

Chapter 11.12
OFFENSES AGAINST PROPERTY

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11.12.010 Automobile Master Key Violation.

"Automobile master key violation" is either:

- A. Selling or offering to sell a motor vehicle master key knowingly designed to fit the ignition switch of more than one motor vehicle to a person who is not regularly carrying on the business of garage proprietor or locksmith or employed as a law enforcement officer;

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- B. Possession of a motor vehicle master key designed to fit the ignition switch of more than one motor vehicle by a person knowing it to be such a key who is not regularly carrying on the business of garage proprietor or locksmith or employed as a law enforcement officer.

It is lawful for the owner of two or more vehicles to possess a motor vehicle master key for any or all of the motor vehicles so owned, nor shall the sale of such master keys to such owner be unlawful. It is a defense that the defendant is within this exemption. (KSA 21-3738)
(History: Ord. POC-625 §39, 72)

11.12.020 Criminal Damage to Property.

"Criminal damage to property" is by means other than by fire or explosives:

- A. Intentionally injuring, damaging, mutilating, defacing, destroying or substantially impairing the use of any property in which another has an interest without the consent of such other person; or
- B. injuring, damaging, mutilating, defacing, destroying or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.
- C. Criminal damage to property is a class B violation if the property damaged is of the value of less than \$1,000 or is of the value of \$1,000 or more and is damaged to the extent of less than \$1,000. Criminal damage to property is a felony charge if the property damaged is of the value of \$1,000 or more. A felony charge is not subject to the jurisdiction of the Municipal Court and must be charged in the District Court.

(History: KSA 21-3720; Ord. POC-2620 §5, 2006; POC-1872 §1, 94; POC-1801 §5, 93; POC-1381 §3, 86; POC-625 §29, 72; POC-598 §76; PO-84D; PO-84 §41 & 42)

11.12.030 Criminal Trespass.

- A. "Criminal trespass" is
1. entering or remaining upon or in any land, nonnavigable body of water, structure, vehicle, aircraft or watercraft other than railroad property or nuclear generating facility by a person with knowledge that such person is not authorized or privileged to do so, and:
 - a. Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or
 - b. Such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or
 - c. Such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 60-1607, 60-3105, 60-3106, 60-3107, 60-31a05 or 60-31a06 or section 38, 39 or 50 of Chapter 200 of the 2006 Session Laws of Kansas, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or

2. entering or remaining upon or in any public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person. As used in this section:
 - a. "Health care facility" means any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where service of a health care provider are provided directly to patients.
 - b. "Health care provider" means any person: (1) Licensed to practice a branch of the healing arts; (2) licensed to practice psychology; (3) licensed to practice professional or practical nursing; (4) licensed to practice dentistry; (5) licensed to practice optometry; (6) licensed to practice pharmacy; (7) registered to practice podiatry; (8) licensed as a social worker; or (9) registered to practice physical therapy.
- B. Criminal trespass is a class B violation. Upon a conviction of a violation of subsection (A)(1)(c) a person shall be sentenced to not less than 48 consecutive hours of imprisonment which must be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.
- C. This section shall not apply to a land surveyor, licensed pursuant to Article 70 of Chapter 74 of the Kansas Statutes Annotated, and amendments thereto, nor shall it apply to such surveyor's authorized agents and employees who enter upon lands, waters and other premises in the making of a survey.

(History: Ord. POC-2620 §6, 2006; POC-2499 §1, 2004; POC-1986 § 3, 96; POC-1801 §6, 93; POC-1749 §1, 92; POC-1381 §3, 86; POC-1099 §1, 80; POC-1053 §1, 79; POC-625 §30; POC-598 §30; PO-84D; PO-84 §60 & 61)

11.12.035 Criminal Trespass on Public Property.

- A. It shall be unlawful for any person to criminally trespass on public property.
- B. Criminal trespass on public property is entering or remaining upon or in any land, structure, vehicle, aircraft, or watercraft owned or controlled by a public entity, including but not limited to, cities, school districts, counties, a taxing subdivision of the state, or any agency thereof, by any person who knows, or reasonably should know, that he or she is not authorized or privileged to do so, and:
 1. Such person enters or remains thereon in defiance of an order not to enter or to leave such premises or property personally communicated to such person by any law enforcement officer or other authorized person;
 2. Such premises or property are posted in a manner reasonably likely to come to the attention of intruders or are locked or fenced or otherwise enclosed or shut or secured against passage or entry or such property is reasonably identifiable as property of a public entity due to physical markings or equipment on or in such property; or

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3. Such person enters or remains therein in defiance of any order by a court.
- C. This ordinance shall not interfere with the enforcement of any other ordinance, rule or regulation concerning the use or control of public property.

(History: Ord. POC-1401 §1, 86; POC-598 §77; PO-84D)

11.12.040 Defrauding Owner or Keeper of Restaurant or Lodging House.

Any person who obtains food, lodging or other accommodation at any restaurant, hotel, boardinghouse, apartment house or rooming house by means of any trick, deception or false representation, statement or pretense, with intent to defraud the owner or keeper thereof, and fails or refuses to pay therefor, is guilty of a public offense and upon the conviction thereof, shall be punished as provided in Section 1.12.010.

(History: Amended during codification in accordance with K.S.A. 12-3015; Ord. FCA-330 §1, 65)

11.12.050 Fraud - Proof.

Proof that lodging, food or other accommodations were obtained by false pretense or by false or fictitious show or pretense of any baggage or other property, or that he gave in payment for such food, lodging or other accommodation, a check or other negotiable paper on which payment was refused, or that he left the inn, hotel, boarding house, apartment house, or rooming house without paying or offering to pay for such food, lodging, or other accommodation, or that he surreptitiously removed or attempted to remove, his baggage or other property, or that he registered under a fictitious name, shall be prima facie proof of the intent to defraud mentioned in 11.12.040.

(History: Ord. FCA-330 §2, 65; PO-84 §12, 61)

11.12.060 Criminal Littering.

Except as provided in 12.04.104, criminal littering is intentionally or recklessly depositing or causing to be deposited any object or substance into, upon or about:

- A. Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, except by direction of some public officer or employee authorized by law or ordinance to direct or permit such acts; or
- B. Any private property without the consent of the owner or occupant of such property.
- C. Upon a first conviction, a fine shall be imposed of no less than \$250 nor more than \$1,000; upon a second conviction, a fine shall be imposed of no less than \$1,000 nor more than \$2,000; and upon a third or subsequent conviction, a fine shall be imposed of no less than \$2,000 nor more than \$4,000. In addition to any fines imposed pursuant to this subsection, a person convicted of littering shall be required to pick up litter for a time prescribed by and a place within the city limits of Overland Park, Kansas.

(History: KSA 21-3722; Ord. POC-2499 §2, 2004; POC-1801 §7, 93; POC-625 §31, 72; POC-598 §31)

11.12.070 Opening, Damaging or Removing Coin-operated Machines.

"Opening, damaging, or removing coin-operated machines" is willfully and knowingly opening, removing or damaging any parking meter, coin telephone, vending machine dispensing goods or

services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services or any part thereof, with intent to commit theft.

Every person convicted of violating this section shall be imprisoned for not more than one year or fined not to exceed \$2,500, or both such fine and imprisonment.

(History: KSA 21-3740; Ord. POC-1381 §3, 86; POC-625 §41, 72)

11.12.080 Possession of Tools for Opening, Damaging or Removing Coin-Operated Machines.

"Possession of tools for opening, damaging or removing coin-operated machines" is the possession of any key, tool, instrument or other device, or any drawing, print or mold of a key or other device or any explosive specifically designed for or suitable for the use in opening or breaking into any parking meter, coin telephone, vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services or any part thereof, with intent to commit theft.

Every person convicted of violating this section shall be imprisoned for not more than one year or fined not to exceed \$2,500, or both such fine and imprisonment.

(History: KSA 21-3741; Ord. POC-1381 §3, 86; OC-625 §42, 72)

11.12.090 Tampering with Landmark.

"Tampering with a landmark" is willfully and maliciously:

- A. Removing any monument of stone or of other durable material, established or created for the purpose of designating the corner of or any other point upon the boundary of any lot or tract of land or of the state, or any legal subdivision thereof; or
- B. Defacing or altering marks upon any tree, post or other monument, made for the purpose of designating any point on such boundary; or
- C. Cutting down or removing any tree, post or other monument upon which any such marks shall be made for such purpose, with intent to destroy such mark; or
- D. Breaking, destroying, removing or defacing any milepost, milestone or guideboard erected by authority of law on any public highway, street, or road; or
- E. Defacing or altering any inscription on any such marker or monument; or
- F. Altering, removing, damaging or destroying any public land survey corner or accessory without complying with the provisions of KSA 58-2011 (1985 Supp.) and any amendments thereto.

(History: KSA 21-3724; Ord. POC-1381 §3, 86; POC-625 §32, 72; PO-84 §45)

11.12.100 Tampering with Public Notice.

"Tampering with public notice" is knowingly and without lawful authority altering, defacing, destroying, removing or concealing any public notice posted according to state law or city ordinance, during the time the notice is required or authorized to remain posted.

(History: KSA 21-3822; Ord. POC-625 §47, 72)

11.12.110 Tampering with Traffic Signal.

"Tampering with a traffic signal" is intentionally manipulating, altering, destroying or removing any light, sign, marker, railroad switching device or other signal device erected or installed for the purpose of controlling or directing the movement of motor vehicles, railroad trains, aircraft or watercraft.

(History: KSA 21-3725; Ord. POC-979 §1, 78; POC-625 §33, 72; POC-598 §32)

11.12.120 Theft.

"Theft" is any of the following acts done with intent to permanently deprive the owner of the possession, use or benefit of his property:

- A. Obtaining or exerting unauthorized control over property; or
- B. Obtaining by deception control over property; or
- C. Obtaining by threat control over property; or
- D. Obtaining control over property without the owner's consent knowing the property to have been obtained by another by acts described in this section.

Every person convicted of violating this section shall be imprisoned for not more than one year or fined not to exceed \$2,500, or both such fine and imprisonment. Theft of property of the value of less than \$1,000 is a Class A violation.

(History: KSA 21-3701; Ord. POC-2665 §2, 2007; POC-2499 §3, 2004; POC-2119 §2, 98; POC-1872 §2, 94; POC-1676 §1, 91; POC-1381 §3, 86; POC-625 §25, 72; POC-598 §25; PO-84A §1; PO-84 § 43 & 44)

11.12.125 Prima Facie Evidence of Intent to Permanently Deprive Owner or Lessor of Possession, Use or Benefit of Property.

- A. In any prosecution under this code, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:
 - 1. The giving of a false identification or fictitious name, address or place of employment at the time of obtaining control over the property;
 - 2. the failure of a person who leases or rents personal property to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing said property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;
 - 3. destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property; or destruction of or substantially altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;

4. destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;
 5. the failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles; or
 6. the failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying: (a) the time and place to return the vehicle; and (b) that failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles.
- B. In any prosecution for a violation of 11.12.120 in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.
- C. The word "notice" as used herein shall be construed to mean notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting, or borrowing or to such person's last known address.

(History: KSA 21-3702; Ord. POC-2766 §1, 2008; POC-1934 §1, 95; POC-1381 §3, 86)

11.12.130 Theft of Lost or Mislaid Property.

"Theft of lost or mislaid property" is failure to take reasonable measures to restore lost or mislaid property to the owner by a person who has obtained control of such property, who knows or learns the identity of the owner thereof and who intends to deprive the owner permanently of the possession, use or benefit of the property.

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Every person convicted of violating this section shall be imprisoned for not more than one year or fined not to exceed \$2,500, or both such fine and imprisonment.

(History: KSA 21-3703; Ord. POC-1381 §3, 86; POC-625 §26, 72; POC-598 §26)

11.12.135 Theft of Motor Fuel.

- A. "Theft of motor fuel" is leaving the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of a motor vehicle and driving away in that motor vehicle without having made due payment or authorized charge for the motor fuel so dispensed, with the intent to defraud the retail establishment.
- B. The failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement shall be prima facie evidence of the intent to defraud under the provisions of subsection (A).
- C. Every person convicted of violating this section shall be imprisoned for not more than one year or fined not to exceed \$2,500 or both such fine and imprisonment.

(History: Ord. POC-2235 §4, 2000; POC-2119 §5, 98)

11.12.140 Theft of Services.

- A. "Theft of services" is obtaining services 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 services, 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 valued at less than \$1,000 is a class A violation. Theft of services valued at \$1,000 or more is a felony charge that is not subject to the jurisdiction of the Municipal Court and must be charged in the District Court.

(History: KSA 21-3704; Ord. POC-2620 §7, 2006; POC-1801 §8, 93; POC-1381 §3, 86; POC-625 §27, 72; POC-598 §27)

11.12.145 Theft of CATV Services.

Theft of cable television services is obtaining cable television services from another by means of threat, deception, electrical or mechanical tampering or electronic tampering.

(History: Ord. POC-979 §2, 78)

11.12.147 Unlawful Use of a Recording Device.

- A. Unlawful use of a recording device is knowingly operating, in a motion picture theatre, while a motion picture is being exhibited, an audiovisual recording function of a device without the consent of the owner or lessee of such theatre.
- B. This section shall not apply to a person operating an audiovisual recording device as part of such person's lawfully authorized investigative, law enforcement, protective or intelligence gathering duties as a lawfully authorized investigative, law enforcement, protective or intelligence gathering employee or agent of the state or federal government.
- C. As used in this section:
 - 1. "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.
 - 2. "Motion picture theatre" means a movie theatre, screening room or other venue when used primarily for the exhibition of a motion picture.
- D. Every person convicted of a first violation of this section shall be imprisoned for not more than one year or fined not to exceed \$2,500, or both such fine and imprisonment. The municipal court shall not have jurisdiction to hear cases involving second or subsequent violations of this section or any other felony violation.

(History: Ord. POC-2499 §4, 2004)

11.12.150 Criminal Deprivation of Property.

- A. "Criminal deprivation of property" is obtaining or exerting unauthorized control over property, with intent to deprive the owner of the temporary use thereof, without the owner's consent but not with the intent of depriving the owner permanently of the possession, use, or benefit of his property.
- B. Upon a first conviction of criminal deprivation of property that is a motor vehicle, as defined in K.S.A. 8-1437, and amendments thereto, a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than \$100. Upon a second conviction, a person shall be sentenced to not less than 60 days nor more than one year's imprisonment and fined not less than \$200. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. The mandatory provisions of this subsection shall not apply to any person where such application would result in a manifest injustice.
- C. Upon a second or subsequent conviction of criminal deprivation of property other than a motor vehicle, as defined in K.S.A. 8-1437, and amendments thereto, a person shall be sentenced to not less than 30 days imprisonment and fined not less than \$100 unless application of this subsection would result in a manifest injustice.
- D. Nothing herein shall prohibit the removal in a lawful manner, by towing or otherwise, of personal property unlawfully placed or left upon real property.

(History: KSA 21-3705; Ord. POC-2766 §2, 2008; POC-1801 §9, 93; POC-1381 §3, 86; POC-625 §28, 72; POC-598 §28)

11.12.155 Unlawful Hunting.

- A. It shall be unlawful for any person to shoot or hunt any animal or bird within the City unless that person:
 - 1. Is in possession of a valid Kansas hunting license or other permit authorizing the taking of wildlife, or is exempted from possessing a hunting license by the State of Kansas; and
 - 2. Is hunting on land that is primarily rural or devoted to agricultural use; and
 - 3. Is in possession of the written permission of the landowner where the hunting is occurring; and
 - 4. When hunting with a firearm, is in possession of the written permission of all landowners or persons in possession of land contiguous to the land where the hunting is occurring when on land that contains less than 40 acres; and
 - 5. When hunting with a bow, is in possession of the written permission of all landowners or persons in possession of land contiguous to the land where the hunting is occurring when on land that contains less than 30 acres; and
 - 6. Utilizes a shotgun with shot shells containing pellets of 00 buckshot or smaller shot, or utilizes a rifle or pistol with a bore diameter of .224 caliber or less and the ammunition is of rim fire configuration.

- B. It shall be unlawful for any person, unless authorized by special permit issued by the State of Kansas to hunt by:
1. Taking any game animal or furbearing animal from a motorboat, airplane, motor vehicle or other water, air or land vehicle unless such person holds a valid handicapped hunting and fishing permit.
 2. Providing or receiving information concerning the location of any game animal or furbearing animal by radio or other mechanical device for purposes of taking such bird or animal.
 3. Using sodium fluoroacetate, commonly called formula 1080, except as permitted by rules and regulations of the Secretary of Wildlife and Parks of the State of Kansas.
 4. Using poison, poisonous gas, smoke or ferrets, or any smoke gun or other device for forcing smoke or any other asphyxiating or deadly gas or liquid into the holes, dens, runways, or houses of wildlife, except as permitted by rules and regulations of the Secretary of Wildlife and Parks of the State of Kansas.
 5. Throwing or casting the rays of a spotlight, headlight or other artificial light on any highway, or in any field, grassland, woodland, or forest for the purpose of spotting, locating or taking any animal, except furbearing animals when treed with the aid of dogs, while having in possession or control either singly or as one of a group of persons, any rifle or pistol, shotgun, bow or other implement whereby wildlife could be taken.
 6. Utilizing a rifle or pistol having a bore diameter greater than .224 caliber and the ammunition must be of rim fire configuration, provided slugs in shotguns are permitted on land of more than 100 acres.
- C. It shall be unlawful for any person otherwise lawfully hunting within the City to discharge a firearm or other projectile within 500 feet of a residence, school, church, airport, cemetery, or public recreation facility to include all adjacent or contiguous property owned or used for such purposes.
- D. The provisions of this Section shall not apply to persons hunting on any property zoned RUR that is annexed into the City pursuant to Ordinance No. A-2719, unless and until such property is rezoned, subject to the following provisions:
1. No one shall discharge any shotgun, muzzleloader, rimfire rifle, or any handgun within 200 yards of a building inhabited by people or within 200 yards of 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. "Feedlot" shall mean any yard, enclosure or coral 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."

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2. No one shall discharge a center-fire rifle except from an elevated stand or platform of not less than 10 feet above the ground surface, and no one shall discharge any center-fire rifle within 500 yards of a building inhabited by people or within 500 yards of 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. "Feedlot" shall have the meaning given to it in the immediately preceding subsection.

(History: Ord. POC-2788 §2, 2008; POC-2729 §1, 2008, modified during codification under authority of K.S.A. 12-3015; POC-2403 §1, 2002; POC-1771 §1, 92; POC-1646 §1, 90; POC-1578 §1, 89; POC-1381 §3, 86; POC-625 §35, 72; POC-598 §34)

11.12.160 Unlawful Manufacture or Disposal of False Tokens.

The "unlawful manufacture or disposal of false tokens" is manufacturing for sale, offering for sale or giving away any false token, slug, substance, false or spurious coin or other device intended or calculated to be placed or deposited in any automatic vending machine, coin-operated telephone, parking meter or other such receptacle with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of such automatic vending machine, coin-operated telephone, parking meter or other receptacle designed to receive coins or currency of the United States of America in connection with the sale, use or enjoyment of property or service.

The manufacture for sale, advertising, offering for sale or distribution of any such false token, slug, substance, false or spurious coin or other device, shall be prima facie evidence of an intent to cheat or defraud within the meaning of this section.

(History: KSA 21-3730; Ord. POC-1801 §10, 93; POC-625 §37, 72)

11.12.170 Unlawful Possession of Caustic.

"Unlawful possession of caustic" is the willful possession, transportation, use or throwing of any acid or other chemical material or substance which causes or could cause damage or injury to property or persons with the intent to cause such damage or injury.

(History: Ord. POC-625 §75, 72)

11.12.180 Criminal Use of Financial Card.

1. Criminal use of a financial card is any of the following acts done with intent to defraud and for the purpose of obtaining money, goods, property, services or communication services, other than telecommunication services:
 - a. Using a financial card without the consent of the cardholder; or
 - b. Knowingly using a financial card, or the number or description thereof, which has been revoked or canceled; or
 - c. Using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

2. For the purposes of this section:
 - a. "Financial card" means an identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property, services or communication services or to conduct other financial transactions.
 - b. "Cardholder" means the person or entity to whom or for whose benefit a financial card is issued.
3. For the purposes of subsection 1(b) hereof, a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.
4. Criminal use of a financial card is a class A violation if the money, goods, property, services or communication services obtained within a seven-day period are of the value of less than \$1,000. Criminal use of a financial card is a felony charge if the money, goods, property, services or communication services obtained within a seven-day period are of the value of \$1,000 or more. A felony charge is not subject to the jurisdiction of the Municipal Court and must be charged in the District Court.

(History: KSA 21-3729; Ord. POC-2620 §8, 2006; POC-1801 §11, 93; POC-1381 §3, 86; POC-979 §3, 78; POC-625 §35, 72)

11.12.185 Counterfeiting.

- A. Counterfeiting is intentionally manufacturing, using, displaying, advertising, distributing, offering for sale, selling or possessing with intent to sell or distribute any item or services bearing or identified by a counterfeit mark and valued at less than \$500.
- B. No person shall intentionally manufacture, use, display, advertise, distribute, offer for sale, sell or possess with intent to sell or distribute any item or service bearing or identified by a counterfeit mark and valued at less than \$500.
- C. A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess such items with intent to sell or distribute.
- D. Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.
- E. As used in this section:
 1. "Counterfeit mark" means:
 - a. Any unauthorized reproduction or copy of intellectual property; or
 - b. intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property.
 2. "Intellectual property" means any trademark, service mark or trade name as such terms are defined in K.S.A. 1999 Supp. 81-202, and amendments thereto.

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3. "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.
 4. The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.
- F. Every person convicted of violating this section shall be imprisoned for not more than one year or fined not to exceed \$2500, or by both such fine and imprisonment.
(History: Ord. POC-2235 §2, 2000)

11.12.190 Window Peeping.

Window peeping is the going upon property owned or occupied by another without such person's consent for the purpose of looking into any window, door, sky light, or other opening into a house, room, or building.

(History: Ord. POC-625 §80, 72; POC-598 §80; PO-84 §59)

11.12.200 Throwing or Otherwise Casting Rocks or Other Objects onto a Street, Highway or Railroad Right-Of-Way.

- A. It shall be unlawful for any person to intentionally throw, push, pitch or otherwise cast any rock, stone or other object, matter or thing onto a street, roadway, highway, railroad right-of-way, or upon any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock thereon.
- B. Every person convicted of violating this section shall be guilty of a class B violation.
- C. Any person violating subsection (A) who damages any vehicle, engine, car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock on a street, road, highway or railroad right-of-way by the thrown or cast rock, stone or other object is guilty of a class A violation.

(History: KSA 21-3809; Ord. POC-1986 §4, 96; POC-1381 §3, 86; POC-598 §75; PO-84 §35)

11.12.210 Unlawfully Selling Scrap Metal.

- A. It shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer or employee or agent of a dealer, in this City unless such person presents to such scrap metal dealer or employee or agent of a dealer, at or before the time of sale, the following information: the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license. The identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

- B. Every scrap metal dealer shall keep a register in which the dealer or employee or agent of the dealer shall at the time of purchase or receipt of any items for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:
1. The time, date and place of transaction;
 2. the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;
 3. a copy of the identification card or document containing such identifying number;
 4. the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;
 5. a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;
 6. the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;
 7. if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;
 8. the amount of consideration given in a purchase transaction for the junk vehicle or other regulated scrap metal property; and
 9. the name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase.
- C. The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format.
- D. Notwithstanding the foregoing, this Section shall not apply to:
1. Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is \$50.00 or less;
 2. Transactions involving only catalytic converters for which the total sale price is \$30.00 or less;
 3. Transactions in which the seller is also a scrap metal dealer; or
 4. Transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.
- E. The exceptions contained in subsections (D)(1) and (D)(2) shall not apply to any purchase from any seller of the following materials:
- (1) Catalytic converters purchased separate from a vehicle;

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- (2) coated or insulated wire or stripped wire or burnt wire;
 - (3) refrigeration condensing units or air conditioning coils of any type; or
 - (4) copper tubing, bars, plate, buss bar and sheet copper.
- F. It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (E)(1) through (4) by any means other than:
- 1. A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b); or
 - 2. a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b).
- G. Any person intentionally violating the provisions of this Section shall be guilty of a class C violation. Any person convicted of violating the provisions of this Section for the third and subsequent time within a two-year period shall be guilty of a class A violation.

(History: KSA Supp. 50-6, 110; Ord. SM-2931 §2, 2011; POC-2821 §1, 2009)

11.12.220 Unlawfully Buying Scrap Metal.

- A. It shall be unlawful for any such scrap metal dealer or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which Section 11.12.210, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in Section 11.12.210, and amendments thereto. All records kept in accordance with the provisions of this Section shall be open at all times to peace or law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace or law enforcement officers upon request.
- B. It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which Section 11.12.210, and amendments thereto, requires information to be presented by the seller, without obtaining from the seller a signed statement that: (1) each item is the seller's own personal property, is free of encumbrances and is not stolen; or (2) that the seller is acting for the owner and has permission to sell each item.
- C. It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which Section 11.12.210, and amendments thereto, requires information to be presented by the seller, without: (1) inspecting the vehicle offered for sale and recording the vehicle identification number; and (2) obtaining an appropriate vehicle title or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

- D. It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor.
- E. It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items of regulated scrap metal property without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item of regulated scrap metal property on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization or scrap metal dealer:
 - 1. Utility access cover;
 - 2. street light poles or fixtures;
 - 3. road or bridge guard rails;
 - 4. highway or street sign;
 - 5. water meter cover;
 - 6. traffic directional or traffic control signs;
 - 7. traffic light signals;
 - 8. any metal marked with any form of the name or initials of a governmental entity;
 - 9. property owned and marked by a telephone, cable, electric, water or other utility provider or any such wire or cable that has had the sheathing removed, making ownership identification impossible;
 - 10. property owned and marked by a railroad;
 - 11. funeral markers or vases;
 - 12. historical markers;
 - 13. bales of regulated metal;
 - 14. beer kegs;
 - 15. manhole covers;
 - 16. fire hydrants or fire hydrant caps;
 - 17. junk vehicles with missing or altered vehicle identification numbers;
 - 18. real estate signs;
 - 19. bleachers or risers, in whole or in part; and
 - 20. Twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge.
- F. It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the Overland Park Police Department or other law enforcement agency for 30 days, exclusive of weekends and holidays.
- G. Any person intentionally violating the provisions of this Section shall be guilty of a class C violation. Any person convicted of violating the provisions of this Section for the third and subsequent times within a two-year period shall be guilty of a class A violation.

(History: KSA Supp. 50-6, 111; Ord. SM-2931 §3, 2011; POC-2821 §2, 2009)

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11.12.230 Purchasing Scrap Metal Without Being Registered.

- A. On or after January 1, 2012, no business shall purchase any regulated scrap metal without having first registered each place of business with the Governing Body.
- B. As used herein, “regulated scrap metal,” means the same as in K.S.A. 2010 Supp. 50-6,109, and amendments thereto.

(History: KSA Supp 50-6, 109; Ord. POC-2928 §2, 2011)

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