

Amendments to Titles 1, 3 and 5 regarding Criminal Offenses



Law Department

June 21, 2022



History



During recent legislative sessions, the Legislature amended several criminal state statutes. In addition, language in certain sections of the City's Criminal Code needed to be clarified.

These Amendments are necessary to bring the City's Ordinances into compliance with State Statutes.



Background- Title 1 and 3 Amendments



- Section 1.06.010 contains definitions used throughout the City Code. The definition of “domestic offense” is amended to include threatened acts of violence.
- Section 3.30.075 regulates club owner’s responsibilities to disperse patrons from their facilities at closing time. The amendment clarifies hours in which patrons are prohibited from being inside of a club.



Background- Title 5 Amendments



- Section 5.26.005 contains definitions for drug related offenses. The amendments add additional language recently adopted by the Kansas Legislature that possession of a drug must be a “willful” action. Additionally, exceptions to what substances constitute marijuana, which are contained in the state statutes, are added to the city’s ordinances.
- Section 5.42.080 relating to the temporary deprivation of property is amended to create a separate charge for the unauthorized use of a motor vehicle. The current ordinance provides for an enhanced penalty for these actions but does not include a separate criminal offense for these types of criminal acts.



Background- Title 5 Sex Crimes



- Section 5.68.220 relates to the crime of sexual battery. In 2021, the Kansas Legislature amended the sexual battery statute. Prior to the amendment, it only applied to a victim “who is not the spouse of the offender.” The previous statute denied spouses protection from the illegal act of sexual battery. The amendment will bring the ordinance into compliance with state law.
- Section 5.68.200 relates to the crime of sodomy. No charges have been filed for a violation of the ordinance since 2013. The proposed amendment would repeal this code section. The current ordinance prohibits certain sexual acts only in relation to acts between members of the same sex and sex with an animal. The United States Supreme Court has held that laws which only apply to actions by members of the same sex are unconstitutional.



Recommendations/Actions



- It is recommended that the City Council place the amendments on first reading and authorize all necessary signatures.

