PUBLIC.

(a) Urinating in Public is urinating upon any highway, street, alley, sidewalk, park, upon the premises of any public place or building, or upon any public or private property in open view of any person, when the same has not been designed or designated as a rest room.

(b) Urinating in Public is a class C violation.

14.7. PUBLIC INDECENCY.

It shall be unlawful for any person to knowingly or intentionally, in a public place:

(a) engage in sexual intercourse;

(b) engage in deviate sexual conduct;

(c) appear in a state of nudity; or

(d) fondle the genitals of himself/ herself or another person.

For the purpose of this section, "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(e) Public Indecency is a class A violation.

14.8. POSSESSION OF DRUGS.

Possession of Drugs is manufacturing, possessing, controlling, prescribing, administering, delivering, distributing, dispensing, or compounding any depressant, stimulant or hallucinogenic drug in violation of the Kansas Uniform Controlled Substances Act (K.S.A.65-4101 et. seq.).

Possession of Drugs is a class A violation.

14.9. POSSESSION OF MARIJUANA.

Possession of Marijuana is possessing or controlling marijuana in violation of the Kansas Uniform Controlled Substances Act (K.S.A. 65-4101 et seq.).

Possession of Marijuana is a class A violation.

14.10. POSSESSION OF DRUG PARAPHERNALIA

Possession of Drug Paraphernalia is possessing or controlling any instrument, device or drug paraphernalia which is used to possess, conceal, smoke, administer, manufacture, or sell any illegal drug pursuant to the Kansas Uniform Controlled Substances Act (K.S.A. 65-4101 et. seq.).

Possession of Drug Paraphernalia is a class A violation.
(Ord. 846; Code 2016)

11-103. SAME; ADDITIONAL PENALTY OPTIONS. In additions to any other penalty provided for a violation of this article, the court may order the offender to do either or both of the following:

- (a) Perform 40 hours of public service; or
 - (b) Attend and satisfactorily complete a suitable educational or training program dealing with the effects of abuse of alcohol or other chemical substances.
- (Ord. 694, Sec. 3; Code 1996)

ARTICLE 2. LOCAL REGULATIONS

11-201. WINDOW PEEPING. Any person, other than the legal occupants of the room, dwelling, apartment house or rooming house involved, who does upon private property without the express permission of the owner or lessee thereof and looks into such room, dwelling, apartment house or rooming house is guilty of window peeping.

Window peeping is a Class C violation.
(Code 1976)

11-202. LOITERING; DEFINED. (a) Loitering includes:

(1) Remaining idle in essentially one location and includes the concept of spending time idly, to be dilatory, to linger, to stay, to saunter, to delay, to stand around, and also includes the colloquial expression hanging around;

(2) Obstructing of any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or intending to hinder or impede the free and uninterrupted passage of vehicles, traffic or other utilizing the areas;

(3) Committing, in or upon any public street, public highway, public sidewalk or any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property, or interference with any business or school lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk, school or any other public place or building all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon and thereto.

(b) Public Place means any place to which the general public has access and a right to resort for education, business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It includes but is not limited to schools, the front or immediate area of any store, shop, restaurant, tavern or other place of business and also includes public grounds, parking areas or parts.

(Code 1976)

11-203. SAME; UNLAWFUL ACTS. It is unlawful for any person to loiter in or near any thoroughfare, school or any other public place in violation of this article.

(Code 1976)

11-204. SAME; FAILURE TO OBEY OFFICER'S ORDERS. When a police officer or any law enforcement officer orders any person to cease or desist in loitering and the person fails to so cease or desist, or fails to move or disperse, when ordered, the person shall be guilty of a violation of this article.

Loitering is a Class C violation.
(Code 1976)

11-205. EMERGENCY CURFEW. Whenever riots, general disobedience or the threat of same occur in the city and it is deemed necessary in order to suppress the riot or act of civil disobedience, the mayor, or the president of the council when acting for the mayor, shall have the power:

(a) To declare hours of curfew for all persons, and during the hours of curfew, all persons shall be at their homes and shall not be on the streets, alleys or other public areas of the city. The curfew shall be declared in a proclamation of the

mayor, which proclamation shall be delivered to the city marshal, who shall then see that the proclamation is delivered to the official city paper and shall make every reasonable effort to see that the proclamation is delivered to other news media in Sedgwick County;

(b) To declare all or any business establishments to be closed and remain closed until further order;

(c) Every officer shall have the authority and power to order any person present at the place of any riot or unlawful assembly to disperse. It is unlawful for any person so ordered not to forthwith disperse and remove himself or herself from the place.

Violation of this section is a Class C violation.
(Code 1996)

11-206. UNLAWFUL PROSECUTION FOR WORTHLESS CHECK. Causing an unlawful prosecution for a worthless check is filing a complaint before the municipal court judge or supplying information upon which the prosecution for giving a worthless check is commenced with knowledge that the check, draft or order upon which such prosecution is based was postdated or when the payee had knowledge when he or she accepted such check, draft or order that there were no funds or insufficient funds in the hands of the drawee to pay such check, draft or order upon presentation.

Causing an unlawful prosecution is a Class C violation.
(Code 1976)

11-207. CURFEW. It is unlawful, except as herein specifically provided, for any minor under the age of 18 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 6:00 a.m. of the following day, except on Fridays and Saturdays, when the hours shall be 12:00 a.m. to 6:00 a.m. The provision of this section shall not apply to a minor accompanied by his or her parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand directed by his or her parent, guardian or other adult person having the care and custody of the minor.

(Code 1976)

11-208. SAME; RESPONSIBILITY OF PARENT OR PERSON HAVING CUSTODY. It is unlawful for a parent, guardian or other adult person having the care and custody of a minor under the age of 18 years to permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places or places of amusement, vacant lots or other unsupervised places between the hours as set forth in section 11-207.

The provisions of this section shall not apply where a minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand directed by his or her parent, guardian or other adult person having the care and custody of the minor.

(Code 1976)

11-209. SAME; PENALTY. Any minor violating the provisions of sections 11-207:209 shall be dealt within accordance with the juvenile code of the state. Any officer finding a minor under the age of 18 years violating the provisions of this article shall

warn the child to desist from such violation and immediately return home, and shall promptly report the violation to the juvenile court. The city marshal shall then forth with cause a written notice to be served upon the parent, guardian or person in charge of such child, setting forth the manner in which the provisions of this article have been violated. Any parent, guardian or person in charge of such a child, who permits such child again to violate the provisions of this article, after receiving written notice of the first violation, shall be fined not less than \$25.00 nor more than \$500.00 for such offense. (Code 1976)

11-210. LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED. (a) No person, within the corporate limits of the City of Cheney, Kansas, in an open space or within a structure, whether on public or private property, shall operate or permit the operation of any sound amplification system so that the sound is plainly audible at a distance of 50 or more feet from the sound amplification system.

(b) Loud Vehicles Prohibited. No person, within the corporate limits of the City of Cheney, Kansas, in an open space or within a structure, whether on public or private property, shall operate, repair, rebuild, modify or stationary test of any motor vehicle, motorized bicycle, motorcycle, all-terrain vehicle or motorboat in such a manner as to cause a sound plainly audible across any property boundary line.

(Ord. 792, Sec. 1:2; Code 2008)

11-211. SAME; DEFINITIONS. For the purpose of this provision;

(a) "sound amplification system" - means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.

(b) "plainly audible" - means any sound produced by a sound amplification system which clearly can be heard at a distance of 50 feet or more or any sound produced by the operation, repair, rebuilding, modifying or stationary testing of any motor vehicle, motorcycle, all-terrain vehicle, motorized bicycle, or motorboat which clearly can be heard across any property boundary line. Measurement 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.

(c) "motor vehicle", "all-terrain vehicle", "motorcycle" and "motorized bicycle" - shall have the meanings respectively ascribed to them in the definitions section of the edition of the "Standard Traffic Ordinance for Kansas Cities" adopted and in effect within the corporate limits of the City of Cheney, Kansas at the time of the alleged violation of this provision.

(Ord. 792, Sec. 3; Code 2008)

11-212. SAME; AFFIRMATIVE DEFENSE. It is an affirmative defense to a charge under 11-210 that the operator was not otherwise prohibited by law from operating the sound amplification system, and that either of the following apply:

(1) The system was being operated to request medical or other emergency assistance or to warn of a hazardous condition;

(2) The system was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the Governing Body of the City of Cheney or the department of the City of Cheney authorized to grant such approval.

(Ord. 792, Sec. 4; Code 2008)

11-213. SAME; PENALTY. Any person, individual, partnership, corporation or association who violates any of the provisions of this ordinance is guilty of an ordinance violation, and upon conviction, shall be punished by a fine not to exceed \$500.00 or by imprisonment of not more than six months, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and punishable as such hereunder.
(Ord. 792, Sec. 5; Code 2008)