



INTRODUCED BY
ALDERMEN TERBROCK, FINLEY, ROACH, STALLMANN, FLEMING, LEAHY, KERLAGON, BULLINGTON

AN ORDINANCE AMENDING CHAPTER 17 OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN REGARDING OFFENSES.

WHEREAS, Chapter 17 of the Municipal Code address various offenses; and

WHEREAS, changes in state law (2014 SB 491, HB 1371) require parallel revisions to the City's ordinances, effective as of January 1, 2017;

NOW, THEREFORE, be it ordained by the Board of Aldermen of the City of Ballwin, Missouri, as follows:

Section 1. Chapter 17 of the Municipal Code entitled OFFENSES AND MISCELLANEOUS PROVISIONS is hereby amended to read as follows:

Chapter 17 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

Sec. 17-1. - Aiding and abetting.

Any person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of any act declared in this chapter to be in violation of the ordinances of the city, whether individually, or in connection with one or more other persons, or as a principal, agent or accessory, shall be guilty of such offense and every person who falsely, fraudulently, forcibly, or wilfully induces, causes, coerces, requires, permits or directs another to violate any provision of this chapter is likewise guilty of such offense, and shall be punished as provided in section 1-6.

Sec. 17-2. - Assault.

A person commits the crime of assault in the third degree if:

- (1) He attempts to cause or recklessly causes physical injury to another person;
- (2) With criminal negligence, he causes physical injury to another person by means of a deadly weapon;
- (3) He purposely places another person in apprehension of immediate physical injury;
- (4) He recklessly engages in conduct which causes a grave risk of death or serious physical injury to another person; or
- (5) He knowingly causes physical contact with another person, knowing the other person will regard the contact as offensive or provocative.
- (6) The person knowingly causes or attempts to cause physical contact with a person with a disability, which a reasonable person, who does not have a disability, would consider offensive or provocative; or

- (7) The person knowingly attempts to cause or causes the isolation of a person with a disability by unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication devices or transportation for the purpose of isolation.

Sec. 17-3. - Failure to comply with order of a police officer.

- (1) Fail to comply with the lawful order or request of a police officer in the discharge of the officer's official duties where such failure interfered with, obstructed or hindered the officer in the performance of such duties; or
- (2) Fail to identify himself or herself by name upon request when lawfully detained by a police officer, provided, however, that the person may not be compelled to answer any other inquiry of the police officer; or
- (3) In any matter within the jurisdiction of any law enforcement officer of this city, knowingly: falsifies, conceals or covers up by any trick, scheme or device, a material fact; makes any materially false, fictitious or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry.

Sec. 17-4. - Resisting or interfering with arrest.

- (a) A person commits the crime of resisting or interfering with arrest or investigative stop or detention if, knowing that a law enforcement officer is making an arrest or investigative stop or detention, for the purpose of preventing the officer from effecting the arrest or investigative stop or detention, he:
 - (1) Resists the arrest or investigative stop or detention of himself by using or threatening the use of violence or physical force or by fleeing from such officer; or
 - (2) Interferes with the arrest or investigative stop or detention of another person by using or threatening the use of violence, physical force or physical interference.
- (b) This section applies to arrests or investigative stops or detentions with or without warrants and to arrests or investigative stops or detentions for any crime or ordinance violation.
- (c) A person is presumed to be fleeing a vehicle stop if he or she continues to operate a motor vehicle after he or she has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing him or her.
- (d) It is no defense to prosecution under subsection (a) of this section that the law enforcement officer was acting unlawfully in making the arrest or investigative stop or detention. However, nothing in this section shall be construed to bar civil suits for unlawful arrest or investigative stop or detention.

Sec. 17-5. - Fleeing or attempting to elude a police officer.

It shall be unlawful for any person operating a motor vehicle to willfully fail or refuse to bring his vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle, when given visual and audible signals to bring the vehicle to a stop. The signals given by the police officer shall be by emergency light and siren.

Sec. 17-6. - Impersonating officers, agents or employees prohibited.

No person shall falsely represent himself to be an officer, agent, employee or a police officer of the city, of the county, or of the state or federal government; and no person, without being lawfully authorized, shall exercise or attempt to exercise any of the duties, functions or powers of any such officer.

Sec. 17-7. - Escape or attempted escape from custody of confinement and aiding in escape prohibited.

(a) A person commits the offense of escape from custody or confinement or attempted escape from custody or confinement if, while being held in custody after arrest or confinement after sentencing for any offense, he or she escapes or attempts to escape from such custody or confinement, including but not limited to by means of intentionally removing, altering, tampering, or damaging electronic monitoring equipment which a court has required such person to wear.

(b) It shall be unlawful for any person to attempt to rescue any person from the custody of a police officer.

Sec. 17-8. - False reports.

(a) A person commits the offense of making a false report if he or she knowingly:

- (1) Gives false information to any person for the purpose of implicating another person in an offense;
- (2) Makes a false report to a Law Enforcement Officer that an offense has occurred or is about to occur; or
- (3) Makes a false report or causes a false report to be made to a Law Enforcement Officer, security officer, Fire Department or other organization, official or volunteer which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred or is about to occur.

(b) It is a defense to a prosecution under Subsection (a) of this Section that the person retracted the false statement or report before the Law Enforcement Officer or any other person took substantial action in reliance thereon.

(c) The defendant shall have the burden of injecting the issue of retraction under Subsection (b) of this Section.

Sec. 17-9. - Curfew for minors.

(a) It shall be unlawful for any minor under the age of 17 years to loiter, idle, wander or stroll; or to drive or ride in an automobile; play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other places within the city between the hours of 11:00 p.m. and 6:00 a.m. of the following day, official county time, except on Fridays and Saturdays when the hours shall be 12:00 midnight to 6:00 a.m. of the following day, official county time; provided, however, that the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate

business directed by his parent, guardian or other adult person having the care and custody of the minor.

- (b) It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of 17 years to knowingly, or with reason to know, permit such minor to loiter, idle, wander or stroll, or to drive or ride in an automobile, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots, etc., within the city between the hours of 11:00 p.m. and 6:00 a.m. of the following day, official county time, except on Fridays and Saturdays when the hours shall be 12:00 midnight to 6:00 a.m. of the following day, official county time; provided, however, that the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor.
- (c) Any police officer of the city finding a violation of this section shall take the minor into custody and follow the policy and procedure on file in the police department in handling minors on a first offense.

Sec. 17-10. - Parental responsibility.

- (a) *Prohibited acts.* No parent shall knowingly permit, encourage, aid or cause a minor or juvenile to:
 - (1) Commit a criminal act;
 - (2) Engage in conduct which would be injurious to the minor's or juvenile's morals or health; or
 - (3) Become delinquent in accordance with the provisions of the juvenile court law of the state.
- (b) *Parents to exercise control over a minor.* No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause, or tend to cause a minor to commit or violate any state, federal and/or municipal ordinance. For the purpose of this subsection, failure to exercise customary and effective control shall include activities which include, but are not limited to a person's property, vehicle, place of employment, or any location a person may be reasonably expected to exercise authority over a child. Prohibited activities shall include, but are not limited to curfew violations, truancy, runaway, incorrigibility, injurious behavior, loitering, smoking, possession of tobacco, profanity, possession of obscene materials, gambling, possession of liquor, and possession of any controlled substance.
- (c) *Notification of minor's arrest.* Whenever a minor shall be arrested or detained for the commission of any criminal act within the city, the police department shall immediately notify the minor's parent of the arrest or detention and shall advise the parent of his responsibility under this section. A record of such notification shall be kept by the police department.

Sec. 17-11. - Use of tape dialer alarm prohibited.

- (a) It shall be unlawful for any person to install or have installed within a residence, business, or any other building, within the city limits, a device or tape dialer, which when activated, sends a prerecorded voice message over a telephone cable or wire to the police department of the city.
- (b) No alarm of this type shall be installed in or routed to the police facility.

- (c) Any alarm so described in subsection (a) in this section, now installed or routed to the police facility, shall be removed within 90 days after June 25, 1984.

Sec. 17-12. - Failure to provide identity.

A person commits the crime of failure to provide identity when, having been lawfully stopped or detained by a law enforcement officer, and having been requested by the officer to provide his or her identification to the officer:

- (1) That person knowingly refuses to state his or her name and address or to provide documentation of his or her name or address, such as, but not limited to, a driver's license, credit card, or Social Security card; or
- (2) That person falsely reports his or her name or address to a law enforcement officer.

For the purposes of this section, a person has been "lawfully stopped or detained" by a law enforcement officer when the law enforcement officer has briefly stopped and detained the person upon reasonable suspicion to believe that the person has committed, is committing, or is about to commit a crime. "Reasonable suspicion" means specific and articulable facts which, taken together with rational inferences from those facts, would lead a reasonable person to conclude that the person has committed, is committing, or is about to commit a crime. The collective information in the possession of all officers connected to an investigation can be considered in determining whether reasonable suspicion existed for the stop or detention.

Failure to provide identity is a class C misdemeanor unless the person falsely reported his or her name or address, in which case it is a class A misdemeanor.

Sec. 17-13. - Misuse of 911.

- (a) It shall be unlawful for any person to misuse the emergency telephone service. For the purposes of this section, "emergency" means any incident involving danger to life or property that calls for an emergency response dispatch of police, fire, EMS or other public safety organization, "misuse the emergency telephone service", includes, but is not limited to, repeatedly calling the "911" for nonemergency situations causing operators or equipment to be in use when emergency situations may need such operators or equipment and "repeatedly" means three or more times within a one-month period.
- (b) No person shall intentionally dial the emergency telephone number "911" or the secondary emergency phone numbers "636-227-2951" and "636-227-2941" repeatedly to report an emergency to city departments knowing that the fact situation which he or she reports does not exist.
- (c) No person shall intentionally dial the emergency telephone number "911" or the secondary emergency phone numbers "636-227-2951" and "636-227-2941" for purposes of communication not relating to the reporting of an actual emergency and to purposely interrupt the operations of the communications unit.

Sec. 17-14. - Violation of ex parte or full order or protection.

- (a) A person commits the crime of violation of an ex parte order of protection when they knowingly violate the terms and conditions of an ex parte order of protection granted under RSMo 455.010—455.090.
- (b) A person commits the crime of violation of a full order of protection when they knowingly violate the terms and conditions of a full order of protection granted under RSMo 455.010—455.090.

- (c) A violation of the terms and conditions of an ex parte order of protection or a full order of protection with regards to abuse, stalking, disturbing the peace, child custody, or entrance upon the premises of the petitioner's dwelling unit shall be a misdemeanor and punishable by a fine of not less than \$100.00 and not more than \$1,000.00 or by imprisonment for a period not to exceed three months or by both such fine and imprisonment. For the purpose of this section, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order is the law enforcement officer responding to a call of a reported incident of abuse or of violation of an order of protection presented a copy of the order of protection to the respondent.
- (d) Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth therein.

Sec. 17-15. - Stalking.

- (a) A person commits the offense of stalking if he or she purposely, through his or her course of conduct, disturbs or follows with the intent to disturb another person. As used herein, the term “disturbs” shall mean to engage in a course of conduct directed at a specific person that serves no legitimate purpose and that would cause a reasonable person under the circumstances to be frightened, intimidated, or emotionally distressed.
- (b) This Section shall not apply to activities of Federal, State, County, or Municipal Law Enforcement Officers conducting investigations of any violation of Federal, State, County, or Municipal law.

Sec. 17-16. - Domestic assault.

A person commits the offense of domestic assault in the third degree if the act involves a family or household member, including any child who is a member of the family or household, as defined in RSMo 455.010 and:

- (1) The person attempts to cause or recklessly causes physical injury to such family or household member; or
- (2) With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or
- (3) The person purposely places such family or household member in apprehension of immediate physical injury by any means; or
- (4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member; or
- (5) The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or
- (6) The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

Sec. 17-17. - Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, utility worker, cable worker, probation and parole officer, or police animal.

- (a) A person commits the offense of assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer in the third degree if:

- (1) Such person recklessly causes physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer;
 - (2) Such person purposely places a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer in apprehension of immediate physical injury;
 - (3) Such person knowingly causes or attempts to cause physical contact with a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer without the consent of the law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer.
- (b) As used in this Section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in Subdivisions (15), (16), (17) and (18) of Section 190.100, RSMo.
- (c) As used in this Section, the term "Corrections Officer" includes any jailor or Corrections Officer of the State or any political subdivision of the State.
- (d) As used in this Section, the term "highway worker", "*construction zone*" or "*work zone*" shall have the same meaning as such terms are defined in Section 304.580, RSMo.
- (e) As used in this Section, the term "utility worker" means any employee while in the performance of their job duties, including any person employed under contract, of a utility that provides gas, heat, electricity, water, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned.
- (f) As used in this Section, the term "cable worker" means any employee including any person employed under contract, of a cable operator, as such term is defined in Section 67.2677, RSMo.

A person commits the offense of assault on a police animal if he or she knowingly kills or disables, knowingly attempts to kill or disable, or knowingly causes or attempts to cause serious physical injury, to a police animal when that animal is involved in law enforcement investigation, apprehension, tracking, or search, or the animal is in the custody or under the control of a law enforcement officer or fire or rescue personnel.

Sec. 17-18. - Harassment.

- (a) It shall be unlawful for any person to knowingly send or deliver or cause or intentionally allow to be sent or delivered any letter, e-mail, text message or other Internet or electronic communication or other writing, printing, circular or card or device, with or without a name subscribed thereto or signed with a fictitious name or any mark, threatening to accuse any other person of a crime or offense for any purpose other than to cause the other person to cease ongoing illegal activity or threatening to kill, maim or wound any other person or threatening to commit a crime or offense or do any injury to the person, property, credit or reputation of another, whether or not any money or property is demanded or extorted thereby.

- (b) A person commits the offense of unlawful posting of certain information over the internet if he or she knowingly posts the name, home address, Social Security number, or telephone number of any person on the internet intending to cause substantial bodily harm or death, or threatening to cause substantial bodily harm or death to such person.
- (c) For purposes of this Section, an offense committed by means of writing, telephonic communication or electronic communication shall be deemed to have occurred at the place from which the communication was made or sent and at the place where the communication was first heard or read by the recipient.

Sec. 17-19. - Deceptive business practice.

A person commits the offense of deceptive business practice if in the course of engaging in a business, occupation or profession, he recklessly

- (1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or
- (2) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; or
- (3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or
- (4) Sells, offers or exposes for sale adulterated or mislabeled commodities; or
- (5) Makes a false or misleading written statement for the purpose of obtaining property or credit;
- (6) Promotes the sale of property or services by false or misleading statement in any advertisement; or
- (7) Advertises in any manner the sale of property or services with the purpose not to sell such property or service: at the price which he or she offered them, in a quantity sufficient to meet the reasonably expected public demand unless the quantity is specifically stated in the advertisement, or at all.

Sec. 17-20. - Attempting to commit an offense.

- (a) A person is guilty of attempt to commit an offense when, with the purpose of committing the offense, he does any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.
- (b) It is no defense to a prosecution under this section that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.

Sec. 17-21. Threatening communications.

- (a) It shall be unlawful for any person to knowingly send or deliver or cause or intentionally allow to be sent or delivered any letter, e-mail, text message or other Internet or electronic communication or other writing, printing, circular or card or device, with or without a name subscribed thereto or signed with a fictitious name or any mark, threatening to accuse any other person of a crime or offense for any purpose other than to cause the other person to cease ongoing illegal activity or threatening to kill, maim or wound any other person or threatening to commit a crime or offense or do any injury to

the person, property, credit or reputation of another, whether or not any money or property is demanded or extorted thereby.

- (b) A person commits the offense of unlawful posting of certain information over the internet if he or she knowingly posts the name, home address, Social Security number, or telephone number of any person on the internet intending to cause substantial bodily harm or death, or threatening to cause substantial bodily harm or death to such person.
- (c) For purposes of this Section, an offense committed by means of writing, telephonic communication or electronic communication shall be deemed to have occurred at the place from which the communication was made or sent and at the place where the communication was first heard or read by the recipient.

Sec. 17-22. False imprisonment.

A person commits the offense of false imprisonment if he/she knowingly restrains another unlawfully and without consent so as to interfere substantially with his/her liberty.

Sec. 17-23. Endangering the welfare of a child.

- (a) A person commits the offense of endangering the welfare of a child if he or she:
 - (1) With criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen (17) years of age;
 - (2) Knowingly encourages, aids or causes a child less than seventeen (17) years of age to engage in any conduct which causes or tends to cause the child to come within the provisions of Paragraph (d) of Subdivision (2) of Subsection (1) or Subdivision (3) of Subsection (1) of Section 211.031, RSMo.;
 - (3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen (17) years of age, he/she recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him or her from coming within the provisions of Paragraph (c) of Subdivision (1) of Subsection (1) or Paragraph (d) of Subdivision (2) of Subsection (1) or Subdivision (3) of Subsection (1) of Section 211.031, RSMo.; or
 - (4) Knowingly encourages, aids or causes a child less than seventeen (17) years of age to enter into any room, building or other structure which is a public nuisance as defined in Code Section 215.465 or Section 579.105, RSMo.
- (b) Nothing in this Section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided non-medical remedial treatment recognized and permitted under the laws of this State.

Sec. 17-24. Unlawful transactions with a child.

- (a) A person commits the offense of unlawful transactions with a child if he or she:

- (1) Being a pawnbroker, junk dealer, dealer in secondhand goods, or any employee of such person, with criminal negligence buys or receives any personal property other than agricultural products from an unemancipated minor, unless the child's custodial parent or guardian has consented in writing to the transaction; or
 - (2) Knowingly permits a minor child to enter or remain in a place where illegal activity in controlled substances, as defined in chapter 579 RSMo, is maintained or conducted; or
 - (3) With criminal negligence sells blasting caps, bulk gunpowder, or explosive to a child under the age of seventeen years, or fireworks as defined in Section 320.110 RSMo. to a child under the age of fourteen years, unless the child's custodial parent or guardian has consented in writing to the transaction.
- (b) Criminal negligence as to the age of the child is not an element of this offense.

Sec. 17-25. Identity theft.

A person commits the offense of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer, or use, one or more means of identification, not lawfully issued for his or her use.

Secs. 17-26—17-30. - Reserved.

ARTICLE II. - OFFENSES AGAINST PUBLIC PEACE

Sec. 17-31. - Peace disturbance.

- (a) A person commits the offense of peace disturbance if:
- (1) He or she unreasonably and knowingly causes alarm to another person or persons not physically on the same premises by:
 - a. Personally abusive language addressed in a face-to-face manner to a specific individual and uttered under circumstances such that the words have a direct tendency to cause an immediate violent response by a reasonable recipient; or
 - b. Tending to incite a fight.
 - (2) He or she is in a public place or on private property of another without consent and unreasonable and knowingly causes alarm to another person or persons by:
 - a. Personally abusive language addressed in a face-to-face manner to a specific individual and uttered under circumstances such that the words have a direct tendency to cause an immediate violent response by a reasonable recipient; or
 - b. Tending to incite a fight.
 - (3) He or she is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
 - a. Vehicular or pedestrian traffic; or
 - b. The free ingress or egress to or from a public or private place.
 - (4) He or she unreasonably and knowingly disturbs or alarms another person or persons by creating an obnoxious and offensive odor.

- (b) For purposes of this Section, an offense committed by means of writing, telephonic communication or electronic communication shall be deemed to have occurred at the place from which the communication was made or sent and at the place where the communication was first heard or read by the recipient.
- (c) It shall be unlawful and a misdemeanor for any person to commit an act of peace disturbance.

Sec. 17-31.1. - Disorderly conduct.

- (a) A person shall not commit or engage in an act of disorderly conduct.
- (b) For the purpose of this section an act of disorderly conduct shall mean:
 - (1) Acting in a violent or tumultuous manner toward another person whereby he or she is placed in fear of safety of their life, limb or health; or
 - (2) Acting in a violent or tumultuous manner toward another person whereby their property is placed in danger of being destroyed; or
 - (3) Endangering the lawful pursuits of another by acts of violence, angry threats or abusive conduct; or
 - (4) Causing, provoking or engaging in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another; or
 - (5) Assembling or congregating with another or others for the purpose of causing, provoking or engaging in any fight or brawl; or
 - (6) Jostling or roughly crowding or pushing any person in any public place; or
 - (7) Collecting in bodies or in crowds for unlawful purposes as defined by current or future ordinances of the city; or
 - (8) Assembling or congregating with another or others for the purpose or with the intent to engage in gaming; or
 - (9) Frequenting any public place with the intent to obtain money from other persons by illegal or fraudulent schemes, tricks, artifices or devices; or
 - (10) Assembling for the purpose of engaging in any fraudulent scheme or device or trade to obtain any valuable thing from any place or any person; or
 - (11) Accosting or attempting to pick up or attempting to force the company of a person upon any female; or
 - (12) Uttering in the presence of another any bawdy, lewd or obscene words or epithets; or
 - (13) Frequenting any place where gaming or illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed, or tolerated; or
 - (14) Acting in a dangerous manner toward others; or
 - (15) Using "fighting words" toward any person; or
 - (16) Assembling or congregating for the purpose of trouncing upon another; or
 - (17) Interfering by acts of violence with another's pursuit of a lawful occupation; or
 - (18) Interfering with the free and unobstructed use of a public way or place of public nature by another person or other persons; or
 - (19) Using in the presence of another:
 - a. Common words denoting or relating to the questionable parentage of another; or

- b. Any derogatory words relating to the privates of a male, female or hermaphrodite; or
- c. Any derogatory words relating to the productive method of males or females whether or not used in connection with profane language; or
- d. Any derogatory words relating to the methods of sexual intercourse with relatives or strangers.

Sec. 17-31.2. - Unnecessary noises.

- (a) It shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.
- (b) Noises prohibited—Unnecessary noise standard. The following acts, among others are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:
 - (1) By the operation of any motor vehicle without a standard muffler;
 - (2) The causing of a screeching noise in the act of placing a motor vehicle in motion with the tires of such motor vehicle;
 - (3) The firing of explosives of any kind, without a special permit from the board of aldermen of the city; or
 - (4) Other noises of intensity generally disagreeable to humans.

Sec. 17-33. - Loud and offensive noise.

It shall be unlawful for any person to create, cause or maintain any loud, offensive noise within the limits of the city. The creation of noise by any of the following methods shall be deemed loud and offensive:

- (1) Horns, signaling devices, and the like.
 - a. The sound of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the city, except when used as a warning of danger or emergency.
 - b. The sound of any horn or signaling device for an unreasonable period of time.
 - c. The sound of any horn or signaling device except one operated by hand or electricity.
 - d. The use of any horn, whistle, or other signaling device operated by engine exhaust.
 - e. The use of any horn or signaling device when traffic is for any reason stopped.
 - f. Any alarm, bell, siren or whistle which sounds continuously for five or more minutes.
- (2) Radios, phonographs and similar devices.
 - a. The use, operation, or playing of any radio, phonograph, musical instrument, loudspeaker, sound amplifier, or other device for the production or reproduction of sound in a manner that is disturbing to the peace, quiet and comfort of inhabitants of an adjacent room, building, property or public rights-of-way.

- b. The use, operation, or playing of any radio, phonograph, musical instrument, loudspeaker, sound amplifier or other device for the production or reproduction of sound in a manner that is plainly audible at a distance of 50 feet from the radio, phonograph, musical instrument or other device between the hours of 12:00 midnight and 8:00 a.m.
 - c. The use, operation, or playing of any radio, phonograph, musical instrument, loudspeaker, sound amplifier or other device for the production or reproduction of sound in a manner that is plainly audible, outside a building, in any area open to the public or on public rights-of-way for the purpose of commercial advertising or to attract attention of the public to the building or area.
- (3) Animals, birds and the like. The keeping of any animal or bird which causes frequent or loud continuous sound that disturbs the peace, quiet or comfort of any person more than 20 feet from the animal or bird.
- (4) Defect in vehicle or load.
- a. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle engine, except through a muffler or other device equivalent to the original equipment which effectively prevents loud or explosive sounds from being emitted.
 - b. The use of any motor vehicle which is loaded or improperly repaired so as to make when being operated loud grating, grinding, or rattling sounds that disturb the peace, quiet or comfort of any person.
 - c. The loud and excessive sounds created in the loading or unloading of a vehicle or the opening or destruction of bales, boxes, crates or containers.
 - d. The causing of a screeching noise from the tires that occurs while putting a motor vehicle in motion.
 - e. The operation of any motor vehicle without a standard muffler.
- (5) Schools, churches, courts, hospitals or governmental buildings. The creation of sounds near any school, institution of learning, church, court, hospital or governmental building which disturbs the peace, quiet or comfort of occupants of buildings used by such institutions.
- (6) Blowers. The operation of any blower, air conditioner, power fan or internal combustion engine which causes sounds in excess of those provided in the permissible noise level standards of this section. Notwithstanding this paragraph, portable generators may be operated during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage.
- (7) Industrial or commercial operations. The creation of any sound associated with commercial or industrial operations in excess of those provided in the permissible noise level standards of this section.
- (8) Construction or repair. The outdoor activity of alteration, construction, demolition, erection, excavation, or repair of any building, structure, or property at any time between the hours of 8:00 p.m. and 7:00 a.m., except when a catastrophe or emergency situation requires such activity to preserve and protect human life or public health and safety. In the event of a catastrophe or emergency, such activity between the hours of 8:00 p.m. and 7:00 a.m. can only occur after the first 12 hours following the catastrophe or emergency when a permit has been issued by the city administrator, who must

determine that such activity is required to preserve and protect human life or public health and safety. The permit is to be for a specific period of time not to exceed three days but may be renewed for a specific period of time not to exceed three days when the city administrator determines that such activity is required to preserve and protect human life or public health and safety. The permit may be renewed as many times as necessary. All activities by government authorities or public utilities are exempt from the hours limitations and permit requirements when (i) the activities are in response to a catastrophe or emergency; and/or (ii) the activities are required for the maintenance or repair of recreational facilities of the city.

- (9) Explosives and fireworks. The firing of fireworks or explosives of any kind without a permit from the board of aldermen.
- (10) Noise level standards. Sound in excess of the noise level standards of the county noise control code as presently adopted and hereafter amended as chapter 625 of the county code is hereby adopted as the city noise control code with the following deletions or additions:
 - a. Section 625.020(9) is deleted and will read as follows: "(9) *Daylight hours: 7:00 a.m. to 9:00 p.m., prevailing local time.*"
 - b. Section 625.020(10) is deleted and will read as follows: "(10) *Director: The city administrator or his authorized agent or deputy.*"
 - c. Section 625.020(18) is deleted and will read as follows: "(18) *Nighttime hours: 9:00 p.m. to 7:00 a.m., prevailing local time.*"
 - d. Section 625.070(5) is deleted.
 - e. Section 625.070 is amended to add: "(11) Activities conducted or approved by the State of Missouri or any governmental subdivision authorized under the laws of Missouri are exempt from the noise level standards of the noise code."
 - f. Sections 625.080, 625.090, 625.100, 625.110, 625.120, 625.160, 625.180, and 625.200 are deleted.
 - g. When any section of the noise code of the county specifies a fine or term of imprisonment, it shall be modified to be the penalty provided in section 1-6, pertaining to the general penalty and continuing violations, of the Code of Ordinances of the city, as presently enacted or hereafter amended.
- (11) In any court proceeding, the court will accept as evidence any noise level test that is conducted as required by the applicable noise standard of the American National Standards Institute.

Sec. 17-34. - Barking dog.

A person shall not permit a dog owned by him or within his custody or under his control to habitually bark, thereby reasonably causing the peace of any person of ordinary temper and disposition to be disturbed. A dog which habitually barks, thereby reasonably causing the peace of any person of ordinary temper and disposition to be disturbed, is declared to be a nuisance.

Sec. 17-35. - Disturbance of lawful assembly.

No person shall disturb any lawful assembly, either public or private, by making a noise, or by rude or indecent behavior or profane discourses within such assembly or so near the same as to disturb the order or solemnity of the meeting.

Sec. 17-36. - Loitering.

- (a) No person shall loiter on the streets or at the corners thereof or in the vicinity of any place of amusement, a hotel, motel, restaurant, office building, shop or store, or any other place of business; or obstruct corridors, aisles, stairways or doorways so as to prevent free access, passage or movement by members of the public, officers or employees.
- (b) No person shall by his presence, or by other means, either alone or in consort with others, interfere with or interrupt the conduct of business in offices, shops or stores.

Sec. 17-37. - Funeral protests prohibited, when—Citation of law—Definition.

- (a) Every citizen may freely speak, write and publish the person's sentiments on all subjects, being responsible for the abuse of the right, but no person shall picket or engage in other protest activities, nor shall any association or corporation cause picketing or other protest activities to occur within 300 feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one hour before or one hour after the conducting of any actual funeral or burial service at that place.
- (b) As used in this section, "other protest activities" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.
- (c) As used in this section, "funeral" and "burial service" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this section does not apply to processions while they are in transit beyond any 300-foot zone that is established under subsection (a) above.

Sec. 17-38. Unlawful assembly.

A person commits the offense of unlawful assembly if he or she knowingly assembles with six (6) or more other persons and agrees with such persons to violate any of the criminal laws of this State or of the United States with force or violence.

Sec. 17-39. Allowing unruly conduct.

It shall be unlawful for any person who owns, maintains, leases or is otherwise in possession or control of any real property to permit or allow persons thereon to conduct themselves in a loud or unruly manner so as to cause hurt, injury, annoyance, inconvenience or danger to the public or any member thereof, and it shall be the duty of any such person in possession or control to take such steps as are available to disperse such loud or unruly persons.

Sec. 17-40. Rioting.

A person commits the offense of rioting if he or she knowingly assembles with six (6) or more other persons and agrees with such persons to violate any of the criminal laws of this State or of the United States with force or violence and thereafter, while still so assembled, does violate any of said laws with force or violence.

Sec. 17-41. Refusal to disperse.

A person commits the offense of refusal to disperse if, being present at the scene of an unlawful assembly or at the scene of a riot, he or she knowingly fails or refuses to obey the lawful command of a Law Enforcement Officer to depart from the scene of such unlawful assembly or riot.

Sec. 17-42. Public drunkenness.

A person commits the offense of drunkenness or drinking in a prohibited place if he or she enters any schoolhouse, government building or church house in which there is an assemblage of people, met for a lawful purpose, in an intoxicated and disorderly condition, and disrupts such assembly.

Sec. 17-43. Obstruction of government operations.

A person commits the offense of obstructing government operations if he or she purposely obstructs, impairs, hinders or perverts the performance of a governmental function by the use or threat of violence, force, or other physical interference or obstacle.

ARTICLE III. - OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

DIVISION 1. - GENERALLY

Sec. 17-51. - Abandonment of airtight or semi-irtight containers.

- (a) A person commits the crime of abandonment of airtight icebox if he abandons, discards, or knowingly permits to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-irtight container which has a capacity of 1½ cubic feet or more and an opening of 50 square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.
- (b) Subsection (a) of this section does not apply to an icebox, refrigerator or other airtight or semi-irtight container located in that part of a building occupied by a dealer, warehouseman or repairman.
- (c) The defendant shall have the burden of injecting the issue under subsection (b) of this section.

Sec. 17-52. - Storage of materials, etc., constituting health menace.

No person shall store any lumber, wood, coal, rock or other material or substance upon any lot or premises within the city in such a manner as to endanger public health or safety, and each day that the same is so stored in violation of this section shall constitute a separate offense.

Sec. 17-53. - Dangerous missiles.

No person shall throw any stone or other missile upon or at any vehicle, building or other public or private property, or upon or at any person in any public street, alley or place, or enclosed or unenclosed ground.

Sec. 17-54. - Weapons generally, carrying concealed, other unlawful use.

- (a) A person commits the offense of unlawful use of weapons, except as otherwise provided by RSMo Sections 571.101 to 571.121, if he/she knowingly:
 - (1) Carries concealed upon or about his/her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use into any area where firearms are restricted under section 571.107; or
 - (2) Sets a spring gun; or
 - (3) Discharges or shoots a firearm within the city limits;

- (4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or
 - (5) Has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense; or
 - (6) Openly carries a firearm or any other weapon readily capable of lethal use, except as provided by Subsection (g) of this Section; or
 - (7) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof; or
 - (8) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board; or
 - (9) Possesses a firearm while also knowingly in possession of a controlled substance that is sufficient for a felony violation of RSMo 195.202.
- (b) Subdivisions (1), (7), and (8) of subsection (a) of this section shall not apply to the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this subsection. Subdivisions (3) and (4) of subsection (a) of this section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this subsection:
- (1) All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to RSMo 590.030 to 590.050, and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in RSMo 571.030(12), and who carry the identification defined in RSMo 571.030(13), or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
 - (3) Members of the Armed Forces or National Guard while performing their official duty;
 - (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
 - (5) Any person whose bona fide duty is to execute process, civil or criminal;
 - (6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921 regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;

- (7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;
 - (8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the Missouri Department of Public Safety under RSMo 590.750;
 - (9) Any coroner, deputy coroner, medical examiner or assistant medical examiner;
 - (10) Any municipal or county prosecuting attorney or assistant prosecuting attorney or any circuit attorney or assistant circuit attorney, municipal, associate or circuit judge, or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under RSMo 571.111(2);
 - (11) Any member of a fire department or fire protection district who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement issued prior to August 28, 2013 or a valid concealed carry permit under RSMo 571.111, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties; and
 - (12) Upon the written approval of the governing body of a fire department or fire protection district, any paid fire department or fire protection member who is employed on a full-time basis and who has a valid concealed carry endorsement issued prior to August 28, 2013 or a valid concealed carry permit, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.
- (c) Subdivisions (1), (5), (7), and (8) of subsection (a) of this section do not apply when the actor is transporting such weapons in a non-functioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection (a) of this section does not apply to any person 19 years of age or older or 18 years of age or older and a member of the United States Armed Forces, or honorably discharged from the United States Armed Forces, transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his/her dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through the city. Subdivision (8) of subsection (a) of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event or club event.
- (d) Subdivisions (1), (7), and (8) of subsection (a) of this section shall not apply to any person who has a valid concealed carry permit issued pursuant to RSMo 571.101 to 571.121, a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.
- (e) Subdivisions (3), (4), (5), (7), and (8) of subsection (a) of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to RSMo 563.031.

- (f) Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.
- (g) Any person who has a valid concealed carry permit issued pursuant to Sections 571.101 to 571.121, RSMo., or a concealed carry endorsement issued prior to August 28, 2013, or a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision of another State, may openly carry a firearm, subject to the restrictions set forth in Subsection (a)(4), (5), and (9) of this Section. However, nothing in this Section shall be construed to permit a person to carry a concealed firearm or openly carry a firearm in the locations listed in Subdivisions (1) through (17) of Subsection (a) of Section 17-55 of this Code. Any person openly carrying a firearm within the City limits shall display his or her concealed carry endorsement or permit upon demand of a law enforcement officer. Any person openly carrying a firearm who fails to display his or her concealed carry endorsement or permit upon demand of a law enforcement officer may be issued a citation for an amount not to exceed thirty-five dollars (\$35.00).
- (h) For purposes of this section, "knife" includes any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. "Knife" does not include any ordinary pocket knife with no blade more than four inches in length.

Sec. 17-55. - Carrying weapons prohibited—Penalty for violation.

- (a) It shall be a violation of this section, punishable as hereinafter provided, for any person to carry any concealed firearm, into:
 - (1) Any police, sheriff or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
 - (2) Within 25 feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
 - (3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention or correctional institution, prison or jail shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
 - (4) Any courthouse solely occupied by the circuit, appellate or supreme court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by supreme court rule pursuant to subdivision (6) of this subsection. Nothing in this subdivision shall preclude those persons listed in subsection (b)(1) of section 17-54 while within their jurisdiction and

on duty, those persons listed in subsections (b)(2) and (3) of section 17-54, or such other persons who serve in a law enforcement capacity for a court as may be specified by supreme court rule pursuant to subdivision (6) of this subsection from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subdivision shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

- (5) Any meeting of the board of aldermen, except that nothing in this subdivision shall preclude a member of the body holding a valid concealed carry permit or endorsement from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
- (6) Any building owned, leased or controlled by the City of Ballwin identified by signs stating that carrying firearms is prohibited and posted at the entrance to the building. This subsection shall not apply to any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased or controlled by the City of Ballwin. Persons violating this subsection may be denied entrance to the building, ordered to leave the building and, if employees of the city, be subjected to disciplinary measures for violation.
- (7) Any establishment licensed to dispense intoxicating liquor for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than 50 persons and that receives at least 51 percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry permit or endorsement to possess any firearm while intoxicated.
- (8) Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
- (9) Any place where the carrying of a firearm is prohibited by federal law.
- (10) Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board, unless the person with the concealed carry endorsement or permit is a teacher or administrator of an elementary or secondary school who has been designated by his or her school district as a school protection officer and is carrying a firearm in a school within that district, in which case no consent is required. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

- (11) Any portion of a building used as a child care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a driver's license or non-driver's license containing a concealed carry permit or endorsement.
 - (12) Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the gaming commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
 - (13) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
 - (14) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
 - (15) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of 11 inches by 14 inches with the writing thereon in letters of not less than one inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity or person may prohibit persons holding a concealed carry permit or endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry permit or endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry permit or endorsement from carrying a concealed firearm in vehicles owned by the employer.
 - (16) Any sports arena or stadium with a seating capacity of 5,000 or more. Possession of a firearm in a vehicle on the premises shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
 - (17) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be an offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
- (b) Any person violating any of the provisions of subsection (a) of this section shall be punished as follows:
- (1) Carrying of a concealed firearm in a location specified in subdivisions (1) to (17) of Subsection (a) of this section by any individual who holds a Missouri lifetime or extended concealed carry permit shall not be a criminal act but may be subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a Peace Officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars (\$100.00) for the first offense. If a second citation for a similar violation occurs within a six-month period, such

person shall be fined an amount not to exceed two hundred dollars (\$200.00). If a third citation for a similar violation is issued within one (1) year of the first citation, such person shall be fined an amount not to exceed five hundred dollars (\$500.00) and shall have his or her Missouri lifetime or extended concealed carry permit revoked and such person shall not be eligible for a Missouri lifetime or extended concealed carry permit or a concealed carry permit issued under sections 571.101 to 571.121 for a period of three (3) years. Upon conviction of charges arising from a citation issued under this subsection, the court shall notify the sheriff of the county which issued the Missouri lifetime or extended concealed carry permit. The sheriff shall suspend or revoke the Missouri lifetime or extended concealed carry permit.

- (2) If the violator does not hold a current valid concealed carry endorsement issued pursuant to state law, upon conviction of a charge of violating this section the defendant shall be punished as provided in section 1-6 of this Code of Ordinances.
 - (3) Employees of the City of Ballwin may, in addition to any other punishment herein, be subject to disciplinary action for violating any of the provisions of sections 17-54, 17-55 or this section.
- (c) Nothing in this subsection shall preclude those persons listed in subsection (b) (1) of section 17-54, while within their jurisdiction and on duty, from carrying a firearm within the areas described in this section.

Sec. 17-56. - Turkey shoots.

No person shall own, operate, manage, produce, hold, put on or participate in a turkey shoot of any kind, at anytime, anywhere within the corporate limits of the city.

Sec. 17-57. - Fireworks.

- (a) *Prohibited.* No person shall sell, use, manufacture, display or possess fireworks, as defined in section 1-2, within the city at any time, except as otherwise provided.
- (b) *Exceptions.* The prohibitions of this section shall not apply to the sale or use of blank cartridges for theatrical purposes or for signal purposes in athletic or sports events, nor to public demonstrations or displays of fireworks; provided, however, such public demonstrations or displays of fireworks must be conducted under the supervision of the chief of police and the police department after application is made in writing and approved by the chief of police and the city administrator.

Sec. 17-58. - Rockets, missiles and projectiles.

No person shall construct, use, discharge, fire, launch or explode rockets, missiles or other similar projectiles within the city unless a written permit for such specific purpose has been obtained from the board of aldermen. In granting any such permit, the board of aldermen may prescribe such conditions and regulations for the activity permitted as they may deem necessary for the preservation and the protection of the health and welfare of the inhabitants of the city.

Sec. 17-59. – Fires, reckless or negligent burning or exploding.

- (a) No person shall burn garbage, refuse, waste, straw or other combustible materials without a permit from the fire district. A copy of such permit must be supplied to the city within 30 days of the event. This section shall not apply to barbecue pits used for the cooking of food.
- (b) A person commits the offense of reckless burning or exploding if he or she recklessly starts a fire or causes an explosion and thereby damages or destroys the property of another.

- (c) A person commits the offense of negligent burning or exploding if he or she with criminal negligence causes damage to property, woodlands, or grasslands of another by (1) starting a fire or causing an explosion; or (2) allowing a fire burning on lands in his or her possession or control onto the property of another.

Sec. 17-60. - Littering.

- (a) No person shall throw, dump, deposit or place or cause to be thrown, dumped, deposited or placed upon any highway, road, street, alley, waterway, right-of-way, parking lot or private property:
 - (1) Any tacks, nails, wire, scrap metal, glass, crockery, sharp stones or other substances injurious to the feet of persons or animals or the tires of vehicles.
 - (2) Any paper, rubbish, garbage or debris of any and all kinds.
 - (3) Any mud, dirt, sand, gravel, rock, stone or other excavated material or substance dug, scooped, blasted or removed from the earth on any lot or tract of land; provided, however, that this provision shall not apply to any excavation in the highways for which a permit has been issued by the city.
 - (4) Any and all substances and materials which cause or may cause a hazard or obstruction to the movement of traffic.
- (b) No person shall throw, dump, deposit or place; or cause to be thrown, dumped, deposited or placed such materials and substances in such a manner as to cause the same to roll, flow or wash upon any highway, road, street, alley or right-of-way of the same.
- (c) No person, when moving or hauling any such materials and substances upon any highway, road, street, alley or right-of-way of the same, shall allow such substances and materials to blow, spill, drop or otherwise come to rest over and upon such highway, road, street, alley or right-of-way.
- (d) Any person who, by reason of accident, violates this section shall be held blameless of such violation upon an affirmative showing that he:
 - (1) Immediately cleaned and cleared away the materials or substance involved;
 - (2) Immediately made a reasonable and conscientious effort to clean and clear; or
 - (3) By reason of such accident was rendered incapable of cleaning and clearing away the materials or substances involved.

Sec. 17-61. - Manufacture, possession, etc., of controlled and other substances.

- (a) *Manufacture, possession, etc., prohibited.* No person shall manufacture, possess, have under his/her control, sell, prescribe, administer, dispense, distribute or compound any substance scheduled in Chapter 195 or Chapter 579 RSMo. , including, but not limited to controlled substances, counterfeit substances and synthetic cannabinoid.
- (b) *Possession of certain apparatus prohibited.* No person shall possess any apparatus, device or instrument for the unauthorized use of any controlled substance.
- (c) *Exceptions.* The provisions and prohibitions of this section shall not apply to any person who is specifically authorized by the laws of the state to manufacture, possess, have under his control, sell, prescribe, administer, dispense, distribute or compound any controlled or counterfeit substance, nor to any person who is authorized under the laws of the state to possess any apparatus, device or instrument for the use of any controlled substance.
- (d) *Definitions.* The terms "controlled substance", "counterfeit substance" and "synthetic cannabinoid" shall be defined as follows, in accordance with RSMo 195.010:

- (5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425;
- (7) "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (40) "Synthetic cannabinoid", includes unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in paragraph (11) of subdivision (4) of subsection 2 of section 195.017 and any analogues, homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it shall not include any approved pharmaceutical authorized by the United States Food and Drug Administration.

Sec. 17-62. - Smoking of tobacco and other substances in all recreation facilities in the city with exception of park and golf course grounds, prohibited; penalty.

- (a) With the exception of posted designated areas, if provided, no person shall smoke tobacco or any other substance of any form or by any method, nor shall any person hold or carry any lighted cigarette, cigar or pipe in any of the recreation facilities in the city, with the exception of park and golf course grounds, or in any area of the city hall.
- (b) The city engineer is directed to erect "no smoking" signs in areas where smoking is prohibited.
- (c) Any person found guilty of violating the provisions of this section shall be subject to the penalties provided for violating this Code, provided that the fine for the first such offense shall be \$25.00.

Sec. 17-63. - Prohibition of the sale of tobacco to a minor.

- (a) No person shall sell any tobacco product or distribute any tobacco product or rolling papers to any minor.
- (b) Any person who violates this section shall be fined:
 - (1) For the first offense, \$100.00;
 - (2) For the second offense, \$250.00; and
 - (3) For a third and subsequent offense, \$1,000.00.
- (c) The owner of an establishment at which tobacco products or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products are sold and on every vending machine where tobacco products are purchased a sign that shall:
 - (1) Contain in red lettering at least one-half-inch high on a white background the following: "It is a violation of state law for cigarettes or other tobacco products to be sold to or be in the possession of any person under the age of 18."; and
 - (2) Include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal diameter of a surrounding red circle, and the words "Under 18."

- (d) It shall be unlawful for any person to engage in tobacco product distribution to persons under 18 years of age.
- (e) A person selling tobacco products or rolling papers or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if any ordinary person would conclude on the basis of appearance that such perspective purchaser or recipient may be under the age of 18.
- (f) If a sale is made by an employee of the owner of an establishment in violation of this section, the employee shall be guilty of an offense established in subsection (a). If a vending machine is in violation of this section, the owner of the establishment shall be guilty of an offense established in subsection (a). If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in subsection (a).
- (g) Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of this section.

Sec. 17-64. - Protests and picketing.

- (a) *Acts constituting picketing.* A person is engaged in picketing if a person with or without a sign is posted at, before or about a property or building on a definite route in front of, or about a particular property or building.
- (b) *Interference with public business and public buildings.* It shall be interference with public business and public buildings and shall constitute a violation of this Code to:
 - (1) Conduct at or in any public building and/or facility owned, operated or controlled by the City of Ballwin, picketing or protest so as to willfully deny to any public official, public employee or any invitee on such premises, the lawful rights of such official, employee or invitee to enter, or to use the facilities or to leave any such building.
 - (2) Willfully impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation by force and violence or a threat thereof.
 - (3) Willfully refuse or fail to leave any such public building and/or facility upon being requested to do so by the city administrator or his designee, if such person is committing, threatening or threatens to commit or incites others to commit any act which did or would, if completed, disrupt, impair, interfere with or obstruct the lawful admissions, processes, procedures or functions being carried out in such public building.
 - (4) Willfully impede, disrupt, or hinder the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building by any act of intrusion to the chamber or other areas designated for the use of the body or official conducting such meeting or session or by any act designate to intimidate, coerce or hinder any member of such body or any official engaged in the performance of duties at such meeting or session.
 - (5) Willfully impede, disrupt, or hinder by any act or intrusion into the chamber or other areas designated for the use of any executive body or official, the normal proceedings of such body or official.

- (6) Willfully impede, disrupt, or hinder by any act or intrusion in the operation of any event or function in any park or property owned by the city.

This section notwithstanding peaceful picketing, protests and demonstrations not violating this section shall be allowed at the following locations:

Facility	Area
The Point at Ballwin Commons	Bricked paved plaza area along building front
Ballwin Golf Course	Southernmost end of parking lot along a 20-foot-wide strip extending width of lot
Vlasis Park/Police Station	Any or all of the following locations:
	(a) Holloway and Park Drive to Log Home
	(b) Peace memorial, inside sidewalk
	(c) Kehrs Mill at Seven Tails (southwest corner)
	(d) Ballpark Drive at Kehrs Mill (southeast corner)
Outdoor Pool	Sidewalk/walkway on the east side of the pool beginning with the south end of the pool fence and ending at the north corner of the fence
New Ballwin Park	Sidewalk between the street and street trees on either side of the park entrance driveway
Government Center	Kehrs Mill at Seven Trails southeast corner) to edge of pavement

Sec. 17-65. - Ballwin Clean Air Act.

- (a) *Prohibition of smoking in indoor areas and sports arenas.* Smoking shall be prohibited in all indoor areas and sports arenas within the City of Ballwin, including, but not limited to the following places:
- (1) Aquariums, galleries, libraries, and museums;
 - (2) Areas available to and customarily used by the general public in business and non-profit entities patronized by the public, including but not limited to professional offices, banks, and laundromats;
 - (3) Bars;
 - (4) Bingo facilities;
 - (5) All public and private colleges, universities, and other educational and vocational institutions;
 - (6) Elevators;
 - (7) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance;
 - (8) Health care facilities, including health care clinics, doctor's offices or other health care related facilities;
 - (9) Licensed child care and adult day care facilities;

- (10) Polling places;
 - (11) All enclosed facilities, including buildings and vehicles owned, leased or operated by the City of Ballwin, shall be subject to the provisions of this section;
 - (12) Restaurants and food service establishments;
 - (13) Restrooms, lobbies, reception areas, hallways, and other common use areas;
 - (14) Retail stores;
 - (15) Rooms, chambers, places of meeting or public assembly under the control of the agency, board, commission, committee or council of the City of Ballwin when a public meeting is in progress.
- (b) *Prohibition of smoking in place of employment.* Smoking shall be prohibited in all enclosed facilities within places of employment without exception. This includes common work areas, auditoriums, bars, restaurants, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities.

This prohibition on smoking shall be communicated to all existing employees by the effective date of this Section and to all prospective employees upon their application for employment.

- (c) *Exceptions.* The following areas shall be exempt from the provisions of this section:
- (1) Private homes, private residences and private vehicles,
 - (2) a. Membership associations that were in existence and in operation on November 30, 2004; provided, however, that smoking shall only be allowed in membership associations in which all of the duties with respect to the operation of such association, including, but not limited to the preparation of food and beverages, the service of food and beverages, reception and secretarial work of the membership association are performed by members of such membership association who are at least 18 years of age and who do not receive compensation of any kind from the membership association or any other entity for the performance of such duties. In addition, the membership association shall not allow any person under the age of 18 years of age to be present on the membership association premises at any time when smoking is permitted.
 - b. Membership associations may retain and utilize non-members for professional services such as accounting and legal services and other services that are not generally within the scope of the day-to-day operation of the membership associations.
- (d) *Declaration of establishments as nonsmoking.* Notwithstanding any other provision of this section, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that an entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of this section is posted.
- (e) *Posting of signs.*
- (1) "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place of employment where smoking is prohibited by this section, by the owner, operator, manager, or other person in control of that place.



- (2) Every public place and place of employment where smoking is prohibited by this section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
 - (3) All ashtrays and other smoking paraphernalia shall be removed from any premises where smoking is prohibited by this section by the owner, operator, manager, or other person having control of the area.
- (f) *Retaliation.* No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this section, or reports or attempts to prosecute a violation of this section.
- (g) *Enforcement.*
- (1) This section shall be enforced by Ballwin Police Officers, code enforcement inspectors, or by an authorized designee of the city administrator, and shall henceforth be referred to as the "enforcement officer".
 - (2) Notice of the provisions of this section shall be given to all applicants for a business license in the City of Ballwin.
 - (3) Any citizen may initiate a complaint by notice to an enforcement officer.
 - (4) Any employee who desires to register a complaint under this section may initiate enforcement with the enforcement officer without fear of retaliation.
 - (5) An owner, manager, operator, or employee of an establishment regulated by this section shall inform persons violating this section of the appropriate provisions thereof.
- (h) *Violation and penalties.*
- (1) A person who smokes in an area where smoking is prohibited by the provisions of this section shall be guilty of an infraction, punishable by a penalty of \$100.00 for a first violation, and \$250.00 for each subsequent violation.
 - (2) A person who owns, manages, operates, or otherwise controls a public place or place of employment who fails to comply with the provisions of this section shall be guilty of an infraction, punishable by:
 - a. A penalty of \$250.00 for a first violation;
 - b. A penalty of \$500.00 for each additional violation.

(3) Each day on which a violation of this section occurs shall be considered a separate and distinct violation.

(i) *Effective date.*

(1) This section shall become effective, 60 days from and after the date of its passage and approval, and smoking will not be permitted for all places of employment, with the exception of bars and food service establishments that were licensed to serve alcoholic beverages for consumption by the drink on or before December 1, 2004.

(2) Smoking will not be permitted in all bars and food service establishments that were licensed to serve alcoholic beverages for consumption by the drink on or before December 1, 2004, effective January 2, 2006.

(3) Smoking will not be permitted for all places of employment, including bars and food service establishments that were licensed to serve alcoholic beverages for consumption by the drink on or after December 1, 2004, and this section shall become effective, 60 days from and after the date of its passage and approval.

Sec. 17-66. - Possession of tobacco products by a minor.

(a) No person less than 18 years of age shall possess, attempt to purchase, attempt to receive samples or possess cigarettes or other tobacco products unless such person is an employee of or a seller of cigarettes or tobacco products and is in such possession to effect a sale in the course of employment, or an employee of the division of liquor control engaged in the enforcement of the State of Missouri state statutes.

(b) Any person less than 18 years of age shall not misrepresent his or her age to purchase cigarettes or tobacco products or to receive samples thereof.

(c) Any person who violates the provisions of this section shall be penalized as follows:

(1) For the first violation, the person is guilty of an infraction and shall have any cigarettes or tobacco products confiscated.

(2) For a second and any subsequent violation, the person is guilty of an infraction and shall have any cigarettes or tobacco products confiscated and shall complete a tobacco education/smoking cessation program.

Sec. 17-67. Tampering with water supply.

A person commits the offense of tampering with a water supply if he or she purposely:

(1) Poisons, defiles or in any way corrupts the water of a well, spring, brook, stream, creek, pond, lake, or reservoir used for domestic or municipal purposes; or

(2) Diverts, dams up and holds back from its natural course and flow any spring, brook, stream, creek or other water supply for domestic or municipal purposes, after said water supply shall have once been taken for use by any person or persons, corporation, town or city for their use; or

(3) Places or causes to be placed the carcass or offal of any dead animal into any well, spring, brook, stream, creek, pond, or lake.

Sec. 17-68. Possession, manufacture, transport, repair, sale of certain weapons.

- (a) A person commits an offense if such person knowingly possesses, manufactures, transports, repairs, or sells:
- (1) An explosive weapon;
 - (2) An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;
 - (3) A gas gun;
 - (4) A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm;
 - (5) Knuckles; or
 - (6) Any of the following in violation of Federal law:
 - a. A machine gun;
 - b. A short barreled rifle or shotgun;
 - c. A firearm silencer; or
 - d. A switchblade knife.
- (b) A person does not commit an offense under this Section if his/her conduct involved any of the items in Subdivisions (1) to (5) of Subsection (a), the item was possessed in conformity with Federal law, and the conduct:
- (1) Was incident to the performance of official duty by the Armed Forces, National Guard, a governmental law enforcement agency or a penal institution;
 - (2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in Paragraph (1) of this Subsection;
 - (3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise;
 - (4) Was incident to displaying the weapon in a public museum or exhibition; or
 - (5) Was incident to using with the weapon in a manner reasonably related to a lawful dramatic performance.

Sec. 17-69. Defacing firearm.

A person commits the offense of defacing a firearm if he/she knowingly defaces any firearm.

Sec. 17-70. Fraudulent purchase of firearm.

(a) As used in this Section, the following terms shall mean:

AMMUNITION

Any cartridge, shell, or projectile designed for use in a firearm.

LICENSED DEALER

A person who is licensed under 18 U.S.C. Section 923 to engage in the business of dealing in firearms.

MATERIALLY FALSE INFORMATION

Any information that portrays an illegal transaction as legal or a legal transaction as illegal.

PRIVATE SELLER

A person who sells or offers for sale any firearm, as defined in Section 571.010, RSMo., or ammunition.

(b) A person commits the offense of fraudulent purchase of a firearm if such person:

- (1) Knowingly solicits, persuades, encourages or entices a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this State or the United States; or
- (2) Provides to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition; or
- (3) Willfully procures another to violate the provisions of Subdivisions (1) or (2) of this Subsection.

(c) This Section shall not apply to criminal investigations conducted by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, authorized agents of such investigations, or to a Peace Officer, as defined in Section 542.261, RSMo., acting at the explicit direction of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.

Sec. 17-71. Unlawful transfer of weapons.

A person commits the offense of unlawful transfer of weapons if he/she:

- (1) Knowingly sells, leases, loans, gives away or delivers a blackjack to a person less than eighteen (18) years old without the consent of the child's custodial parent or guardian or recklessly, as defined in Section 562.016, RSMo., sells, leases, loans, gives away or delivers any firearm to a person less than eighteen (18) years old without the consent of the child's custodial parent or guardian; provided that this does not prohibit the delivery of such weapons to any Peace Officer or member of the Armed Forces or National Guard while performing his/her official duty; or

- (2) Recklessly, as defined in Section 562.016, RSMo., sells, leases, loans, gives away or delivers a firearm or ammunition for a firearm to a person who is intoxicated.

Sec. 17-72. Possession of firearm unlawful for certain persons.

A person commits the offense of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and:

- (1) Such person has been convicted of a felony under the laws of this State, or of a crime under the laws of any State or of the United States which, if committed within this State, would be a felony; or
- (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

Sec. 17-73. Failure to supervise minor.

- (a) Definitions. For the purpose of this Section, the following definitions shall apply:

ALCOHOLIC BEVERAGES

Any beverage constituting intoxicating liquor, light wines, malt liquor or non-intoxicating beer, as those terms are defined in Chapter 3 of the Municipal Code of the City of Ballwin.

CONTROLLED SUBSTANCE

Any drug, substance or immediate precursor defined or described as such in Section 195.010, RSMo. (2000) as may be amended or revised from time to time.

DELIVERY OF ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES

The gift or exchange of an alcoholic beverage or controlled substance from one person to another.

MINOR

Any person under the age of twenty-one (21) years.

PARENT

A natural or adoptive parent, or a guardian, or the adult designee of either of them.

PARTY, GATHERING OR EVENT

An assemblage or a group of persons for a social occasion or for a social activity.

PERSON IN CONTROL OF THE PREMISES

An adult who owns, leases, rents or is otherwise the lawful occupant of any premises or the adult designee thereof.

PRACTITIONER

Any medical professional or other person as defined or described in Section 195.010, RSMo. (2000) as may be amended or revised from time to time.

- (b) *Use Of Premises For Consumption Of Alcoholic Beverages Or Controlled Substances.* It shall be unlawful for any person to knowingly or negligently permit, allow or host, on or in a premises under his or her control, the consumption of alcoholic beverages or controlled substances by a minor; except that this Section shall not apply to the following:
- (1) The delivery of alcoholic beverages to a minor or the consumption of alcoholic beverages by a minor in connection with the performance of any bona fide religious service under the supervision of an adult, with the consent of the person in control of the premises.
 - (2) The delivery of an alcoholic beverage to a minor by that minor's parent and under the direct supervision of the parent.
 - (3) The possession or consumption of or the delivery to a minor of a controlled substance prescribed for that minor by a practitioner when such delivery by that minor's parent or by the person in control of the premises, provided that he or she has obtained the prior consent of that minor's parent.
- (c) *Rental Of A Premises.* It shall be unlawful for any owner, agent, employee or contractor thereof to rent any room, rooms, apartment or any building or portion of a building to a minor or to any adult when it is reasonably foreseeable that said adult, or his or her adult designee, will leave the said premises or reasonably foreseeable that said premises may be used for a gathering at which alcoholic beverages or controlled substances may be in possession of or consumed by minors except as otherwise provided in this Chapter.
- (d) *Duty To Disperse — Police Services, Fees for Police Services.*
- (1) Any person in control of a premises at which alcoholic beverages or controlled substances are in the possession of or are being consumed by minors, or his or her adult designee, shall cause all persons in or on said premises who are not lawful residents thereof to disperse not more than fifteen (15) minutes after personally receiving an order to do so issued by a Peace Officer.
 - (2) When a party, gathering or event occurs on private property and a Police Officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the person or persons responsible for the party, gathering or event will be held liable for the cost of providing Police services during a second (2nd) or follow-up response by the Police after a first (1st) warning to the person or persons responsible for the party, gathering or event. The second (2nd) or follow-up response may also result in the arrest and/or citation of violators pursuant to State law or other provisions of this Code.
 - (3) The Police services fee shall include the cost of personnel and equipment but shall not exceed five hundred dollars (\$500.00) for a single incident provided, however,

that the City does not waive its right to seek reimbursement for actual costs exceeding five hundred dollars (\$500.00) through other legal remedies. The amount of such fees shall be deemed a debt owed to the City by the person responsible for the party, gathering or event. If such persons are minors, their parents or guardians shall be responsible for such debt. Any person owing such fees to the City shall be liable in an action brought in the name of the City for recovery of such fees, including reasonable attorney's fees.

- (e) *Penalty.* Any person or persons convicted of violating the provisions of this Section shall be fined an amount not to exceed five hundred dollars (\$500.00) for each offense; except that for third (3rd) and subsequent violations by the same person or persons, the fine shall not be less than one thousand dollars (\$1,000.00) for each offense.

Secs. 17-74—17-80. - Reserved.

DIVISION 2. - DRUG PARAPHERNALIA

Sec. 17-81. - Unlawful use.

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of this division or as defined by Chapter 195 RSMo., in violation of Chapter 195 or Chapter 579 RSMo.

Sec. 17-82. - Advertisement.

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

Sec. 17-83. - Determination.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this division;
- (4) The proximity of the object to controlled substances or imitation controlled substances;
- (5) The existence of any residue of controlled substances or imitation controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intending to use the object to facilitate a violation of this division; the innocence of an owner, or of anyone in control of the object, as to direct violation of this division shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;

- (9) National or local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

Sec. 17-84. Limitations on possession and sale of methamphetamine precursor drugs.

(a) A person commits the offense of unlawful sale, distribution, or purchase of over-the-counter methamphetamine precursor drugs if he or she knowingly:

- (1) Sells, distributes, dispenses, or otherwise provides any number of packages of any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, in a total amount greater than nine grams to the same individual within a thirty-day period, unless the amount is dispensed, sold, or distributed pursuant to a valid prescription; or
- (2) Purchases, receives, or otherwise acquires within a thirty-day period, other than pursuant to a lawful transaction by a pharmacy with its suppliers, any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers in a total amount greater than nine grams, without regard to the number of transactions, unless the amount is purchased, received, or acquired pursuant to a valid prescription; or
- (3) Purchases, receives, or otherwise acquires within a twenty-four-hour period, other than pursuant to a lawful transaction by a pharmacy with its suppliers, any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers in a total amount greater than three and six-tenths grams, without regard to the number of transactions, unless the amount is purchased, received, or acquired pursuant to a valid prescription; or
- (4) Dispenses or offers drug products that are not excluded from Schedule V in [subsection 17](#) or [18 of section 195.017](#) RSMo and that contain detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, without ensuring that such products are located behind a pharmacy counter where the public is not permitted and that such products are dispensed by a registered pharmacist or pharmacy technician under [subsection 11 of section 195.017](#) RSMo; or

- (5) Holds a retail sales license issued under chapter 144 RSMo and knowingly sells or dispenses packages that do not conform to the packaging requirements of [section 195.418](#) RSMo., except that any person who violates the packaging requirements of [section 195.418](#) RSMo and is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale shall not be penalized if he or she documents that an employee training program was in place to provide the employee who made the unlawful retail sale with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

(b) A pharmacist, intern pharmacist, or registered pharmacy technician commits the offense of unlawful sale, distribution, or purchase of over-the-counter methamphetamine precursor drugs if he or she knowingly:

- (1) Sells, distributes, dispenses, or otherwise provides any number of packages of any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, in a total amount greater than three and six-tenth grams to the same individual within a twenty-four hour period, unless the amount is dispensed, sold, or distributed pursuant to a valid prescription; or
- (2) Sells, distributes, dispenses or otherwise provides to an individual under eighteen years of age without a valid prescription any number of packages of any drug product containing any detectable quantity of pseudoephedrine, its salts, isomers, or salts of optical isomers, or ephedrine, its salts or optical isomers, or salts of optical isomers.

(c) A person commits the offense of unlawful marketing of ephedrine or pseudoephedrine if he or she knowingly markets, sells, distributes, advertises, or labels any drug product containing ephedrine, its salts, optical isomers and salts of optical isomers, or pseudoephedrine, its salts, optical isomers and salts of optical isomers, for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved under the pertinent federal over-the-counter drug Final Monograph or Tentative Final Monograph or approved new drug application.

(d) A person commits the offense of possession of methamphetamine precursors if he or she knowingly possesses one or more chemicals listed in [subsection 2 of section 195.400](#) RSMo, reagents, solvents, or any other chemicals proven to be precursor ingredients of methamphetamine or amphetamine, as established by expert testimony, with the intent to manufacture, compound, convert, produce, process, prepare, test, or otherwise alter that chemical to create a controlled substance or a controlled substance analogue in violation of chapter 579 RSMo or chapter 195 RSMo. Possession of more than twenty-four grams of ephedrine or pseudoephedrine shall be prima facie evidence of intent to violate this subsection. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

Sec. 17-85. Inhalation or inducing others to inhale solvent fumes to cause certain reactions, prohibited — exceptions.

No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues or induce any other person to do so for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental processes; except that this Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

Sec. 17-86. Inducing, or possession with intent to induce, symptoms by use of solvents and other substances, prohibited.

- (a) As used in this Section "alcohol beverage vaporizer" means any device which, by means of heat, a vibrating element, or any method, is capable of producing a breathable mixture containing one (1) or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose or mouth or both.
- (b) No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use or abuse of any of the following substances:
 - (1) Solvents, particularly toluol;
 - (2) Ethyl alcohol;
 - (3) Amyl nitrite and its iso-analogues;
 - (4) Butyl nitrite and its iso-analogues;
 - (5) Cyclohexyl nitrite and its iso-analogues;
 - (6) Ethyl nitrite and its iso-analogues;
 - (7) Pentyl nitrite and its iso-analogues; and
 - (8) Propyl nitrite and its iso-analogues.
- (c) This Section shall not apply to substances that have been approved by the United States Food and Drug Administration as therapeutic drug products or are contained in approved over-the-counter drug products or administered lawfully pursuant to the order of an authorized medical practitioner.
- (d) No person shall intentionally possess any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues for the purpose of using it in the manner prohibited by Section 17-85 and this Section.

- (e) No person shall possess or use an alcoholic beverage vaporizer.
- (f) Nothing in this Section shall be construed to prohibit the legal consumption of intoxicating liquor.

Sec. 17-87. Possession or purchase of solvents to aid others in violations of sections 17-85 to 17-86.

No person shall intentionally possess, buy, sell or transfer any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their is-analogues, for the purpose of inducing or aiding any other person to violate the provisions of Sections 17-85 and 17-86 hereof.

Secs. 17-88—17-100. - Reserved.

ARTICLE IV. - OFFENSES AGAINST PROPERTY

Sec. 17-101. - Affixing advertisements to public places.

No person shall paint, post, place, hang, suspend or affix any advertisement, card, poster, sign, banner or streamer of any nature or for any purpose; nor cause the same to be done on or to any curbstone, flagstone or any other portion of any street or sidewalk; upon any tree or lamppost standing or erected on any public street, alley or other public place; upon any pole erected upon any public street, alley or other public place, which pole is used to carry telephone wires or cables, electric light wires or other electric conductors; or to any hydrant, bridge or other public structure within the city; provided, however, that nothing in this section shall apply to any official notice required by law or ordinance to be posted by public officers.

Sec. 17-102. - Removal and destruction of official notices and signs.

No person shall deface, destroy, tear down or remove any official notice or bulletin or any official sign or signal posted or placed in conformity with law or ordinance, except an officer of the city in the proper discharge of his duties.

Sec. 17-103. - Tampering with public record.

No person shall, without proper authority, take, remove, mutilate or destroy any record, document, book or paper on file or kept on record in any public office of the city; nor shall any person retain any record, document, book, paper or property of the city after lawful demand for the return thereof has been made by an official or duly authorized agent of the city.

A person commits the offense of tampering with a public record if, with the purpose to impair the verity, legibility or availability of a public record, he or she knowingly makes a false entry or alteration thereto or if he or she knowingly without authority destroys or conceals any public record.

Sec. 17-104. - Trespassing.

(a) A person commits the offense of trespass if he or she enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property, or climbs or skateboards upon a City structure that has been posted with notice prohibiting such climbing or skateboarding at the direction of the City Administrator.

(b) A person commits the offense of trespass of a school bus if he or she knowingly and unlawfully enters any part of or unlawfully operates any school bus. For the purposes of this Subsection, the terms "unlawfully enters" and "unlawfully operates" refer to any entry or operation of a school bus which is not:

- (1) Approved of and established in a school district's written policy on access to school buses; or

(2) Authorized by specific written approval of the school board.

(c) As used in this Section, a person "enters unlawfully or remains unlawfully" in or upon premises when he or she is not licensed or privileged to do so. A person who, regardless of his or her purpose, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he or she defies a lawful order not to enter or remain, personally communicated to him or her by the owner of such premises or by other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public.

Sec. 17-105. - Stealing.

(a) A person commits the offense of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

(b) A person shall not be deemed to have stolen video service if the video company provides unsolicited services or fails to change or disconnect service within 10 days after receiving written notice to do so by its customer.

(c) A person does not commit an offense under this section if, at the time of the appropriation, he or she:

1. Acted in the honest belief that he or she had the right to do so; or

(2) Acted in the honest belief that the owner, if present, would have consented to the appropriation.

Sec. 17-106. - Receiving stolen property.

(a) A person commits the crime of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

Sec. 17-107. - Destruction or removal of property.

(a) No person shall cut, remove, deface or in any manner injure, damage, molest, destroy, disturb or interfere with real or personal property owned or controlled by the city.

(b) No person shall cut, destroy, remove, disturb or injure any plant, flower, shrub, tree or bush growing upon any property owned or controlled by the city.

(c) No person shall willfully deface, injure, tamper with, break, disturb, interfere with, damage or destroy any property, real or personal, belonging to or under the control of another.

Sec. 17-108. - Failure to return rented personal property.

(a) A person commits the offense of stealing leased or rented property if, with the intent to deprive the owner thereof, such person:

a. Purposely fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property;

b. Conceals or aids or abets the concealment of the property from the owner;

- (b) Sells, encumbers, conveys, pawns, loans, abandons or gives away the leased or rented property or any part thereof without the written consent of the lessor, or without informing the person to whom the property is transferred to that the property is subject to a lease;
- (c) Returns the property to the lessor at the end of the lease term, plus any agreed upon extensions, but does not pay the lease charges agreed upon in the written instrument, with the intent to wrongfully deprive the lessor of the agreed upon charges.
- (d) The provisions of this Section shall apply to all forms of leasing and rental agreements including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this Section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.
- (e) Evidence that a lessee used a false, fictitious, or not current name, address or place of employment in obtaining the property or that a lessee fails or refuses to return the property or pay the lease charges to the lessor within seven (7) days after written demand for the return has been sent by certified mail, return receipt requested, to the address the person set forth in the lease agreement, or in the absence of the address, to the person's last known place of residence, shall be evidence of intent to violate the provisions of the Section, except that if a motor vehicle has not been returned within seventy-two (72) hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the offense of stealing leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two (72) hours after the expiration of the lease or rental agreement, 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. Any Law Enforcement Officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he/she may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the seven (7) day period prescribed in this Subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five (5) days notify the person who leased or rented the property that such person is in violation of this Section, and that failure to immediately return the property may subject such person to arrest for the violation.
- (f) This Section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement or within ten (10) days after proper notice.

- (g) Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner commits the offense of property damage pursuant to Section 17-107 in addition to being in violation of this Section.

Sec. 17-109. - Tampering with fire hydrants prohibited.

- (a) No person shall tamper with any fire hydrant, fireplug or other device available for connecting a fire hose to a water main without obtaining written authority to do so from firefighting authorities having jurisdiction in the area within which such device is located and from the owner of such device.
- (b) The provisions of this section shall not apply to employees of the city acting in behalf of the city, to the owner of such device or the agents and employees of such owner, and any firefighting personnel engaged in any activity related to firefighting or the maintenance and operation of firefighting equipment.

Sec. 17-110. - Award.

An award of \$50.00 may be made to a person giving information which leads to the recovery of stolen city property, or which leads to the recovery of damages in cases of vandalism to city property upon the recommendation of the city administrator and approval by the board of aldermen.

Sec. 17-111. - Passing bad checks.

- (a) A person commits the crime of passing a bad check when he or she:
 - (1) With the purpose to defraud, makes, issues or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money knowing that it will not be paid by the drawee or that there is no such drawee; or
 - (2) Makes, issues or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money, knowing that there are insufficient funds in or on deposit with that account for the payment of such check, sight order or other form of presentment involving the transmission of account information in full and all other checks, sight orders or other forms of presentment involving the transmission of account information upon such funds then outstanding, or that there is no such account or no drawee and fails to pay the check or sight order or other form of presentment involving the transmission of account information within ten (10) days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.
- (b) As used in Subparagraph (2) of Subsection (a) of this Section, "actual notice in writing" means notice of the non-payment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten (10) day period during which the instrument may be paid and that payment of the instrument within such ten (10) day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

Sec. 17-112. - Possession of prohibited theft devices.

It shall be unlawful to possess any theft detection shielding device, theft detection device remover or other tool, instrument, article, box or bag adapted, modified, constructed, designed or commonly used for committing or facilitating offenses involving theft or shoplifting, with the intent to use such item in committing a theft, stealing or shoplifting, or with knowledge that some person has the intent to use the same in committing a theft, stealing or shoplifting.

Sec. 17-113. Tampering.

(a) A person commits the offense of tampering if he/she:

- (1) Tamper with property of another for the purpose of causing substantial inconvenience to that person or to another;
- (2) Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle;
- (3) Tamper or makes connection with property of a utility; or
- (4) Tamper with, or causes to be tampered with, any meter or other property of an electric, gas, steam or water utility, the effect of which tampering is either:
 - a. To prevent the proper measuring of electric, gas, steam or water service; or
 - b. To permit the diversion of any electric, gas, steam or water service.

(b) In any prosecution under paragraph (4) of Subsection (a), proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam or water service with one (1) or more of the effects described in paragraph (4) of Subsection (a), shall be sufficient to support an inference which the trial court may submit to the trier of fact from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

Sec. 17-114. Tampering with computer data.

A person commits the offense of tampering with computer data if he or she knowingly and without authorization or without reasonable grounds to believe that he or she has such authorization:

- (1) Modifies or destroys data or programs residing or existing internal to a computer, computer system, or computer network;
- (2) Modifies or destroys data or programs or supporting documentation residing or existing external to a computer, computer system, or computer network;
- (3) Discloses or takes data, programs or supporting documentation, residing or existing internal or external to a computer, computer system, or computer network; or

- (4) Discloses or takes a password, identifying code, personal identification number, or other confidential information about a computer system or network that is intended to or does control access to the computer system or network;
- (5) Accesses a computer, a computer system, or a computer network, and intentionally examines information about another person; or
- (6) Receives, retains, uses, or discloses any data he or she knows or believes was obtained in violation of this section.

Sec. 17-115. Tampering with computer equipment.

A person commits the offense of tampering with computer equipment if he or she knowingly and without authorization or without reasonable grounds to believe that he or she has such authorization:

- (1) Modifies, destroys, damages, or takes equipment or data storage devices used or intended to be used in a computer, computer system, or computer network; or
- (2) Modifies, destroys, damages, or takes any computer, computer system, or computer network.

Sec. 17-116. Tampering with computer users.

A person commits the offense of tampering with computer users if he or she knowingly and with authorization or without reasonable grounds to believe that he or she has such authorization:

- (1) Accesses or causes to be accessed any computer, computer system, or computer network; or
- (2) Denies or causes the denial of computer system services to an authorized user of such computer system services.

Sec. 17-117. Financial exploitation of the elderly and persons with disabilities.

(a) A person commits the offense of financial exploitation of an elderly person or a person with a disability if such person knowingly obtains control over the property of the elderly person or person with a disability with the intent to permanently deprive the person of the use, benefit or possession of his/her property thereby benefiting the offender or detrimentally affecting the elderly person or person with a disability by:

- (1) Deceit;
- (2) Coercion;
- (3) Creating or confirming another person's impression which is false and which the offender does not believe to be true;
- (4) Failing to correct a false impression which the offender previously has created or confirmed;
- (5) Preventing another person from acquiring information pertinent to the disposition of the property involved;

- (6) Selling or otherwise transferring or encumbering property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record;
- (7) Promising performance which the offender does not intend to perform or knows will not be performed; or
- (8) Undue influence, which means the use of influence by someone who exercise authority over an elderly person or person with a disability in order to take unfair advantage of that person's vulnerable state of mind, neediness, pain, or agony, and which includes but is not limited to the improper or fraudulent use of a power of attorney, guardianship, conservatorship, or other fiduciary authority.

(b) It shall be unlawful in violation of this Section for any person receiving or in the possession of funds of a Medicaid eligible elderly person or person with a disability residing in a facility licensed under Chapter 198 to fail to remit to the facility in which the Medicaid eligible person resides all money owing the facility resident from any source, including, but not limited to, social security, railroad retirement, or payments from any other source disclosed as resident income contained in the records of the Department of Social Services, Family Support Division or its successor.

(c) Nothing in this Section shall be construed to impose liability on a person who has made a good faith effort to assist the elderly person or person with a disability in the management of his or her property, but through no fault of his or her own has been unable to provide such assistance.

(d) Nothing in this Section shall limit the ability to engage in bona fide estate planning, to transfer property, and to otherwise seek to reduce estate and inheritance taxes; provided that such actions do not adversely impact the standard of living to which the elderly person or person with a disability has become accustomed at the time of such actions.

(e) It shall not be a defense to financial exploitation of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability.

Sec. 17-118. Fraudulent use of a credit or debit device.

A person commits the offense of fraudulent use of a credit device or debit device if he or she uses a credit device or debit device for the purpose of obtaining services or property knowing that:

- (1) The device is stolen, fictitious or forged;
- (2) The device has been revoked or canceled;
- (3) For any other reason his or her use of the device is unauthorized; or
- (4) Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels such charges or payment without just cause. It shall be prima

facie evidence of a violation of this subsection if a person cancels such charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri Department of Revenue.

Sec. 17-119. Fraudulently stopping payment of an Instrument.

A person commits the offense of fraudulently stopping payment of an instrument if her or she, with the purpose to defraud, stops payment on a check, draft, or debit device used in payment for the receipt of good or services. It shall be prima facie evidence of a violation of this section if a person stops payment on a check, draft or debit device and fails to make good the check, draft or debit device transaction, or fails to return or make and comply with reasonable arrangements to return the property for which the check, draft or debit device was used in the same or substantially the same condition as when received within ten days after notice in writing from the payee that the check, draft or debit device has not been paid because of a stop payment order by the issuer to the drawee. "Notice in writing" under this section means notice deposited as certified or registered mail in the United State mail and addressed to the issuer as it appears on the dishonored check, draft or debit device transaction or to his or her last known address, containing a statement that failure to make good the check, draft or debit device transaction within ten days of receipt of the notice may subject the issuer to prosecution hereunder.

Sec. 17-120. Fraudulent procurement of a credit or debit device.

A person commits the offense of fraudulent procurement of a credit or debit device if he or she:

- (1) Knowingly makes or causes to be made, directly or indirectly, a false statement regarding another person for the purpose of procuring the issuance of a credit or debit device; or
- (2) Knowingly obtains a means of identification of another person without the authorization of that person and uses that means of identification to obtain, or attempt to obtain, credit, goods or services in the name of the other person without the consent of that person.

Sec. 17-121. Alteration or removal of item numbers with intent to deprive lawful owner.

A person commits the offense of alteration or removal of item numbers if he or she with the purpose of depriving the owner of a lawful interest therein:

- (1) Destroys, removes, covers, conceals, alters, defaces or causes to be destroyed, removed, covered, concealed, altered or defaced the manufacturer's original serial number or other distinguishing owner-applied number or mark on any item which bears a serial number attached by the manufacturer or distinguishing number or mark applied by the owner of the item for any reason whatsoever;
- (2) Sells, offers for sale, pawns or uses as security for a loan any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered or defaced; or
- (3) Buys, receives as security for a loan or in pawn, or in any manner receives or has in his/her possession any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered or defaced.

Secs. 17-122—17-130. - Reserved.

ARTICLE V. - OFFENSES AGAINST MORALS

Sec. 17-131. - Indecent exposure.

A person commits the offense of indecent exposure if such person:

- (1) Exposes his or her genitals under circumstances in which he/she knows that his/her conduct is likely to cause affront or alarm, or to a child less than fifteen (15) years of age for the purpose of arousing or gratifying the sexual desire of any person including the child;
- (2) Has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm;
- (3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person; or
- (4) Coerces or induces a child less than fifteen (15) years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person including the child, or coerces or induces a female child less than fifteen (15) years of age to expose her breasts in person or through the Internet or other visual transmission for the purpose of arousing or gratifying the sexual desire of any person including the child.

Sec. 17-132. - Invasion of privacy.

- (a) No person shall look, peer or peep into or be found loitering around or within view of any window of a private dwelling house not on his or her own property.
- (b) No person shall knowingly view, photograph, film, videotape, or produce or otherwise create an image of another person, without that person's consent, while such other person is in a state of nudity and is in a place where one would have a reasonable expectation that they could disrobe in privacy without being concerned that their undressing was being viewed, photographed or filmed by another.
- (c) No person shall knowingly photograph, film, videotape, or produce or otherwise create an image of another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.

Sec. 17-133. - Prostitution prohibited.

(a) *Definitions.* As used in this chapter, the following terms mean:

- (1) "*Promoting prostitution*", a person promotes prostitution if, acting other than as a prostitute or a patron of a prostitute, he knowingly
 - a. Causes or aids a person to commit or engage in prostitution; or
 - b. Procures or solicits patrons for prostitution; or
 - c. Provides persons or premises for prostitution purposes; or
 - d. Operates or assists in the operation of a house of prostitution or a prostitution enterprise; or

- e. Accepts or receives or agrees to accept or receive something of value pursuant to an agreement or understanding with any person whereby he participates or is to participate in proceeds of prostitution activity; or
 - f. Engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution;
- (2) "*Prostitution*", a person commits prostitution if he engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third person;
- (3) "*Patronizing prostitution*", a person patronizes prostitution if
- a. Pursuant to a prior understanding, he gives something of value to another person as compensation for that person or a third person having engaged in sexual conduct with him or with another; or
 - b. He or she gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third person will engage in sexual conduct with him or with another; or
 - c. He or she solicits or requests another person to engage in sexual conduct with him or with another, or to secure a third person to engage in sexual conduct with him or with another, in return for something of value;
- (4) "*Sexual conduct*" occurs when there is
- a. "*Sexual intercourse*" which means any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results; or
 - b. "*Deviate sexual intercourse*" which means any sexual act involving the genitals of one person and the mouth, hand, tongue or anus of another person; or
 - c. "*Sexual contact*" which means any touching, manual or otherwise, of the anus or genitals of one person by another, done for the purpose of arousing or gratifying sexual desire of either party;
- (5) "*Something of value*" means any money or property, or any token, object or article exchangeable for money or property;
- (b) No person shall promote prostitution, engage in prostitution or patronize prostitution within the corporate limits of the City of Ballwin.
- (c) The penalties for promoting prostitution, engaging in prostitution or patronizing prostitution shall be as stated in section 1-6 of the Code of Ordinances.

Sec. 17-134. - Sexual misconduct prohibited.

- (a) A person commits the offense of sexual misconduct if he or she solicits or requests another person to engage in sexual conduct under circumstances in which he or she knows that such request or solicitation is likely to cause affront or alarm.
- (b) All terms used in this section are as defined in section 17-133(a).
- (c) The penalty for sexual misconduct shall be as stated in section 1-6 of the Code of Ordinances.

Sec. 17-135. Prostitution houses deemed public nuisances.

- (a) Any room, building or other structure regularly used for any activity prohibited by this Article is a public nuisance.
- (b) The City Prosecuting Attorney may, in addition to all other sanctions, prosecute a suit in equity to enjoin the nuisance as provided in Section 567.080 RSMo.

Sec. 17-136. Certain offenders not to reside within 1,000 feet of a school or child-care facility.

- (a) Any person who has been found guilty of:
 - (1) Since 2004 violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering The Welfare Of A Child In The First Degree; Subsection (2) of Section 568.080 RSMo as it existed prior to January 1, 2017 or Section 573.200, RSMo., Use Of A Child In A Sexual Performance; Section 568.090 RSMo as it existed prior to January 1, 2017 or section 573.205, RSMo., Promoting A Sexual Performance By A Child; Section 573.023, RSMo., Sexual Exploitation Of A Minor; Section 573.025, RSMo., Promoting Child Pornography In The First Degree; Section 573.035, RSMo., Promoting Child Pornography In The Second Degree; Section 573.037, RSMo., Possession Of Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material To Minors; or
 - (2) Since 2008 any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section;

shall not reside within one thousand (1,000) feet of any public school as defined in Section 160.011, RSMo., or any private school giving instruction in a grade or grades not higher than the twelfth (12th) grade, or any child-care facility that is licensed under Chapter 215, RSMo., or any child-care facility as defined in Section 215.201, RSMo., that is exempt from State licensure but subject to State regulation under Section 215.252, RSMo., and holds itself out to be a child-care facility, where the school or facility is in existence at the time the individual begins to reside at the location.

(b) If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand (1,000) feet of such person's residence, then such person shall, within one (1) week of the opening of such public school, private school, or child-care facility, notify the County Sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand (1,000) feet of such public school, private school, or child-care facility and shall provide verifiable proof to the Sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

(c) For purposes of this Section, "resides" means sleeps in a residence, which may include more than one (1) location and may be mobile or transitory.

Sec. 17-137. Certain offenders not to physically be present or loiter within five hundred feet of a child care facility — violation — penalty.

(a) Any person who, since 2009, has been found guilty of:

- (1) Violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering The Welfare Of A Child In The First Degree; Subsection (2) of Section 568.080, RSMo. as it existed prior to January 1, 2017 or Section 573.200 RSMo, Use Of A Child In A Sexual Performance; Section 568.090 RSMo as it existed prior to January 1, 2157 or Section 573.205, RSMo., Promoting A Sexual Performance By A Child; Section 573.023, RSMo., Sexual Exploitation Of A Minor; Section 573.025, RSMo., Promoting Child Pornography In The First Degree; Section 573.035, RSMo., Promoting Child Pornography In The Second Degree; Section 573.037, RSMo., Possession Of Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material To Minors; or
- (2) Any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section;

shall not knowingly be physically present in or loiter within five hundred (500) feet of or to approach, contact, or communicate with any child under eighteen (18) years of age in any child care facility building, on the real property comprising any child care facility when persons under the age of eighteen (18) years are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

(b) For purposes of this Section, "child care facility" shall include any child care facility licensed under chapter 215 RSMo, or any child care facility that is exempt from state licensure but subject to state regulation under section 215.252 RSMo. and holds itself out to be a child care facility215.

Sec. 17-138. Additional restrictions on certain offenders.

(a) *Not To Be Present Within Five Hundred Feet Of School Property, Exception — Permission Required For Parents Or Guardians Who Are Offenders, Procedure.* Any person who has been found guilty of:

- (1) Since 2006 violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering The Welfare Of A Child In The First Degree; Subsection (2) of Section 568.080, RSMo. as it existed prior to January 1, 2017 or Section 573.200 RSMo, Use Of A Child In A Sexual Performance; Section 568.090, RSMo., as it existed prior to January 1, 2017 or Section 573.205 RSMo Promoting A Sexual Performance By A Child; Section 573.023, RSMo., Sexual Exploitation Of A Minor; Section 573.025, RSMo., Promoting Child Pornography; Section 573.040, RSMo., Furnishing Pornographic Material To Minors; or
- (2) Since 2008 any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section; shall not be present in or loiter within five hundred (500) feet of any school building, on real property comprising any school, or in any conveyance owned, leased or contracted by a school to transport

students to or from school or a school-related activity when persons under the age of eighteen (18) years are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in Subsection (b) of this Section.

(b) No parent, legal guardian or custodian who has been found guilty of violating any of the offenses listed in Subsection (a) of this Section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) years are present in the building, on the grounds or in the conveyance unless the parent, legal guardian or custodian has permission to be present from the Superintendent or School Board or in the case of a private school from the Principal. In the case of a public school, if permission is granted, the Superintendent or School Board President must inform the Principal of the school where the sex offender will be present. Permission may be granted by the Superintendent, School Board, or in the case of a private school from the Principal for more than one (1) event at a time, such as a series of events, however, the parent, legal guardian or custodian must obtain permission for any other event he/she wishes to attend for which he/she has not yet had permission granted.

(c) *Certain Offenders Not To Be Present Or Loiter Within Five Hundred Feet Of A Public Park Or Swimming Pool.*

(1) Any person who, since 2009, has been found guilty of:

- a. Violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering the Welfare of a Child in the First Degree; Subsection (2) of Section 568.080, RSMo. as it existed prior to January 1, 2017 or Section 573.200 RSMo, Use of a Child in a Sexual Performance; Section 568.090, RSMo.as it existed prior to January 1, 2017 or Section 573.205 RSMo, Promoting a Sexual Performance by a Child; Section 573.023, RSMo., Sexual Exploitation of a Minor; Section 573.025, RSMo., Promoting Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material to Minors; or
- b. Any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section; shall not knowingly be present in or loiter within five hundred (500) feet of any real property comprising any public park with playground equipment or a public swimming pool.

(d) *Enticement Of A Child.*

- (1) No person twenty-one (21) years of age or older shall persuade, solicit, coax, entice, or lure, whether by words, actions or through communication via the Internet or any electronic communication, any person who is less than fifteen (15) years of age for the purpose of engaging in sexual conduct.
- (2) It is not a defense to a prosecution for a violation of this Subsection that the other person was a Peace Officer masquerading as a minor.

(e) *Age Misrepresentation.* No person shall knowingly misrepresent his or her age with the intent to use the Internet or any electronic communication to solicit engagement in sexual conduct involving a minor.

(f) *Certain Offenders Not To Serve As Athletic Coaches, Managers Or Trainers.*

- (1) Any person who, since 2009, has been found guilty of:
 - a. Violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering the Welfare of a Child in the First Degree; Subsection (2) of Section 568.080, RSMo. as it existed prior to January 1, 2017 or Section 573.200 RSMo, Use of a Child in a Sexual Performance; Section 568.090, RSMo. as it existed prior to January 1, 2017 or Section 573.205 RSMo, Promoting a Sexual Performance by a Child; Section 573.023, RSMo., Sexual Exploitation of a Minor; Section 573.025, RSMo., Promoting Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material to Minors; or
 - b. Any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section; shall not serve as an athletic coach, manager or athletic trainer for any sports team in which a child less than seventeen (17) years of age is a member.

Sec. 17-139. Registered sexual offender, Halloween-related activities.

Any person first required to register as a sexual offender under Sections 589.400 to 589.425 RSMo., since 2008 shall be required on October thirty-first (31st) of each year to:

- (1) Avoid all Halloween-related contact with children;
- (2) Remain inside his or her residence between the hours of 5:00 P.M. and 10:30 P.M. unless required to be elsewhere for just cause, including, but not limited to employment or medical emergencies;
- (3) Post a sign at his or her residence stating "No candy or treats at this residence"; and
- (4) Leave all outside residential lighting off during the evening hours after 5:00 P.M.

Secs. 17-140—17-155. - Reserved.

ARTICLE VI. - LODGING AND ACCOMMODATIONS

Sec. 17-156. - Registration of guests.

The owner, proprietor, manager or other person in charge of any hotel, motel, lodginghouse, roominghouse or other place where transients are accommodated shall, at all times, keep a standard hotel register in which shall be written the names of all the guests or persons renting or occupying rooms in such house, which register shall be signed by the person renting a room or by someone under his direction. After such registration has been made, the manager of the house or his agent shall write the number of the room such guest or person is to occupy, together with the time when such room is rented so as to identify the room occupied by the person registering. All of the foregoing shall be done before any guest is permitted to occupy a room. Such register shall be at all times open to inspection by any guest of the house wherein such register is kept and by any executive, administrative or peace officer of the city.

Sec. 17-157. - Registration under fictitious name.

No person shall write, cause to be written or knowingly permit to be written in any register in any hotel, motel, lodging place, roominghouse or other place whatsoever where transients are accommodated in the city any other or different name or designation than the true name of the person so registered therein, or the name by which such person is generally known.

Sec. 17-158. - Unlawful occupancy.

Persons of the opposite sex, except husband and wife or parent and child, shall not jointly and privately occupy any room in any dwelling unit, apartment, lodginghouse, motel or any other place where transients are accommodated.

Sec. 17-159. - Occupancy by persons of opposite sex.

No proprietor, manager or other person in charge of any hotel, motel, lodginghouse, roominghouse or other place where transients are accommodated shall rent or assign rooms for joint, private occupancy by persons of the opposite sex unless such persons shall be registered as husband and wife or as parent and child.

Sec. 17-160. - Reasonable doubt of lawful relationship.

No proprietor, manager or other person in charge of any hotel, motel, lodginghouse, roominghouse or other place where transients are accommodated shall rent or assign rooms to persons of the opposite sex for joint, private occupancy if, notwithstanding the lawful appearance of the registration, he has reasonable cause to believe that such persons are not husband and wife nor parent and child. If such transients are unknown to him, he shall not receive them as guests without first requiring some reasonable evidence of a lawful relationship.

Sec. 17-161. - Letting room more than once per night.

No proprietor, manager or other person in charge of any place where transients are accommodated for sleeping or lodging purposes shall let any room more than once between the hours of 6:00 p.m. and 6:00 a.m. the next day, except to bona fide travelers with baggage.

Secs. 17-162—17-180. - Reserved.

ARTICLE VII. – PORNOGRAPHY

Sec. 17-180.- Definitions.

When used in this Article, the following terms shall have the meanings set out herein:

CHILD PORNOGRAPHY

Any obscene material or performance depicting sexual conduct, sexual contact or a sexual performance and which has a minor as one of its participants or portrays a minor as an observer of such conduct, contact or performance, including but not limited to any visual depiction meeting the criteria established in Section 573.010(4)(b)a-c and 573.010(27) RSMo.

EXPLICIT SEXUAL MATERIAL

Any pictorial or three-dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post pubertal human genitals, but excluding works of art or of anthropological significance.

FURNISH

To issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide.

INDECENT

Language or material that depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs.

MATERIAL

Anything printed or written, or any picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. "*Material*" includes undeveloped photographs, molds, printing plates, stored computer data, and other latent representational objects.

MINOR

Any person less than eighteen (18) years of age.

NUDITY or STATE OF NUDITY

The showing of the human genitals, pubic area, vulva, anus, anal cleft, or the female breast with less than a fully opaque fabric covering of any part of the nipple or areola. Body paint shall not qualify as fabric.

OBSCENE

Any material, comment, request, suggestion, proposal, or performance if, taken as a whole, and judged with reference to its impact on ordinary adults:

- (1) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and
- (2) With respect to the average person, applying contemporary community standards, it depicts or describes sexual conduct in a patently offensive way; and
- (3) It lacks serious literary, artistic, political or scientific value.

PERFORMANCE

Any play, motion picture film, videotape, dance or exhibition performed before an audience of one (1) or more.

PORNOGRAPHIC FOR MINORS

Any material or performance if the following apply:

- (1) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors;
- (2) The material or performance depicts or describes nudity, sexual conduct, the condition of human genitals when in a state of sexual stimulation or arousal, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and
- (3) The material or performance, taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

PROMOTE

To manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same, by any means including a computer.

SADOMASOCHISTIC ABUSE

Flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

SEXUAL CONDUCT

Actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

Sec. 17-181. - Promoting pornography.

A person commits the crime of promoting pornography for minors or obscenity if, knowing its contents or character, he:

- (1) Promotes or possesses with the purpose to promote any obscene material for pecuniary gain;
- (2) Produces, presents, directs or participates in any obscene performance for pecuniary gain;
- (3) Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or
- (4) Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain.
5. Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

Sec. 17-182. - Promoting child pornography.

A person commits the crime of promoting child pornography if, knowing its contents and character, he:

- (1) Sells, delivers, exhibits or otherwise makes available, or offers or agrees to sell, deliver, exhibit, or otherwise make available any child pornography; or
- (2) Buys, procures or possesses child pornography with the purpose to furnish it to others.

Sec. 17-183. - Possession of child pornography.

A person commits the crime of possession of child pornography if he knowingly:

- (1) Possesses or controls any obscene material that has a minor as one of the participants or portrays as an observer of sexual conduct, sexual contact or a sexual performance a minor; or
- (2) Possesses or controls any material that shows a minor participating or engaged in sexual conduct.

Sec. 17-184. - Furnishing pornographic materials to minors.

A person commits the crime of furnishing pornographic material to minors if, knowing its contents and character, he:

- (1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or
3. (2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance. Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.
4. It is not a defense to prosecution for a violation of this section that the person being furnished the pornographic material is a peace officer masquerading as a minor.
5. Video cassettes or other video reproduction devices, and the jackets, cases or coverings of such video reproduction devices, shall not be rented or sold to a person less than seventeen years of age and at any place of business in the city shall be displayed and maintained in a separate area not accessible to persons less than seventeen years of age, if they are pornographic for minors or if:
 - a. Taken as a whole and applying contemporary community standards, the average person would find that it has a tendency to cater or appeal to morbid interest in violence for persons less than seventeen years of age; and
 - b. It depicts violence in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for persons less than seventeen years of age; and
 - c. Taken as a whole, it lacks serious literary, artistic, political, or scientific value for persons less than seventeen years of age.

Sec. 17-185. - Evidence in obscenity and child pornography cases.

- (a) In any prosecution under this article, evidence shall be admissible to show:
 - (1) What the predominant appeal of the material or performance would be for ordinary adults or minors.
 - (2) The literary, artistic, political or scientific value of the material or performance.
 - (3) The degree of public acceptance in this state and in the local community.
 - (4) The appeal to prurient interest in advertising or other promotion of the material or performance.
 - (5) The purpose of the author, creator, promoter, furnisher or publisher of the material or performance.
- (b) Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of obscenity or child pornography, shall be admissible.

- (c) In any prosecution for possession of child pornography or promoting child pornography, the determination that the person who participated in the child pornography was younger than 18 years of age may be made as set forth in RSMo 568.100, or reasonable inferences drawn by a judge or jury after viewing the alleged pornographic material shall constitute sufficient evidence of the child's age to support a conviction.
- (d) In any prosecution for promoting child pornography, no showing is required that the performance or material involved appeals to prurient interest, that it lacks serious literary, artistic, political or scientific value, or that it is patently offensive to prevailing standards in the community as a whole.

Sec. 17-186. - Public display of explicit sexual material.

- (a) A person commits the crime of public display of explicit sexual material if he or she recklessly:
 - (1) Exposes, places, exhibits, or in any fashion, displays explicit sexual material in any location, whether public or private, and in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision as viewed from a street, highway, public sidewalk, or the property of others, or from any portion of the person's store, the exhibitor's store or property when items and materials other than this material are offered for sale or rent to the public; or
 - (2) Fails to take prompt action to remove such a display from property in his possession after learning of its existence.
- (b) For purposes of this section each day there is a violation of this section shall constitute a separate offense.

Sec. 17-187. Sexual exploitation of a minor.

A person commits the offense of sexual exploitation of a minor if such person knowingly or recklessly photographs, films, videotapes, produces, or otherwise creates obscene material with a minor or child pornography.

Sec. 17-188. Use of child in sexual performance.

A person commits the offense of use of a child in a sexual performance if, knowing the character and content thereof, the person employs, authorizes, or induces another person less than eighteen years of age to engage in a performance which includes sexual conduct or, being a parent, legal guardian, or custodian of such a person less than eighteen years of age, consents to their participation in such sexual performance.

Sec. 17-189. Promoting sexual performance by a child.

A person commits the offense of promoting a sexual performance by a child if, knowing the character and content thereof, the person promotes a performance which includes sexual conduct by a person less than eighteen years of age or produces or directs any performance which includes sexual conduct by a person less than eighteen years of age.

Sec. 17-190. Failure to report child pornography.

A person commits the offense of failure to report child pornography if he or she, being a commercial film or photographic print processor, computer provider, installer or repair person, or any internet service provider who has knowledge of or observes, within the scope of the person's professional capacity or employment, any film, photograph, videotape, negative, slide, or computer-generated image or picture depicting a person under eighteen years of age engaged in an act of sexual conduct, fails to report such instance to the City Police Department as soon as practicably possible.

Sec. 17-191. Failure to report child pornography.

A person commits the offense of failure to report child pornography if he or she, being a commercial film or photographic print processor, computer provider, installer or repair person, or any internet service provider who has knowledge of or observes, within the scope of the person's professional capacity or employment, any film, photograph, videotape, negative, slide, or computer-generated image or picture depicting a person under eighteen years of age engaged in an act of sexual conduct, fails to report such instance to the City Police Department as soon as practicably possible.

Sec. 17-192. Obscene or indecent commercial messaging.

A person commits the offense of obscene or indecent commercial messaging if he or she, by means of a telephone communication for commercial purposes, makes directly or by means of an electronic recording device, any comment, request, suggestion, or proposal which is obscene or indecent, or knowingly permits any telephone or telephone facility connected to a local exchange telephone under such person's control to be used for obscene or indecent commercial messaging, in either case regardless of whether such person placed or initiated the telephone communication. This section is not applicable to a telecommunications company as defined in section 386.020 RSMo over whose facilities the prohibited communication is made by someone else.

Secs. 17-193—17-200. - Reserved.

ARTICLE VIII. - OFFENSES CONCERNING TOBACCO, ALTERNATIVE NICOTINE AND VAPOR PRODUCTS

Sec. 17-201. Definitions.

For purposes of this Article, the following definitions shall apply:

ALTERNATIVE NICOTINE PRODUCT

Any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

DISTRIBUTE

A conveyance to the public by sale, barter, gift or sample.

MINOR

A person under the age of eighteen (18) years.

PROOF OF AGE

A driver's license or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid.

ROLLING PAPERS

Paper designed, manufactured, marketed or sold for use primarily as a wrapping or enclosure for tobacco which enables a person to roll loose tobacco into a smokeable cigarette.

SAMPLE

A tobacco product, alternative nicotine product, or vapor product distributed to members of the general public at no cost or at nominal cost for product promotional purposes.

SAMPLING

The distribution to members of the general public of tobacco product, alternative nicotine product, or vapor product samples.

TOBACCO PRODUCTS

Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, but does not include alternative nicotine products, or vapor products.

VAPOR PRODUCT

Any non-combustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include any alternative nicotine product or tobacco product.

VENDING MACHINE

Any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products, alternative nicotine products, or vapor products.

Sec. 17-202. Unlawful to sell or distribute tobacco products, alternative nicotine products, vapor products, or rolling papers to minors — vending machine requirements.

- (a) It shall be unlawful for any person to sell, provide or distribute tobacco products, alternative nicotine products, vapor products, or rolling papers to persons under eighteen (18) years of age.
- (b) All vending machines that dispense tobacco products, alternative nicotine products, vapor products, or rolling papers shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen (18) years of age from purchasing any tobacco product, alternative nicotine product,

vapor product, or rolling papers from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than eighteen (18) years of age are not permitted or are prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this Subsection shall be subject to the penalties contained in Subsection (e) of this Section. A determination of non-compliance may be made by a local law enforcement agency or the Division of Liquor Control. Nothing in this Section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

- (c) No person or entity shall sell, provide or distribute any tobacco product, alternative nicotine product, or vapor product, or rolling papers to any minor or sell any individual cigarettes to any person in this State. This Subsection shall not apply to the distribution by family members on property that is not open to the public.
- (d) Any person, including, but not limited to, a sales clerk, owner or operator, who violates Subsection (a), (b) or (c) of this Section or Section 17-63 of this Article shall be penalized as follows:
 - (1) For the first offense, twenty-five dollars (\$25.00);
 - (2) For the second offense, one hundred dollars (\$100.00); and
 - (3) For a third and subsequent offenses, two hundred fifty dollars (\$250.00).
- (e) Any owner of the establishment where tobacco products, alternative nicotine products, vapor products, or rolling papers are available for sale who violates Subsection (c) of this Section shall not be penalized pursuant to this Section if such person documents the following:
 - (1) An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the State and Federal regulations regarding sales of tobacco products, alternative nicotine products, or vapor products to minors. Such training program must be attended by all employees who sell tobacco products, alternative nicotine products, or vapor products to the general public;
 - (2) A signed statement by the employee stating that the employee has been trained and understands the State laws and Federal regulations regarding the sale of tobacco products, alternative nicotine products, or vapor products to minors; and
 - (3) Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety (90) minutes in length, established by the Division of Liquor Control.

- (f) The exemption in Subsection (e) of this Section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products, alternative nicotine products, vapor products, or rolling papers are available for sale if:
 - (1) Four (4) or more violations per location of Subsection (c) of this Section occur within a one-year period; or
 - (2) Such person knowingly violates or knowingly allows his/her employees to violate Subsection (c) of this Section.
- (g) If a sale is made by an employee of the owner of an establishment in violation of this Article, the employee shall be guilty of an offense established in Subsections (a), (b) and (c) of this Section. If a vending machine is operated in violation of Section 17-63, the owner of the establishment shall be guilty of an offense established in Subsections (c) and (d) of this Section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in Subsections (c) and (d) of this Section.
- (h) A person cited for selling, providing or distributing any tobacco product, alternative nicotine product or vapor product to any individual less than eighteen (18) years of age in violation of Subsection (a), (b) or (c) of this Section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older.

Sec. 17-203. Minors prohibited from purchase or possession of tobacco products, alternative nicotine products, vapor products or rolling papers — misrepresentation of age.

- (a) No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes, other tobacco products, alternative nicotine products, vapor products, or rolling papers unless such person is an employee of a seller of cigarettes, tobacco products, alternative nicotine products, or vapor products and is in such possession to effect a sale in the course of employment or an employee of the Division of Liquor Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.
- (b) Any person less than eighteen (18) years of age shall not misrepresent his/her age to purchase cigarettes, tobacco products, alternative nicotine products, vapor products, or rolling papers.
- (c) Any person who violates the provisions of this Section shall be penalized as follows:
 - (1) For the first violation, the person is guilty of an infraction and shall have any cigarettes, tobacco products, alternative nicotine products, vapor products, or rolling papers confiscated;
 - (2) For a second violation and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes, tobacco products, alternative nicotine

products, vapor products, or rolling papers confiscated and shall complete a tobacco education or smoking cessation program, if available.

Sec. 17-204. Retail sales tax license required for sale of tobacco products, alternative nicotine products, vapor products or rolling papers. — display of sign required where.

No person shall sell cigarettes, tobacco products, alternative nicotine products, vapor products, or rolling papers unless the person has a retail sales tax license.

(a) The owner of an establishment at which tobacco products, alternative nicotine products, vapor products, or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products, alternative nicotine products, or vapor products are sold and on every vending machine where tobacco products, alternative nicotine products, or vapor products are purchased a sign that shall:

(1) Contain in red lettering at least one-half (1/2) inch high on a white background the following:

"IT IS A VIOLATION OF STATE LAW FOR CIGARETTES, OTHER TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO BE SOLD OR OTHERWISE PROVIDED TO ANY PERSON UNDER THE AGE OF EIGHTEEN OR FOR SUCH PERSON TO PURCHASE, ATTEMPT TO PURCHASE OR POSSESS CIGARETTES, OTHER TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS"; and

(2) Include a depiction of a pack of cigarettes at least two (2) inches high defaced by a red diagonal diameter of a surrounding red circle and the words "Under 18.

Sec. 17-205. Restrictions on sales of individual packs.

(a) No person or entity shall sell individual packs of cigarettes, alternative nicotine products, vapor products, rolling papers, or smokeless tobacco products unless such packs satisfy one (1) of the following conditions prior to the time of sale:

(1) It is sold through a vending machine; or

(2) It is displayed behind the checkout counter or it is within the unobstructed line of sight of the sales clerk or store attendant from the checkout counter.

Sec. 17-206. Proof of age required, when defense to action for violation is reasonable reliance on proof — liability.

(a) A person or entity selling tobacco products, alternative nicotine products, vapor products, or rolling papers or distributing tobacco product, alternative nicotine product, or vapor product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen (18) years.

- (b) The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo., or the operator's or chauffeur's license issued pursuant to the laws of any State or possession of the United States to residents of those States or possessions, or an identification card as provided for in Section 302.181, RSMo., or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the Division of Liquor Control or any owner or employee of an establishment that sells tobacco, alternative nicotine products, vapor products, or rolling papers for the purpose of aiding the agent, owner or employee to determine whether or not the person is at least eighteen (18) years of age when such person desires to purchase or possess tobacco products, alternative nicotine products, vapor products, or rolling papers. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.
- (c) No person shall, without authorization from the Department of Revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor vehicle operator's license or identification card.
- (d) Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of Subsections (a), (b) and (c) of Section 17-63 of this Article. No person shall be liable for more than one (1) violation of Subsections (b) and (c) of Section 17-63 on any single day.

Section 2. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this _____ day of _____, 2017.

TIM POGUE, MAYOR

APPROVED this _____ day of _____, 2017.

TIM POGUE, MAYOR

ATTEST: _____
ERIC HANSON, CITY ADMINISTRATOR