

**CHAPTER XI
PUBLIC OFFENSES**

Article 1. Uniform Offense Code
Article 2. Local Regulations

**ARTICLE 1
UNIFORM OFFENSE CODE**

11-101. **UNIFORM PUBLIC OFFENSE CODE INCORPORATED.** There is hereby incorporated by reference for the purpose of regulating the public offenses within the corporate limits of the City of Clay Center, Kansas, that certain code known as "Uniform Public Offense Code", 24th Edition, prepared and published in book form by the League of Kansas municipalities, Topeka, Kansas, in 2008 save and except such articles, sections, parts or portions as are hereinafter omitted, deleted, modified or changed. Not fewer than three (3) copies of said Uniform Public Offense Code shall be marked or stamped "OFFICIAL COPY AS INCORPORATED BY THE CODE OF THE CITY OF CLAY CENTER," with all the 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 #2217 Aug. 2008)

11-102 **DELETIONS FROM UNIFORM PUBLIC OFFENSE CODE.** That certain sections of the Uniform Public Offense Code relate to offenses prohibited by the Kansas Criminal Code, K.S.A. Chapter 21, and prosecution for such offenses is more appropriately pursued in the state district court. Accordingly, the following sections of the Uniform Public Offense Code are hereby declared deleted and omitted and shall not be incorporated by Ordinance No. 2217:

Article 4:	Sections 3, 4 and 5
Article 6:	Section 16
Article 7:	Sections 6, 9 and 10
Article 10:	Section 3, 9, 12, 13 and 15
Article 11:	Section 8, 9 and 10

**ARTICLE 2
LOCAL REGULATIONS**

11-201 **SCHOOL GROUND CURFEW.** It shall be unlawful for any person to be present or to be found upon any public school ground or property between the hours of 10:00 p.m. and 7:00 a.m. of the following day; provided however, that provisions of this section shall to apply to any person attending authorized school activities, or to any person employed by or authorized on school premises by the board of education. (Code 1993, 16-202)

11-202 **SCHOOL PROPERTY TRESPASS.** It shall be unlawful to any person to commit school property trespass in the city. School property trespass is entering or remaining on real property owned by USD 379 by a person who is not enrolled in the USD 379 system, and who

has no lawful business to transact with the USD 379 system, and such person enters or remains on school property in defiance of an order not to enter or to leave such premises or property personally communicated to such person by a building principal, assistant principal, custodian or other authorized person designated the superintendent of USD 379. School property trespass is a Class B violation as defined by Article 12 of the Uniform Public Offense Code for Kansas Cities. (Code 1993, 16-203)

11-203 PUBLIC DEFECATION. Public defecation is defined as the act of discharging waste matter from the human body, either fecal matter or urine, done in a public place other than in an area, structure or facilities specifically provided for such purpose. It shall be unlawful for any person to commit the act of public defecation. (Code 1993, 16-204)

11-204 TAMPERING WITH FIRE HYDRANTS. It shall be unlawful for any person to tamper with, damage, open or attempt to open, any fire hydrant, fire plug, draw cock or hose pipe within the city; provided, that nothing in this section shall be construed as limiting the fire department or other authorized departments of the city in the discharge of their duties from the use of apparatus or the repair thereof, (Code 1993, 16-205)

11-205 INJURING TREES OR SHRUBS; TRESPASSING. It shall be unlawful for any person to willfully, maliciously or without lawful authority, cut down, sever, or otherwise injure or destroy any fruit tree, shade or ornamental tree, cultivated root, flower, or plant, grape or strawberry vine; or any other plant, vine, shrub or bush whatever, the property of another, standing on or attached to the land of another; or to pick, destroy or carry away therefrom, or in any way interfere therewith, any part of the fruit thereof; or to trespass on the premises of another with intent to commit such injury or intent to interfere with such fruit; or to willfully and without lawful authority cut down, destroy or in any manner injure any fruit, flower, shade or ornamental tree, shrub or vine, planted or growing in Greenwood Cemetery or on any street, lane, alley or public ground of the city. (Code 1993, 16-206)

11-206 SWIMMING POOL; ENTERING WITHOUT PAYING. It shall be unlawful for any person, other than a person duly authorized to do so, to enter the municipal swimming pools without having first paid the regular admission fee therefor. (Code 1993, 16-207)

11-207 SAME; ENTERING WHEN CLOSED. It shall be unlawful for any unauthorized person to enter the enclosure surrounding the municipal swimming pools or to enter the pools at any time when the pools are not open to the public for swimming. (Code 1993, 16-208)

11-208.SAME; OBJECTS THROWN IN POOL. It shall be unlawful for any person at any time to throw or place foreign objects or substances of any kind, other than articles used in swimming or for amusement while swimming, into the municipal swimming pools or inside the enclosures surrounding the same. (Code 1993, 16-209)

11-209 ELECTRICAL INTERFERENCE WITH RADIO OR TELEVISION RECEPTION. It shall be unlawful for any person knowingly or wantonly to operate or cause to be operated any machine, device, apparatus, or instrument of any kind whatsoever within the corporate limits of the city, the operation of which shall cause reasonably preventable electrical interference with

radio or television reception within the city limits; provided, that X-ray pictures, examinations or treatments may be made at any time if the machines or apparatus used therefor are properly equipped to avoid all unnecessary or reasonably preventable interference with radio or television reception and are not negligently operated; provided further, that this article shall not be held or construed to embrace or cover the regulation of any transmitting, broadcasting, or receiving instrument, apparatus or device used or useful in interstate commerce or the operation of which instrument, apparatus or device is licensed or authorized by or under the provisions of any act of Congress of the United States. (Code 1993, 16-210)

11-210 **ELECTRIC FENCES.** It shall be unlawful for any person to erect, maintain or operate an electric fence within the limits of the city. (Code 1993, 16-211)

11-211 **THROWING OBJECTS IN DOWNTOWN AREA.** It shall be unlawful for any person to throw, hurl, bat or hit any ball or other object into, or across any street, alley, or in any other public place, except where suitable facilities have been provided for such activity, in the downtown business area of the city. The term downtown business area as used herein shall be the area defined as the fire limits in section 4-101. It is further determined that no suitable facilities have been provided for such activity in that block in the fire limits commonly known as the courthouse square, or sometimes described as Block 37 of the original townsite of the city. (Code 1993, 16-212)

11-212 **PROWLING (WINDOW PEEPING).** Prowling or window peeping shall be an act of any person other than the occupant of the dwelling, apartment or property, who:

- (a) Goes upon private property for the purpose of looking into any structure located upon such property; or
- (b) Loiters in a public street, alley, right-of-way, parking lot or other public place for the purpose of observing the actions of occupants of any dwelling, apartment, or other structure. (Code 1993,16-213)

11-213 **PROHIBITED NOISES.** It shall be unlawful for any person to willfully make, continue or cause to be made or continued any loud and raucous noise, which term shall mean any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city. The term shall be limited to loud and raucous noise heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in an occupied residential unit which is not the source of the noise or upon the grounds thereof. (Ord. 2014, Sec. 1)

11-214 **SAME; ABATEMENT ORDERS.** In lieu of issuing a notice of violation, any city law enforcement officer may issue an order requiring the immediate abatement of any source of sound in violation of this article. (Ord. 2014, Sec. 1)

11-215 **SAME; EXCEPTIONS.** The provisions of this article shall not apply to the following:

- (a) The emission of sound for the purpose of alerting persons to the existence of any emergency or for the performance of emergency work.

- (b) Noise resulting from activities of a temporary duration planned by school, governmental or community groups.
- (c) Trash and waste pickup operations.
- (d) Church bells and chimes.
- (e) Refrigerant air conditioners. (Ord. 2014, Sec. 1; Code 1999)

11-216 SAME; OTHER REMEDIES. No provision of this article shall be construed to impair any common law or statutory cause of action or legal remedy therefrom, of any person for injury or damage arising from any violation of this article. (Ord. 2013, Sec. 1)

11-216A 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 permit the operation of any sound amplification system from within, on or about the vehicle so that the sound is plainly audible at a distance of three hundred (300) or more feet 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 system from within the vehicle, which clearly can be heard at a distance of three hundred (300) feet or more. 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. 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 a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
 - (1) The system was being operated to request medical or vehicular assistance, or to warn of a hazardous road condition;
 - (2) The vehicle was an emergency or public safety vehicle;
 - (3) The vehicle was owned and operated by the City, other municipality or public agency, or a gas, electric, communications or refuse company;
 - (4) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages or persons in compliance with the ordinances of the city;
 - (5) The vehicle was used in authorized public activities, such as parades, fireworks, sport events, musical productions and other activities which have the approval of the City.
- (e) Penalty. Any person, firm or corporation violating any of the provisions of this Ordinance shall be fined in an amount not to exceed \$500.00, or by imprisonment of not more than thirty (30) days, 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 #2118; Oct. 2001)

11-217 RIDING BICYCLE ON SIDEWALK. It shall be unlawful for any person to ride or park a bicycle upon any public sidewalk in the city. (Code 1993, 20-101)

11-218 COASTING ON SIDEWALKS. It shall be unlawful for any person or persons to coast with any sled or other vehicle of like kind upon any of the sidewalks along any of the streets within the limits of this city. It shall also be unlawful for any person or persons to ride down any hill or incline upon any wheeled vehicle of any kind unless such wheeled vehicle be held in the hands of and propelled by some person other than the person so riding in the wheeled vehicle upon the sidewalks; provided, that the term wheeled vehicle shall not apply to an invalid chair or to an invalid propelling himself or herself along a sidewalk in such invalid chair or vehicle. (Code 1993, 20-111)

11-219 INTERFERING WITH GRADE LINE STAKES. It shall be unlawful for any person to drive over, pull up, knock down or in any way interfere with the stakes set by any engineer for the purpose of establishing the grade line for streets, sidewalks, curbing or guttering, paving or for any other purpose. (Code 1993, 20-110)

11-220 CURFEW FOR PERSONS UNDER AGE 18. The purpose of this section is to: (i) promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city; (ii) promote the safety and well-being of the city's youngest citizens, persons under the age of 18, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime; and (iii) foster and strengthen parental responsibility for children.

(a) Definitions. As used within this section , the following words and phrases shall have the meanings ascribed to them below:

Curfew hours refers to:

(1) The hours of 1:00 a.m. through 6:00 a.m. for any child between the ages of 15 and 18 years.

(2) The hours of 11:00 p.m. through 6:00 a.m. for any child under the age of 15 years.

Emergency refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

Establishment refers to any privately-owned place of business within the city operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment. With respect to such establishment, the term "operator" shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing that establishment.

Minor refers to any person under 18 years of age who has not been granted rights of majority pursuant to any applicable law.

Officer refers to a police or other law enforcement officer charged with the duty of enforcing the laws of the State of Kansas and/or the ordinances of the City of Clay Center.

Parent refers to:

(A) A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);

(B) A person who is the biological or adoptive parent with whom a minor regularly resides;

- (C) A person judicially appointed as a legal guardian of the minor; and/or
- (D) A person 18 years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in part(s) (1), (2) or (3) of this definition, above, for the person to assume the care or physical custody of the child, or as indicated by any other circumstances).

Person refers to an individual, not to any association, corporation, or any other legal entity.

Public place refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

- (b) It shall be unlawful for a minor, during curfew hours, to be in, upon or about any public place within the city, to be in any motor vehicle operating or parked therein or thereon, or to be in, upon or about the premises of any establishment within the city, unless the minor is:
 - (1) Accompanied by a parent; or
 - (2) Involved in an emergency; or
 - (3) Engaged in an employment activity, or is going to or returning home from such activity, without detour or stop; or
 - (4) On the sidewalk directly abutting a place where he or she resides with a parent; or
 - (5) Attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop; or
 - (6) On an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; or
 - (7) Involved in interstate travel through, or beginning or terminating in, the City of Clay Center; or
 - (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.
- (c) It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate subsection (b).
- (d) It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of subsection (b).
- (e) It shall be unlawful for any person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this section.
- (f) Violation of this section is a Class C misdemeanor and upon conviction thereof shall be subject to confinement and/or the imposition of a fine as provided for by Article 12, Uniform Public Offense Ordinance, incorporated by section 11-101.
- (g) Further, for the first offense under this section, the complaint is against the juvenile. For the second and subsequent offenses under this section, the law enforcement officer

may prepare the complaint against the juvenile or the parent with whom the juvenile resides and both the juvenile and a parent must appear before the municipal court on this complaint. (Ord. #2172, Jan. 2005)

11-221 ALL CITY BUILDINGS TO BE "TOBACCO FREE"

(a) Effective October 1, 2004, no person shall smoke or use tobacco products in any city building or while operating, working on or riding as passengers in any city owned vehicle or equipment. Furthermore, no area of any city building shall be established as a designated smoking area under K.S.A. 21-4010 and amendments thereto.

(b) As used in this Ordinance, "city building" means indoor areas of buildings or structures owned or leased by the City of Clay Center, including but not limited to: City Hall, Street Department Building, Waste Treatment Plant Building, Power Plant, 2nd Floor of the Law Enforcement Building and Fire Station.

(c) All City Buildings shall have signs posted in a conspicuous place clearly stating that smoking and tobacco use is prohibited by city ordinance.

(d) Penalty. Any person found guilty of smoking or using other tobacco products in violation of this act is guilty of a misdemeanor punishable by a fine of not more than \$20.00 for each violation. (Ord. #2168, Sept. 2004)

11-222 PENALTY FOR VIOLATIONS WHERE NOT OTHERWISE PROVIDED. A violation of any section of the City Code of the City of Clay Center, where there are not otherwise provisions for said violations, shall be considered a Class "C" Misdemeanor as provided by Article 12 of the Uniform Public Offence Code, incorporated by Section 11-101 of the City Code of the City of Clay Center. For the purposes of this article, a separate offense shall be deemed committed on each day during or on which such violation is permitted to exist. (Ord. #2171, Nov. 2004)