

(Published at www.mcpcity.com beginning on _____, 2023.)

ORDINANCE NO. 3398

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF MCPHERSON, KANSAS; INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES," 2023 EDITION; AND MAKING CERTAIN MODIFICATIONS AND ADDITIONS TO THE SAME.

WHEREAS, the City Commission of the City of McPherson has considered adoption by reference of the "Uniform Public Offense Code," 2023 Edition, and has found it in the public interest to adopt the provisions of such Code to become applicable within the territorial limits of the City; and

WHEREAS, the City Commission of the City of McPherson (the "City") has reviewed the provisions of the Uniform Public Offense Code pertaining to theft of water, and has determined that additional provisions addressing this subject should be enacted as a part of Chapter 54, Article 1 of the McPherson City Code (2003), as amended to date (the "City Code"), in addition to the provisions regarding theft contained within the Uniform Public Offense Code:

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MCPHERSON, KANSAS:

Section 1. Incorporation 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 McPherson that certain code known as the "Uniform Public Offense Code," 2023 Edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 3398," and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

Section 2. Modification of Uniform Public Offense Code. From and after the effective date of this ordinance, the following new subsection to Section 1.1 of the Uniform Public Offense Code, defining "Smoking" shall be added:

- (r) Use of Electronic Cigarette. For all purposes under this Uniform Public Offense Code, Electronic Cigarettes are synonymous with cigarettes and the use or possession of an Electronic Cigarette is the same as the use or possession of a cigarette.

Section 3. Additional Modification of Uniform Public Offense Code. Section 6.16 of the Uniform Public Offense Code entitled “Giving a Worthless Check” is hereby made inapplicable to the City of McPherson. Section 9.9.1 of the Uniform Public Offense Code entitled “Unlawful Possession of Marijuana and Tetrahydrocannabinols” is hereby made inapplicable to the City of McPherson. Section 9.9.2 of the Uniform Public Offense Code entitled “Possession of Drug Paraphernalia and Simulated Controlled Substances” is hereby inapplicable to the City of McPherson.

Section 4. Additional Modification to Uniform Public Offense Code. From and after the effective date of this ordinance, the following changes to Section 3.1.1(b)(1) shall be added to Article 3 of the Uniform Public Offense Code, and such section of the City Code is hereby amended accordingly:

3.1.1 DOMESTIC BATTERY.

- (b)(1) Upon a first conviction of a violation of domestic battery, an offender shall be guilty of a Class B violation and sentenced to not less than 48 consecutive hours nor more than six months’ imprisonment and fined not less than \$200, nor more than \$500 and/or in the court’s discretion the court may enter an order which requires the offender to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;

Section 5. Additional Modification of Uniform Public Offense Code. From and after the effective date of this ordinance, the following additional Section 6.1.1 shall be added to Article 6 of the Uniform Public Offense Code, and Section 54-1 of the City Code is hereby amended accordingly:

6.4.1 THEFT OF WATER.

- (a) It shall be unlawful for any person or non-governmental entity, without prior written authorization from the Board of Public Utilities, to:
 - (1) Take water from the City’s water distribution system without paying for it.
 - (2) Make connection to the City’s water distribution system without connecting a backflow preventer at the point of connection to the tap in the water distribution system.
- (b) It shall be unlawful for any landowner, or any agent or employee of the landowner, to direct any person or non-governmental entity to take water from the City’s water distribution system for the benefit of the landowner or its agent or employee.

- (c) Lack of knowledge or mistake regarding ownership of any tap in or portion of the City's water distribution system shall not be a defense to the offenses described in this section.
- (d) Theft of water is an unclassified misdemeanor punishable by a fine of not less than \$1,000 or more than \$5,000.

Section 6. Amendment of Code Section 54.1. Section 54.1 of the McPherson City Code (2003), as amended to date, is hereby amended to conform to this ordinance.

Section 7. Publication and Effective Date. This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b) and the City Code.

PASSED AND SIGNED August 15, 2023.

Thomas A. Brown, Mayor

[SEAL]

ATTEST:

Lisa Faust, City Clerk