



**CITY OF BALLWIN**

14811 Manchester Road, Ballwin, MO 63011

**DRAFT**

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

INTRODUCED BY

ALDERMEN TERBROCK, FINLEY, HARDER, DOGAN, FLEMING, LEAHY, KERLAGON, BOLAND

**AN ORDINANCE AMENDING PROVISIONS RELATING TO CERTAIN INFRACTIONS IN CHAPTERS 15 AND 17 OF THE CODE OF ORDINANCES.**

WHEREAS, The Board of Aldermen has considered amendments related to certain infractions in Chapters 15 and 17 of the Code of Ordinances and determined that revisions are required to ensure consistency with State law and best practices for law enforcement.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1: Section 15-16 of the Code of Ordinances of the City of Ballwin shall be repealed and a new Section 15-16 shall be added thereto as follows:

Sec. 15-16. Financial responsibility required.

(a) No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit another person to operate such vehicle, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state. No nonresident shall operate or permit another person to operate in this state a motor vehicle registered to such nonresident unless the nonresident maintains the financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence. Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers the person's operation of the other's vehicle; however, no owner or nonresident shall be in violation of this subsection if he or she fails to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation.

(b) A motor vehicle owner shall maintain the owner's financial responsibility in a manner provided for in RSMo. Section 303.160, or with a motor vehicle liability policy which conforms to the requirements of the laws of this state. A nonresident motor vehicle owner shall maintain the owner's financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence.

(c) When operating a motor vehicle within the corporate limits of the city, the operator of shall exhibit proof of financial responsibility on the demand of any peace officer, commercial vehicle enforcement officer or commercial vehicle inspector who lawfully stops such operator or investigates an accident while that officer or inspector is engaged in the performance of the officer's or inspector's duties. If proof is provided by means of an insurance identification card, such insurance identification card may be produced in either paper or electronic format. Acceptable electronic forms include display of electronic images on a cellular phone or any other type of portable electronic device. The insurance identification card shall include all of the following information:

- (1)The name and address of the insurer;
- (2)The name of the named insured;
- (3)The policy number;

- (4) The effective dates of the policy, including month, day and year;
- (5) A description of the insured motor vehicle, including year and make or at least five digits of the vehicle identification number or the word "fleet" if the insurance policy covers five or more motor vehicles;
- (6) The statement "This card must be carried in the insured motor vehicle for production upon demand" prominently displayed on the card.

(d) Failure to have the required insurance or produce evidence of the same shall result, upon conviction, a minimum fine of \$100.00 and up to the fine of \$1,000.00 and/or 90 days in jail.

Section 2: Sections 15-5(c), 15-7, 15-91(3), 15-112(a), 15-114, 15-124(a)(1), 15-125, 15-345(5), 15-368, 15-479, 15-480, 15-482, 15-488, 15-490, 15-492, 15-495 and 15-497(b) of the Code of Ordinances of the City of Ballwin shall be amended as follows:

Sec. 15-5. - Use of toy vehicles.

- (c) No person shall operate any motorized vehicle on any sidewalk.

Sec. 15-7. - When chauffeur's license required.

Any person operating a school bus, carrying more than ten pupils, shall be required to procure a chauffeur's license.

Sec. 15-91. - Generally.

- (3) No person shall operate a motor vehicle on any highway, road, street or alley in the city without white lighted lamps that illuminate when the motor vehicle is placed in reverse. Such illuminated lamps shall be prohibited except when backing.

Sec. 15-112. - Alcoholic beverages in motor vehicles prohibited.

(a) *Restriction.* No person shall knowingly transport in any motor vehicle operated on a public highway, street, road or alley any alcoholic beverage except:

- (1) In the original container which shall not have been opened; and
- (2) The seal upon which shall not have been broken and from which the original cap or cork shall not have been removed;

unless the open container is in the rear trunk or compartment or in a locked compartment or container within the motor vehicle and not accessible to the driver or any other person in such motor vehicle while it is being operated. In the case of a pickup truck, station wagon, hatchback or other similar vehicle, the rear most storage area shall not be considered accessible to the driver or any other person.

15-114 - Driving with excessive blood alcohol content

References to authority for testing shall be amended to reference RSMo. Sections 577.020 to 577.041.

Sec. 15-124. (a) (1) shall be repealed

Sec. 15-125. - Passing within intersections.

No driver of a vehicle proceeding on any two-laned or greater roadway shall overtake and pass another vehicle moving in the same direction within an intersection or change lanes within an intersection.

Sec. 15-345. - Traffic control signal legend; right turn on red light.

(5) Any person operating a motorcycle or bicycle who violates the provisions of section 304.281 or section 304.301 by entering or crossing an intersection controlled by a traffic control signal against a red light shall have an affirmative defense to that charge if the person establishes all of the following conditions:

- (a) The motorcycle or bicycle has been brought to a complete stop;
- (b) The traffic control signal continues to show a red light for an unreasonable time;
- (c) The traffic control is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal has apparently failed to detect the arrival of the motorcycle; and
- (d) No motor vehicle or person is approaching on the street or highway to be crossed or entered or is so far away from the intersection that it does not constitute an immediate hazard.

Sec. 15-368. - Leaving children in vehicles.

No person shall leave any child ten (10) years of age or less in a standing, parked, or locked motor vehicle. The police department of the city or any officer or agent thereof is authorized to use whatever force may be necessary to remove the child from the vehicle in order to protect the health, welfare, and safety of such child.

Sec. 15-478. – Schedule C – Turns Restricted.

14799 Manchester Road	No left turn from eastbound Manchester Road
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Sec. 15-479. - Schedule D—Stops for through streets.

Change Oak Street to Big Bend

Sec. 15-480. - Schedule E—Stop intersections and locations.

Change:

- City Hall Drive and Holloway Road to read Park Drive and Holloway
- City Hall Drive and Seven Trails to read Andrews Park Way and Seven Trails
- City Hall Drive and Stoddards Mill to read Park Drive and Stoddards Mill
- Kehrs Mill Road westbound at Ballpark Drive, to read Andrews Park Way westbound at Ballpark Drive

Remove:

- Elm at Temple
- Fox Valley Court at West Glen Village Drive
- Jefferson Road and Fremont Street
- Jefferson Road and Lincoln Street
- Main Street and Elm Street
- Main Street and Fremont Street
- Main Street and Lincoln

- Main Street and Ries Road
- Old Ballwin Road and Bren Lite
- Temple and Ries Road
- Paulding Drive and access road to Seven Trails West development
- Kehrs Mill Road, eastbound at Seven Trails Drive

Add:

- Elm and Manchester
- Ballwin Commons and Old Ballwin
- Ballwin Commons and Ramsey
- Covenant Place and Ries
- Windy Acres Estates and Reinke

Sec. 15-482. - Schedule G—Parking prohibited at all times.

Remove:

- City Hall driveway, south and east sides, from its east intersection with Park Drive to the northwest end of the city hall building
- City Hall driveway, both sides, from its west intersection with Park Drive to the north end of the parking lot
- Fremont Street, west side between Main Street and Jefferson Street
- Fremont Street, both sides, from Jefferson Avenue to Manchester
- Lincoln Street, east side, from Main Street to Manchester Road
- Lincoln Street, both sides, from Jefferson Avenue to Manchester Road
- Lincoln, both sides between Main and Jefferson
- Main Street, north side, from Fremont Street to Ries Road
- Rock Road, both sides along its entire length
- Temple Avenue, south side, from a point 46½ feet east of Mulberry Street to Ries Road

Change:

- Park Drive, both sides along its entire length from Seven Trails Drive to Ballpark Drive, should be changed to Andrews Park Way, both sides along its entire length from Seven Trails Drive to Ballpark Drive

Add:

- Park Drive, both sides, from the intersection of Andrews Park Way to the western parking lot entrance of 300 Park Drive
- Park Drive on the north side from Holloway Road east to the tennis court parking lot

Sec. 15-488. - Schedule M—Traffic control signals.

Change Oak Street and Ries Road to Big Bend and Ries

Sec. 15-490. - Schedule O—Speed limit in parks and recreational areas.

Currently reads City Hall Drive from Holloway Road to Manchester and Rock Road from City Hall Drive to Manchester. Should be changed to read Andrews Park Way from Seven Trails Drive to Ballpark and Park Drive from Holloway to Andrews Park Way.

Sec. 15-492. - Schedule R—Speed limit of 25 miles per hour.

Change to reference Old Ballwin Road along its entire route.

Sec. 15-495. - Schedule X—Pedestrian crosswalk.

Add Holloway and Clear Meadows

Sec. 15-497. - Schedule AA—Special enforcement areas.

(b) That the municipal judge is hereby directed by the Board of Aldermen of the City of Ballwin to determine the fine of any person found guilty of a speeding violation in a special enforcement area in the City of Ballwin, at a rate double the standard fine for such speeding violation.

Section 3: New Sections 17-133 and 17-134 shall be added to the Code or Ordinances of the City of Ballwin as follows:

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.

Section 4: New Sections 17-14, 17-15, 17-16, 17-17, 17-18, 17-19 and 17-20 shall be added to the Code of Ordinances of the City of Ballwin as follows:

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 sections 455.010--455.090 RSMo.

(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 Sections 455.010 -- 455.090 RSMo.

(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 one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) or by imprisonment for a period not to exceed three (3) 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 person commits the offense of stalking when a person purposely and repeatedly harasses or follows with the intent of harassing another person. As used in this section, "harasses" means to engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to suffer substantial emotional distress. As used in this section, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

Sec. 17-16. Domestic assault.

1. 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. Section 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.

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

1. 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.

Sec. 17-18. Harassment.

1. A person commits the offense of harassment if he or she:

- (1) Knowingly communicates a threat to commit any felony to another person and in so doing frightens, intimidates, or causes emotional distress to such other person; or
- (2) When communicating with another person, knowingly uses coarse language offensive to one of average sensibility and thereby puts such person in reasonable apprehension of offensive physical contact or harm; or
- (3) Knowingly frightens, intimidates, or causes emotional distress to another person by anonymously making a telephone call or any electronic communication; or
- (4) Knowingly communicates with another person who is, or who purports to be, seventeen years of age or younger and in so doing and without good cause recklessly frightens, intimidates, or causes emotional distress to such other person; or
- (5) Knowingly makes repeated unwanted communication to another person; or
- (6) Without good cause engages in any other act with the purpose to frighten, intimidate, or cause emotional distress to another person, cause such person to be frightened, intimidated, or emotionally distressed, and such person's response to the act is one of a person of average sensibilities considering the age of such person.

Sec. 17-19. Deceptive business practice.

1. 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.

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.

Section 5: This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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*TIM POGUE, MAYOR*

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
*TIM POGUE, MAYOR*

ATTEST:

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*ROBERT KUNTZ, CITY ADMINISTRATOR*