

## Chapter 215

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**ARTICLE I  
General Provisions**

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In this Chapter, unless the context requires a different definition, the following shall apply:

**ACCESS** — To instruct, communicate with, store data in, retrieve or extract data from, or otherwise make any use of any resources of, a computer, computer system, or computer network.

**AFFIRMATIVE DEFENSE** —

1. The defense referred to is not submitted to the trier of fact unless supported by evidence; and
2. If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not.

**BURDEN OF INJECTING THE ISSUE** —

1. The issue referred to is not submitted to the trier of fact unless supported by evidence; and
2. If the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue.

**COMMERCIAL FILM AND PHOTOGRAPHIC PRINT PROCESSOR** — Any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency.

**COMPUTER** — The box that houses the central processing unit (CPU), along with any internal storage devices, such as internal hard drives, and internal communication devices, such as internal modems capable of sending or receiving electronic mail or fax cards, along with any other hardware stored or housed internally. Thus, "computer" refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as "peripherals" and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. "Information" refers to all the information on a computer system, including both software applications and data.

**COMPUTER EQUIPMENT** — Computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network.

**COMPUTER HARDWARE** — All equipment which can collect, analyze, create, display, convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or data. "Hardware" includes, but is not limited to, any data processing devices, such as central processing units, memory typewriters and self-contained laptop or notebook computers; internal and peripheral storage devices, transistor-like binary devices and other memory storage devices, such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard drive, optical disks and digital memory; local area networks, such as two (2) or more computers connected together to a central computer server via cable or modem; peripheral input or output devices, such as keyboards, printers, scanners, plotters, video display monitors and optical readers; and related communication devices, such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers, programmable telephone dialing or signaling devices and electronic tone-generating devices; as well as any devices, mechanisms or parts that can be used to restrict access to computer hardware, such as physical keys and locks.

**COMPUTER NETWORK** — Two (2) or more interconnected computers or computer systems.

**COMPUTER PROGRAM** — A set of instructions, statements, or related data that directs or is intended to direct a computer to perform certain functions.

**COMPUTER SOFTWARE** — Digital information which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored in electronic, magnetic, optical or other digital form. The term commonly includes programs to run operating systems and applications, such as word processing, graphic, or spreadsheet programs, utilities, compilers, interpreters and communications programs.

**COMPUTER SYSTEM** — A set of related, connected or unconnected, computer equipment, data, or software.

COMPUTER-RELATED DOCUMENTATION — Written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software or other related items.

CONFINEMENT —

1. A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court and remains in confinement until:
  - a. A court orders the person's release; or
  - b. The person is released on bail, bond or recognizance, personal or otherwise; or
  - c. A public servant having the legal power and duty to confine the person authorizes his/her release without guard and without condition that he/she return to confinement.
2. A person is not in confinement if:
  - a. The person is on probation or parole, temporary or otherwise; or
  - b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement.

CONSENT — Consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

1. It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or
2. It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
3. It is induced by force, duress or deception.

CONTROLLED SUBSTANCE — A drug, substance, or immediate precursor in Schedules I through V as defined in Chapter 195, RSMo.

CRIMINAL NEGLIGENCE — Failure to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

CUSTODY — A person is in custody when he/she has been arrested but has not been delivered to a place of confinement.

DAMAGE — When used in relation to a computer system or network, means any alteration, deletion, or destruction of any part of the computer system or network.

**DANGEROUS FELONY** — The felonies of arson in the first degree, assault in the first degree, attempted rape in the first degree if physical injury results, attempted forcible rape if physical injury results, attempted sodomy in the first degree if physical injury results, attempted forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, assault in the second degree if the victim of such assault is a special victim as defined in Subdivision (14) of Section 565.002, RSMo., kidnapping in the first degree, kidnapping, murder in the second degree, assault of a Law Enforcement Officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve (12) years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve (12) years of age at the time of the commission of the act giving rise to the offense, child molestation in the first or second degree, abuse of a child if the child dies as a result of injuries sustained from conduct chargeable under Section 568.060, RSMo., child kidnapping, parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty (120) days under Section 565.153, RSMo., and an "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is found to be an "habitual offender" or "habitual boating offender" as such terms are defined in Section 577.001, RSMo.

**DANGEROUS INSTRUMENT** — Any instrument, article or substance which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

**DATA** — A representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer or computer network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic storage media, punched cards and as may be stored in the memory of a computer.

**DEADLY WEAPON** — Any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged; or a switchblade knife, dagger, billy club, blackjack or metal knuckles.

**DIGITAL CAMERA** — A camera that records images in a format which enables the images to be downloaded into a computer.

**DISABILITY** — A mental, physical, or developmental impairment that substantially limits one (1) or more major life activities or the ability to provide adequately for one's care or protection, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings.

**ELDERLY PERSON** — A person sixty (60) years of age or older.

**FELONY** — An offense so designated or an offense for which persons found guilty thereof may be sentenced to death or imprisonment for a term of more than one (1) year.

**FORCIBLE COMPULSION** — Either:

1. Physical force that overcomes reasonable resistance; or

2. A threat, express or implied, that places a person in reasonable fear of death, serious physical injury, or kidnapping of such person or another person.

**INCAPACITATED** — A temporary or permanent physical or mental condition in which a person is unconscious, unable to appraise the nature of his/her conduct, or unable to communicate unwillingness to an act.

**INFRACTION** — A violation defined by this Code or by any other Statute of this state if it is so designated or if no sentence other than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction.

**INHABITABLE STRUCTURE** —

1. A vehicle, vessel or structure:
  - a. Where any person lives or carries on business or other calling; or
  - b. Where people assemble for purposes of business, government, education, religion, entertainment, or public transportation; or
  - c. Which is used for overnight accommodation of persons.
2. Any such vehicle, vessel, or structure is inhabitable regardless of whether a person is actually present.
3. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an inhabitable structure of another.

**KNOWINGLY** —

1. When used with respect to conduct or attendant circumstances, means a person is aware of the nature of his or her conduct or that those circumstances exist; or
2. When used with respect to a result of conduct, means a person is aware that his or her conduct is practically certain to cause that result.

**LAW ENFORCEMENT OFFICER** — Any public servant having both the power and duty to make arrests for violations of the laws of this State, and Federal Law Enforcement Officers authorized to carry firearms and to make arrests for violations of the laws of the United States.

**MISDEMEANOR** — An offense so designated or an offense for which persons found guilty thereof may be sentenced to imprisonment for a term of which the maximum is one (1) year or less.

**OF ANOTHER** — Property that any entity, including but not limited to any natural person, corporation, limited liability company, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

**OFFENSE** — Any felony, ordinance violation, misdemeanor or infraction.

**PHYSICAL INJURY** — Slight impairment of any function of the body or temporary loss of use of any part of the body.

**PLACE OF CONFINEMENT** — Any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held.

**POSSESS or POSSESSED** — Having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his/her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one (1) person alone has possession of an object, possession is sole. If two (2) or more persons share possession of an object, possession is joint.

**PROPERTY** — Anything of value, whether real or personal, tangible or intangible, in possession or in action.

**PUBLIC SERVANT** — Any person employed in any way by a government of this State who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this State, or any person elected to a position with any government of this State. It includes, but is not limited to, legislators, jurors, members of the judiciary and Law Enforcement Officers. It does not include witnesses.

**PURPOSELY** — When used with respect to a person's conduct or to a result thereof, means when it is his/her conscious object to engage in that conduct or to cause that result.

**RECKLESSLY** — Consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

**SERIOUS EMOTIONAL INJURY** — An injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty.

**SERIOUS PHYSICAL INJURY** — Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

**SERVICES** — When used in relation to a computer system or network, means use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage or retrieval functions.

**SEXUAL ORIENTATION** — Male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender.

SPECIAL VICTIM — Any of the following:

1. A Law Enforcement Officer assaulted in the performance of his or her official duties or as a direct result of such official duties;
2. Emergency personnel, any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician, assaulted in the performance of his or her official duties or as a direct result of such official duties;
3. A probation and parole officer assaulted in the performance of his/her official duties or as a direct result of such official duties;
4. An elderly person;
5. A person with a disability;
6. A vulnerable person;
7. Any jailer or corrections officer of the State or one (1) of its political subdivisions assaulted in the performance of his/her official duties or as a direct result of such official duties;
8. A highway worker in a construction or work zone as the terms "highway worker," "construction zone" and "work zone" are defined under Section 304.580, RSMo.;
9. Any utility worker, meaning any employee of a utility that provides gas, heat, electricity, water, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned, while in the performance of his/her job duties, including any person employed under a contract;
10. Any cable worker, meaning any employee of a cable operator, as such term is defined in Section 67.2677, RSMo., including any person employed under contract, while in the performance of his/her job duties; and
11. Any employee of a mass transit system, including any employee of public bus or light rail companies, while in the performance of his/her job duties.

VEHICLE — A self-propelled mechanical device designed to carry a person or persons, excluding vessels or aircraft.

VESSEL — Any boat or craft propelled by a motor or by machinery, whether or not such motor or machinery is a principal source of propulsion used or capable of being used as a means of transportation on water, or any boat or craft more than twelve (12) feet in length which is powered by sail alone or by a combination of sail and machinery, and used or capable of being used as a means of transportation on water, but not any boat or craft having, as the only means of propulsion, a paddle or oars.

VOLUNTARY ACT —

1. A bodily movement performed while conscious as a result of effort or determination. Possession is a voluntary act if the possessor knowingly procures or receives the thing

possessed, or having acquired control of it was aware of his/her control for a sufficient time to have enabled him or her to dispose of it or terminate his/her control; or

2. An omission to perform an act of which the actor is physically capable. A person is not guilty of an offense based solely upon an omission to perform an act unless the law defining the offense expressly so provides, or a duty to perform the omitted act is otherwise imposed by law.

**VULNERABLE PERSON** — Any person in the custody, care, or control of the Department of Mental Health who is receiving services from an operated, funded, licensed, or certified program.

**Section 215.005. Attempt.**

- A. Guilt for an offense may be based upon an attempt to commit an offense if, with the purpose of committing the offense, a person performs 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 215.007. Conspiracy.** <sup>1</sup>

- A. Guilt for an offense may be based upon a conspiracy to commit an offense when a person, with the purpose of promoting or facilitating the commission of an offense, agrees with another person or persons that they or one or more of them will engage in conduct which constitutes such offense.
- B. It is no defense to a prosecution for conspiring to commit an offense that a person, who knows that a person with whom he or she conspires to commit an offense has conspired with another person or persons to commit the same offense, does not know the identity of such other person or persons.
- C. If a person conspires to commit a number of offenses, he or she can be found guilty of only one offense so long as such multiple offenses are the object of the same agreement.
- D. No person may be convicted of an offense based upon a conspiracy to commit an offense unless an overt act in pursuance of such conspiracy is alleged and proved to have been done by him or her or by a person with whom he or she conspired.
- E. *Exceptions.*

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1. **Note: Under certain circumstances this offense can be a felony under state law.**

1. No person shall be convicted of an offense based upon a conspiracy to commit an offense if, after conspiring to commit the offense, he/she prevented the accomplishment of the objectives of the conspiracy under circumstances manifesting a renunciation of his/her criminal purpose.
  2. The defendant shall have the burden of injecting the issue of renunciation of criminal purpose under Subsection (E)(1).
- F. For the purpose of time limitations on prosecutions:
1. A conspiracy to commit an offense is a continuing course of conduct which terminates when the offense or offenses which are its object are committed or the agreement that they be committed is abandoned by the defendant and by those with whom he or she conspired;
  2. If an individual abandons the agreement, the conspiracy is terminated as to him/her only if he/she advises those with whom he/she has conspired of his/her abandonment or he/she informs the law enforcement authorities of the existence of the conspiracy and of his/her participation in it.
- G. A person shall not be charged, convicted or sentenced on the basis of the same course of conduct of both the actual commission of an offense and a conspiracy to commit that offense.

**Section 215.010. (Reserved)**

**ARTICLE II**  
**Offenses Against the Person**

**Section 215.020. Assault. <sup>2</sup>**

- A. A person commits the offense of assault if:
1. The person attempts to cause or recklessly causes physical injury, physical pain or illness to another person;
  2. With criminal negligence the person causes physical injury to another person by means of a firearm;
  3. The person purposely places another person in apprehension of immediate physical injury;
  4. The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person;

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2. Editor's Note: As to assault of certain other persons, see the definition of "special victim" as set out in Section 215.003 of this Chapter.

5. 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
6. The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

**Section 215.030. Domestic Assault.** <sup>3</sup>

- A. A person commits the offense of domestic assault if the act involves a domestic victim, as the term "domestic victim" is defined under Section 565.002, RSMo., and:
1. The person attempts to cause or recklessly causes physical injury, physical pain, or illness to such domestic victim;
  2. With criminal negligence the person causes physical injury to such domestic victim by means of a deadly weapon or dangerous instrument;
  3. The person purposely places such domestic victim in apprehension of immediate physical injury by any means;
  4. The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to such domestic victim;
  5. The person knowingly causes physical contact with such domestic victim knowing he or she will regard the contact as offensive; or
  6. The person knowingly attempts to cause or causes the isolation of such domestic victim by unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication devices or transportation for the purpose of isolation.

**Section 215.040. (Reserved)** <sup>4</sup>

**Section 215.050. Harassment.**

A person commits the offense of harassment if he/she, without good cause, engages in any act with the purpose to cause emotional distress to another person.

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3. **Note:** Under certain circumstances this offense can be a felony under state law.

4. **Editor's Note:** This Section previously pertained to 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. However, the authorizing statute, former RSMo. §565.083, was repealed without replacement by SB 491 in the 2014 Legislative Session, effective 1-1-2017. See Section 215.020, Assault, as it relates to a "special victim."

**Section 215.060. Stalking — Definitions.** <sup>5</sup>A. *Definitions.* As used in this Section:

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. 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.
- C. 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.
- D. Any Law Enforcement Officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this Section.

**Section 215.070. Kidnapping.** <sup>6</sup>

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

**Section 215.080. Endangering the Welfare of a Child.** <sup>7</sup>

## A. A person commits the offense of endangering the welfare of a child if he/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 old; or
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.; or
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, recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him/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 Section 579.105, RSMo.

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5. Note: Under certain circumstances this offense can be a felony under state law.

6. Note: Under certain circumstances this offense can be a felony under state law.

7. Note: Under certain circumstances this offense can be a felony under state law.

- B. Nothing in this Section shall be construed to mean the welfare of a child is endangered for the sole reason that he/she is being provided non-medical remedial treatment recognized and permitted under the laws of this State.

**Section 215.090. Leaving a Child Unattended in a Motor Vehicle — Definitions.** <sup>8</sup>

- A. *Definitions.* As used in this Section, the following terms mean:

COLLISION — The act of a motor vehicle coming into contact with an object or a person.

INJURES — To cause physical harm to the body of a person.

MOTOR VEHICLE — Any automobile, truck, truck-tractor, or any motor bus or motor-propelled vehicle not exclusively operated or driven on fixed rails or tracks.

UNATTENDED — Not accompanied by an individual fourteen (14) years of age or older.

- B. A person commits the offense of leaving a child unattended in a motor vehicle if such person knowingly leaves a child less than eleven (11) years of age unattended in a motor vehicle and such child injures another person by causing a motor vehicle collision or by causing the motor vehicle to injure a pedestrian.
- C. The offense of leaving a child unattended in a motor vehicle is an ordinance violation.

**Section 215.100. through Section 215.140. (Reserved)**

**ARTICLE III**  
**Offenses Concerning Administration of Justice**

**Section 215.150. Concealing an Offense.** <sup>9</sup>

- A. A person commits the offense of concealing an offense if he or she:
1. Confers or agrees to confer any pecuniary benefit or other consideration to any person in consideration of that person's concealing of any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof; or
  2. Accepts or agrees to accept any pecuniary benefit or other consideration in consideration of his/her concealing any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof.

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8. Note: Under certain circumstances this offense can be a felony under state law.

9. Note: Under certain circumstances this offense can be a felony under state law.

**Section 215.160. Hindering Prosecution.** <sup>10</sup>

- A. A person commits the offense of hindering prosecution if, for the purpose of preventing the apprehension, prosecution, conviction or punishment of another person for conduct constituting an offense, he or she:
1. Harbors or conceals such person; or
  2. Warns such person of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring another into compliance with the law; or
  3. Provides such person with money, transportation, weapon, disguise or other means to aid him/her in avoiding discovery or apprehension; or
  4. Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person.

**Section 215.170. Refusal To Identify as a Witness.**

A person commits the offense of refusal to identify as a witness if, knowing he or she has witnessed any portion of an offense, or of any other incident resulting in physical injury or substantial property damage, he or she refuses to report or gives a false report of his or her name and present address to a Law Enforcement Officer engaged in the performance of his or her duties.

**Section 215.180. Disturbing a Judicial Proceeding.**

A person commits the offense of disturbing a judicial proceeding if, with the purpose to intimidate a judge, attorney, juror, party or witness and thereby influence a judicial proceeding, he or she disrupts or disturbs a judicial proceeding by participating in an assembly and calling aloud, shouting, or holding or displaying a placard or sign containing written or printed matter, concerning the conduct of the judicial proceeding, or the character of a judge, attorney, juror, party or witness engaged in such proceeding, or calling for or demanding any specified action or determination by such judge, attorney, juror, party, or witness in connection with such proceeding.

**Section 215.190. Tampering With a Witness or Victim.** <sup>11</sup>

- A. A person commits the offense of tampering with a witness or victim if:
1. With the purpose to induce a witness or a prospective witness to disobey a subpoena or other legal process, absent himself or herself, avoid subpoena or other legal process, withhold evidence, information, or documents, or testify falsely, he or she:

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10. Note: Under certain circumstances this offense can be a felony under state law.

11. Note: Under certain circumstances this offense can be a felony under state law.

- a. Threatens or causes harm to any person or property; or
  - b. Uses force, threats or deception; or
  - c. Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
  - d. Conveys any of the foregoing to another in furtherance of a conspiracy; or
2. He or she purposely prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any crime or a person who is acting on behalf of any such victim from:
    - a. Making any report of such victimization to any peace officer, State, Local or Federal Law Enforcement Officer, prosecuting agency, or judge;
    - b. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof;
    - c. Arresting or causing or seeking the arrest of any person in connection with such victimization.

**Section 215.200. Tampering With Physical Evidence.** <sup>12</sup>

- A. A person commits the offense of tampering with physical evidence if he/she:
1. Alters, destroys, suppresses or conceals any record, document or thing with the purpose to impair its verity, legibility or availability in any official proceeding or investigation; or
  2. Makes, presents or uses any record, document or thing knowing it to be false with the purpose to mislead a public servant who is or may be engaged in any official proceeding or investigation.

**Section 215.210. Improper Communication.**

A person commits the offense of improper communication if he/she communicates, directly or indirectly, with any juror, special master, referee or arbitrator in a judicial proceeding, other than as part of the proceedings in a case, for the purpose of influencing the official action of such person.

**Section 215.220. False Impersonation.**

- A. A person commits the offense of false impersonation if such person:

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12. Note: Under certain circumstances this offense can be a felony under state law.

1. Falsely represents himself/herself to be a public servant with the purpose to induce another to submit to his/her pretended official authority or to rely upon his/her pretended official acts, and
    - a. Performs an act in that pretended capacity; or
    - b. Causes another to act in reliance upon his/her pretended official authority.
  2. Falsely represents himself/herself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this State with purpose to induce another to rely upon such representation, and
    - a. Performs an act in that pretended capacity; or
    - b. Causes another to act in reliance upon such representation; or
  3. Upon being arrested, falsely represents himself/herself, to a Law Enforcement Officer, with the first and last name, date of birth or social security number, or a substantial number of identifying factors or characteristics as that of another person that results in the filing of a report or record of arrest or conviction for an infraction or offense that contains the first and last name, date of birth and social security number, or a substantial number of identifying factors or characteristics to that of such other person as to cause such other person to be identified as the actual person arrested or convicted.
- B. If a violation of Subsection (A)(3) hereof is discovered prior to any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney bringing any action on the underlying charge shall notify the court thereof, and the court shall order the false-identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.
- C. Any person who is the victim of a false impersonation and whose identity has been falsely reported in arrest or conviction records may move for expungement and correction of said records under the procedures set forth in Section 610.123, RSMo. Upon a showing that a substantial number of identifying factors of the victim was falsely ascribed to the person actually arrested or convicted, the court shall order the false-identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate factors from the arrest and court records.

### **Section 215.230. False Reports.**

- A. A person commits the offense of making a false report if he/she knowingly:
1. Gives false information to any person for the purpose of implicating another person in an offense; or

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.

**Section 215.240. Resisting or Interfering With Arrest, Detention or Stop.** <sup>13</sup>

- A. A person commits the offense of resisting or interfering with arrest, detention, or stop if he or she knows or reasonably should know that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle, and for the purpose of preventing the Officer from effecting the arrest, stop or detention, he or she:
1. Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or
  2. Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.
- B. This Section applies to:
1. Arrests, stops or detentions with or without warrants;
  2. Arrests, stops or detentions for any offense, infraction or ordinance violation; and
  3. Arrests for warrants issued by a court or a probation and parole officer.
- 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 a prosecution under Subsection (A) of this Section that the Law Enforcement Officer was acting unlawfully in making the arrest. However, nothing in this Section shall be construed to bar civil suits for unlawful arrest.

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13. Note: Under certain circumstances this offense can be a felony under state law.

**Section 215.250. Escape or Attempted Escape From Custody.** <sup>14</sup>

A person commits the offense of escape from custody or attempted escape from custody if, while being held in custody after arrest for any offense, he/she escapes or attempts to escape from custody.

**Section 215.260. Interference With Legal Process.**

- A. A person commits the offense of interference with legal process if, knowing another person is authorized by law to serve process, he or she interferes with or obstructs such person for the purpose of preventing such person from effecting the service of any process.
- B. "Process" includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court.

**Section 215.270. Obstructing Officers.**

[R.O. 2009 §13-156; Code 1969 §25-27]

No person shall hinder, obstruct, run away from or otherwise interfere with an officer of this City in the discharge of his/her official duties.

**Section 215.280. Assault on a Police Animal.** <sup>15</sup>

A person commits the offense of assault on a police animal if he or she 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 of or under the control of a Law Enforcement Officer, Department of Corrections Officer, Municipal Police Department or Fire Department or a rescue unit or agency.

**Section 215.290. through Section 215.330. (Reserved)**

**ARTICLE IV**  
**Offenses Concerning Public Safety**

**Section 215.340. Abandonment of Airtight or Semi-Airtight Containers.**

- A. A person commits the offense of abandonment of an airtight or semi-airtight container if he or she knowingly abandons, discards, or permits to remain on premises under his or her control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-airtight container which has a capacity of one and

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14. Note: Under certain circumstances this offense can be a felony under state law.

15. Note: Under certain circumstances, this offense can be a felony under state law.

one-half (1 1/2) cubic feet or more and an opening of fifty (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-airtight container located in that part of a building occupied by a dealer, warehouse operator or repair person.
- C. The defendant shall have the burden of injecting the issue under Subsection (B) of this Section.
- D. The offense of abandonment of an airtight or semi-airtight container is an ordinance violation.

**Section 215.350. Littering.**

A person commits the offense of littering if he or she places, deposits, or causes to be placed or deposited, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse, or rubbish of any kind, nature or description on the right-of-way of any public road or State highway or on or in any of the waters in this City or on the banks of any stream, or on any land or water owned, operated or leased by the State, any board, department, agency or commission thereof or on any land or water owned, operated or leased by the Federal Government or the City, or on any private real property owned by another without the owner's consent.

**Section 215.360. Littering Via Carcasses.**

- A. A person commits the offense of unlawful disposition of a dead animal if he or she knowingly places or causes to be placed the carcass or offal of any dead animal:
  - 1. Into any well, spring, brook, branch, creek, pond, or lake; or
  - 2. On any public road or highway, river, stream, or watercourse or upon premises not his or her own for the purpose of annoying another or others.

**Section 215.365. Tampering With a Water Supply.**

- A. 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 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 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 his/her, their or its use.

B. The offense of tampering with a water supply is an ordinance violation.

**Section 215.370. Open and Abandoned Excavations.** <sup>16</sup>

**[R.O. 2009 §13-179; Code 1969 §25-28]**

Open and abandoned excavations upon property lying within the City are deemed to be attractive and dangerous nuisances to children and to be, in other respects, a menace to the public health and safety. Therefore, it shall be unlawful for any owner or lessee of such property to cause an excavation to be made thereon in connection with any lawful construction project and thereafter to abandon such project without completely filling or completely covering the excavations thus made. For the purpose of this Section a project and excavation shall be deemed "abandoned" if no work is performed upon or about such project for seven (7) consecutive days. Whenever it shall appear that the project, in connection with which an excavation was either wholly or partially made, has been abandoned and that such excavation has not been completely filled or completely covered, the Building Official shall cause a written notice to be served upon the owner or lessee of such property, either personally or by registered mail, calling attention to the existence of such excavation, the apparent abandonment of the project in connection with which the same was made and directing that the excavation be completely filled or completely covered within a period of ninety (90) days from the date of such notice. During such time as an excavation is not abandoned and while work about such excavation is not being performed, the perimeter of such excavation shall be adequately marked, barricaded or roped off so as to identify the location thereof.

**Section 215.380. Hunting Within City.**

**[R.O. 2009 §13-180; Code 1969 §25-21]**

It shall be unlawful for any person to hunt birds or small animals with dogs, guns, stones or other kinds of missiles or weapons within this City.

**Section 215.390. Storing Junk on Public Property.**

**[R.O. 2009 §13-203; Code 1969 §30-5]**

It shall be unlawful to store or leave standing or placed upon any public right-of-way or other public property within this City any discarded machine, apparatus or vehicle or any junk, refuse, waste or equipment of any kind for the purpose of storing, selling or maintaining the same during periods of non-use.

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16. Cross References — As to excavations generally, §§505.490 et seq.

**Section 215.400. Obstructing Flow of Water.****[R.O. 2009 §13-204; Code 1969 §25-15]**

No person shall obstruct the passage of any water or suffer the same to be done by any other person under his/her control, so as to cause water or any other fluid matter to flow upon the premises of another or upon any street, alley, square or other public property of any description and shall fail to remove such obstruction within five (5) hours after being instructed so to do by the Chief of Police, other Police Officer or any member of the Board of Aldermen.

**Section 215.410. Reports of Exposure, Etc., to Hazardous Substances.****[R.O. 2009 §13-207]**

- A. In this Section "*hazardous waste*" or "*hazardous substance*" means any substance or waste defined as such by Federal or State Statute or by rule or regulation of the Federal or State Governments.
- B. The owner or operator of any premises upon which any incident involving the exposure of human beings to hazardous wastes or hazardous substances or the introduction into the environment of hazardous wastes or hazardous substances shall report same to the Chief of the Fire Department. Such reports shall be made within twenty-four (24) hours of the incident.

**Section 215.420. Sale, Discharge and Use of Fireworks and Pyrotechnic Displays.****[R.O. 2009 §13-208; Ord. No. 3039 §1, 11-6-1989; Ord. No. 3592 §1, 3-16-1998]**

- A. It shall be unlawful for any person within this City to sell, offer for sale, expose for sale, use or discharge any firecrackers, bottle rockets, Roman candles or other fireworks of like construction or any other fireworks containing any explosives of like construction or any fireworks containing any explosives or flammable compounds, except displays authorized by special use permit. However, "fireworks" does not include auto flares, sparklers, fountains, paper caps containing less than an average of one-quarter ( $\frac{1}{4}$ ) of a grain of explosive content per cap or devices for use of such caps, the sale and use of which shall be permitted at all times.
- B. It shall be unlawful for any parent, guardian or other adult person having care and custody of a minor under the age of seventeen (17) years to knowingly permit such minor to violate the provisions of this Section or, after becoming aware that such minor is violating the provisions of this Section or intending to violate the provisions of this Section, to fail to terminate or prevent such violation.

**Section 215.430. through Section 215.470. (Reserved)**

**ARTICLE V**  
**Offenses Concerning Public Peace**

**Section 215.480. Definitions.**

As used in this Article, the following terms mean:

**PRIVATE PROPERTY** — Any place which at the time of the offense is not open to the public. It includes property which is owned publicly or privately.

**PROPERTY OF ANOTHER** — Any property in which the person does not have a possessory interest.

**PUBLIC PLACE** — Any place which at the time of the offense is open to the public. It includes property which is owned publicly or privately.

**Section 215.490. Peace Disturbance.**

A. A person commits the offense of peace disturbance if he or she:

1. Unreasonably and knowingly disturbs or alarms another person or persons by:
  - a. Loud noise; or
  - b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or
  - c. Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out; or
  - d. Fighting; or
  - e. Creating a noxious and offensive odor.
2. 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.

**Section 215.500. Private Peace Disturbance.**

A. A person commits the offense of private peace disturbance if he/she is on private property and unreasonably and purposely causes alarm to another person or persons on the same premises by:

1. Threatening to commit an offense against any person; or
  2. Fighting.
- B. For purposes of this Section, if a building or structure is divided into separately occupied units, such units are separate premises.

**Section 215.505. Disrupting a House of Worship.** <sup>17</sup>

- A. For purposes of this Section, "house of worship" means any church, synagogue, mosque, other building or structure, or public or private place used for religious worship, religious instruction, or other religious purpose.
- B. A person commits the offense of disrupting a house of worship if such person:
1. Intentionally and unreasonably disturbs, interrupts, or disquiets any house of worship by using profane discourse, rude or indecent behavior, or making noise either within the house of worship or so near it as to disturb the order and solemnity of the worship services; or
  2. Intentionally injures, intimidates, or interferes with or attempts to injure, intimidate, or interfere with any person lawfully exercising the right of religious freedom in or outside of a house of worship or seeking access to a house of worship, whether by force, threat, or physical obstruction.

**Section 215.510. Unlawful Assembly.**

A person commits the offense of unlawful assembly if he/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.

**Section 215.520. Rioting.**

A person commits the offense of rioting if he/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.

**Section 215.530. 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/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.

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<sup>17</sup> Note: Under certain circumstances this offense can be a felony under state law.

**Section 215.540. Obstructing Public Places.**

A. *Definition.* The following term shall be defined as follows:

**PUBLIC PLACE** — Any place to which the general public has access and a right of resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

B. It shall be unlawful for any person to stand or remain idle either alone or in consort with others in a public place in such manner so as to:

1. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;
2. Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk, or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto;
3. Obstruct the entrance to any business establishment, without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

C. When any person causes or commits any of the conditions in this Section, a Police Officer or any Law Enforcement Officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this Section.

**Section 215.550. Unlawful Funeral Protests Prohibited — Definitions.**

A. A person commits the offense of unlawful funeral protest if he or she pickets or engages in other protest activities within three hundred (300) feet of any residence, cemetery, funeral home, church, synagogue or other establishment during or within one (1) hour before or one (1) hour after the conducting of any actual funeral or burial service at that place.

B. *Definitions.* As used in this Section, the following terms mean:

**OTHER PROTEST ACTIVITIES** — Any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

**FUNERAL and BURIAL SERVICE** — 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 three-hundred-foot zone that is established under Subsection (A) above.

C. The offense of unlawful funeral protest shall be an ordinance violation.

**Section 215.560. through Section 215.590. (Reserved)**

**ARTICLE VI**  
**Offenses Concerning Weapons and Firearms**

**Section 215.600. Definitions.**

The following words, when used in this Article, shall have the meanings set out herein:

**ANTIQUE, CURIO OR RELIC FIREARM** — Any firearm so defined by the National Gun Control Act, 18 U.S.C. Title 26, §5845, and the United States Treasury/Bureau of Alcohol, Tobacco and Firearms, 27 CFR 178.11:

1. "Antique firearm" is any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, said ammunition not being manufactured any longer; this includes any matchlock, wheel lock, flintlock, percussion cap or similar type ignition system, or replica thereof;
2. Curio or relic firearm is any firearm deriving value as a collectible weapon due to its unique design, ignition system, operation or at least fifty (50) years old, associated with a historical event, renown personage or major war.

**BLACKJACK** — Any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use.

**BLASTING AGENT** — Any material or mixture, consisting of fuel and oxidizer that is intended for blasting, but not otherwise defined as an explosive under this Section, provided that the finished product, as mixed for use of shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

**CONCEALABLE FIREARM** — Any firearm with a barrel less than sixteen (16) inches in length, measured from the face of the bolt or standing breech.

**DEFACE** — To alter or destroy the manufacturer's or importer's serial number or any other distinguishing number or identification mark.

**DETONATOR** — Any device containing a detonating charge that is used for initiating detonation in an explosive, including but not limited to, electric blasting caps of instantaneous and delay types, non-electric blasting caps for use with safety fuse or shock tube and detonating cord delay connectors.

**EXPLOSIVE WEAPON** — Any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon. For the purposes of this Article, the term "explosive" shall mean any chemical compound mixture or device, the primary or common purpose of which is to function by explosion, including but not limited to, dynamite and other high explosives, pellet powder, initiating

explosives, detonators, safety fuses, squibs, detonating cords, igniter cords, and igniters or blasting agents.

**FIREARM** — Any weapon that is designed or adapted to expel a projectile by the action of an explosive.

**FIREARM SILENCER** — Any instrument, attachment or appliance that is designed or adapted to muffle the noise made by the firing of any firearm.

**GAS GUN** — Any gas ejection device, weapon, cartridge, container or contrivance, other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellent or temporary incapacitating substance.

**INTOXICATED** — Substantially impaired mental or physical capacity resulting from introduction of any substance into the body.

**KNIFE** — 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. For purposes of this Article, "knife" does not include any ordinary pocketknife with no blade more than four (4) inches in length.

**KNUCKLES** — Any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.

**MACHINE GUN** — Any firearm that is capable of firing more than one (1) shot automatically, without manual reloading, by a single function of the trigger.

**PROJECTILE WEAPON** — Any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.

**RIFLE** — Any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

**SHORT BARREL** — A barrel length of less than sixteen (16) inches for a rifle and eighteen (18) inches for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than twenty-six (26) inches.

**SHOTGUN** — Any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projectile through a smooth bore barrel by a single function of the trigger.

**SPRING GUN** — Any fused, timed or non-manually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

SWITCHBLADE KNIFE — Any knife which has a blade that folds or closes into the handle or sheath, and

1. That opens automatically by pressure applied to a button or other device located on the handle; or
2. That opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

**Section 215.610. Weapons — Carrying Concealed — Other Unlawful Use.** <sup>18</sup>

- A. A person commits the offense of unlawful use of weapons 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; or
  2. Sets a spring gun; or
  3. Discharges or shoots a firearm within the City limits;<sup>19</sup> or
  4. Exhibits, in the presence of one (1) 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/her person, while he/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 within the City limits; or
  7. 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.
  8. Possesses a firearm while also knowingly in possession of a controlled substance that is sufficient for a felony violation of Section 579.015, RSMo.
- B. Subsections (A)(1) and (7) 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. Subsections (A)(3) and (4) of this Section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or are

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**18. Note:** Under certain circumstances this offense can be a felony under state law.

**19. State Law Reference:** §252.243.3, RSMo., limits the discharge of firearms in certain areas known as "Hunting Heritage Protection Areas," which are defined therein.

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 Sections 590.030 to 590.050, RSMo., 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 Subsection (11) of Section 571.030, RSMo., and who carry the identification defined in Subsection (12) of Section 571.030, RSMo., 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. §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 Department of Public Safety under Section 590.750, RSMo.;
9. Any coroner, deputy coroner, medical examiner or assistant medical examiner;
10. Any prosecuting attorney or assistant prosecuting attorney, circuit attorney or assistant circuit attorney or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under Subsection (2) of Section 571.111, RSMo.;
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 valid concealed carry permit under Section 571.111, RSMo., 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 District Chief 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. Subsections (A)(1), (5) and (7) 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. Subsection (A)(1) of this Section does not apply to any person nineteen (19) years of age or older or eighteen (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 premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this State. Subsection (A)(7) 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. Subsections (A)(1) and (7) of this Section shall not apply to any person who has a valid concealed carry permit issued pursuant to Sections 571.101 to 571.121, RSMo., 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. Subsections (A)(3), (4), (5) and (7) of this Section shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.
- 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 or club-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.

**Section 215.620. Possession, Manufacture, Transport, Repair, Sale of Certain Weapons.**

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- A. A person commits an offense if such person knowingly possesses, manufactures, transports, repairs, or sells:

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20. Note: Under certain circumstances this offense can be a felony under state law.

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 pursuant to this Section if his/her conduct involved any of the items in Subsections (A)(1) through (5), the item was possessed in conformity with any applicable 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; or
  2. Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in Subparagraph (1) of this Subsection; or
  3. Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or
  4. Was incident to displaying the weapon in a public museum or exhibition; or
  5. Was incident to using the weapon in a manner reasonably related to a lawful dramatic performance.

**Section 215.630. Defacing Firearm.**

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

**Section 215.640. Purchase in Another State by Missouri Residents, Permitted When.**

Residents of the State of Missouri may purchase firearms in any State, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, 18 U.S.C. §921 et seq., and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the State of Missouri and in the State in which the purchase is made.

**Section 215.650. Purchase in Missouri by Non-Resident, Permitted When.**

Residents of any State may purchase firearms in the State of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, 18 U.S.C. §921 et seq., and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the State of Missouri and in the State in which such persons reside.

**Section 215.660. Unlawful Transfer of Weapons.** <sup>21</sup>

- A. 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.

**Section 215.670. Carrying Concealed Firearms 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 a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
  2. Within twenty-five (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 a criminal 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

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21. Note: Under certain circumstances this offense can be a felony under state law.

whether or not such court solely occupies the building in question. This Subsection 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 Subsection 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 Subsection (1) of Section 571.107, RSMo. Nothing in this Subsection shall preclude those persons listed in Subsection (B)(1) of Section 215.610 while within their jurisdiction and on duty, those persons listed in Subsections (B)(2), (4) and (10) of Section 215.610, 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 Subsection (1) of Section 571.107, RSMo., from carrying a concealed firearm within any of the areas described in this Subsection. Possession of a firearm in a vehicle on the premises of any of the areas listed in this Subsection 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;

5. Any meeting of the Brentwood {GovBody}, except that nothing in this Subsection shall preclude a member of the {GovBody} holding a valid concealed carry permit or endorsement from carrying a concealed firearm at a meeting of the {GovBody} of which he or she is a member. Possession of a firearm in a vehicle on the premises 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;
6. Any building owned, leased or controlled by the City of Brentwood identified by signs 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 Brentwood. 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 Subsection shall not apply to the licensee of said establishment. The provisions of this Subsection shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and that receives at least fifty-one percent (51%) of its gross annual income from the dining facilities by the sale of food. This Subsection does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and 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. Nothing in this Subsection 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 a violation 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 a criminal 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 Subsection shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or 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 a criminal 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 a criminal 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 a criminal 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 (1) or more signs displayed in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than one (1) 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 a criminal 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 five thousand (5,000) or more. Possession of a firearm in a vehicle on the premises 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;
  17. Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital 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.
- B. Any person violating any of the provisions of Subsection (A) of this Section shall be punished as follows:
1. If the violator holds a concealed carry permit or endorsement issued pursuant to State law, the violator may be subject 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). Upon conviction of charges arising from a citation issued pursuant to this Section, the court shall notify the Sheriff of the County which issued the concealed carry permit, or, if the person is a holder of a concealed carry endorsement issued prior to August 28, 2013, the court shall notify the Sheriff of the County which issued the certificate of qualification for a concealed carry permit or endorsement and the Department of Revenue.
  2. If the violator does not hold a current valid concealed carry permit or endorsement issued pursuant to State law, upon conviction of a charge of violating this Section the defendant shall be punished as provided in Section 100.080 of this Code of Ordinances.
  3. Employees of the City of Brentwood may, in addition to any other punishment hereby, be subject to disciplinary action.
- C. It shall be a violation of this Section, punishable by a citation for an amount not to exceed thirty-five dollars (\$35.00), for any person issued a concealed carry permit or endorsement pursuant to State law to fail to carry the concealed carry permit or endorsement at all times the person is carrying a concealed firearm, or to fail to display the concealed carry permit or endorsement upon the request of any Peace Officer.

**Section 215.675. Open Display of Firearm Permitted, When.**

Any person who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit, and who is lawfully carrying a firearm in a concealed manner, may briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.

**Section 215.680. Discharging Air Rifle, Bow and Arrow, Etc.****[R.O. 2009 §13-177; Code 1969 §25-1]**

It shall be unlawful for any person to discharge in the City any air rifle, air gun or pistol, spring gun, gun or rifle containing a gas-propelled cartridge, any bow or arrow or any other similar weapon, whether such be classed as a toy or not, which impels with force a metal pellet of any kind or propels any metal or sharp pointed arrow; provided that the provisions of this Section shall not apply to persons authorized by this Article to discharge firearms in the City or to persons discharging firearms or bows or arrows in a target or archery range authorized by the City.

**Section 215.690. Possession by or Sale of Air Gun to Persons Under Eighteen — Responsibility of Parent or Guardian.****[R.O. 2009 §13-178; Code 1969 §25-2]**

- A. The term "*air gun*", as used in this Section, shall mean any small gun or rifle capable of discharging a leaden or metallic bullet or any pellet by means of a spring or air pressure.
- B. It shall be unlawful for any minor under the age of eighteen (18) years to use or have in his/her possession an air gun. Any Police Officer shall have authority and it shall be his/her duty to confiscate any air gun found in the possession of any minor under the age of eighteen (18) years.
- C. It shall be unlawful for the parent or guardian of any such minor in his/her charge or custody to knowingly permit any such minor to use or have in his/her possession any air gun.
- D. It shall be unlawful for any person to sell, offer for sale, give away or distribute any air gun to any minor under the age of eighteen (18) years.

**Section 215.700. "Turkey Shoots" and Other Charitable Events.**

The discharge of firearms in connection with any turkey shoots or other charitable event may be authorized by the Board of Aldermen.

**Section 215.710. through Section 215.740. (Reserved)**

**ARTICLE VII**  
**Offenses Concerning Property**

Division 1  
**Generally**

**Section 215.750. Definitions.**

As used in this Article, the following terms mean:

**ENTER UNLAWFULLY or REMAIN UNLAWFULLY** — A person enters or remains 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.

**TO TAMPER** — To interfere with something improperly, to meddle with it, displace it, make unwarranted alterations in its existing condition, or to deprive, temporarily, the owner or possessor of that thing.

**UTILITY** — An enterprise which provides gas, electric, steam, water, sewage disposal, or communication, video, internet, or voice over internet protocol services, and any common carrier. It may be either publicly or privately owned or operated.

**Section 215.760. Tampering.** <sup>22</sup>

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; or
2. Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle; or
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 Subsection (A)(4), 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

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<sup>22</sup> Note: Under certain circumstances this offense can be a felony under state law.

direct benefit of the electric, gas, steam or water service with one (1) or more of the effects described in Subsection (A)(4), 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 Subsection by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

**Section 215.770. Property Damage.** <sup>23</sup>

- A. A person commits the offense of property damage if he/she:
1. Knowingly damages property of another; or
  2. Damages property for the purpose of defrauding an insurer.

**Section 215.780. Claim of Right.**

- A. A person does not commit an offense by damaging, tampering with, operating, riding in or upon or making connection with property of another if he/she does so under a claim of right and has reasonable grounds to believe he/she has such a right.
- B. The defendant shall have the burden of injecting the issue of claim of right.
- C. No person who, as a tenant, willfully or wantonly destroys, defaces, damages, impairs or removes any part of a leased structure or dwelling unit, or the facilities, equipment or appurtenances thereof, may inject the issue of claim of right.

**Section 215.790. Trespass in the First Degree.**

- A. A person commits the offense of trespass in the first degree if he/she knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.
- B. A person does not commit the offense of trespass by entering or remaining upon real property unless the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by:
1. Actual communication to the actor; or
  2. Posting in a manner reasonably likely to come to the attention of intruders.

**Section 215.800. Trespass in the Second Degree.**

- A. A person commits trespass in the second degree if he/she enters unlawfully upon real property of another. This is an offense of absolute liability.
- B. Trespass in the second degree is an infraction.

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23. Note: Under certain circumstances this offense can be a felony under state law.

**Section 215.810. Trespass of a School Bus.**

- A. 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.
- B. For the purposes of this Section, 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. In order to preserve the public order, any district which adopts the policies described in Subsection (B) of this Section shall establish and enforce a student behavior policy for students on school buses.

**Section 215.820. Reckless Burning or Exploding.**

A person commits the offense of reckless burning or exploding if he/she recklessly starts a fire or causes an explosion and thereby damages or destroys the property of another.

**Section 215.830. Negligent Burning or Exploding.**

- A. A person commits the offense of negligent burning or exploding if he/she with criminal negligence causes damage to property or to the woodlands, cropland, grassland, prairie, or marsh 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.

**Section 215.840. Stealing.** <sup>24</sup>

- A. A person commits the offense of stealing if he or she:
  - 1. 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;
  - 2. Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or
  - 3. For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

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24. Note: Under certain circumstances this offense can be a felony under state law.

**Section 215.850. Theft of Motor Fuel.**

- A. No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle unless payment or authorized charge for motor fuel dispensed has been made.
- B. A person found guilty or pleading guilty to stealing pursuant to Section 215.840 for the theft of motor fuel as described in Subsection (A) shall have his/her driver's license suspended by the court beginning on the date of the court's order of conviction. The person shall submit all of his/her operator's and chauffeur's licenses to the court upon conviction and the court shall forward all such driver's licenses and the order of suspension of driving privileges to the Department of Revenue for administration of such order.

**Section 215.860. (Reserved)** <sup>25</sup>**Section 215.870. Financial Exploitation of an Elderly Person or Person With a Disability — Certain Defense Prohibited.** <sup>26</sup>

- 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 or her property thereby benefitting 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;

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25. Editor's Note: This Section previously pertained to receiving stolen property. However, the authorizing statute, former RSMo. §570.080, was repealed without replacement by SB 491 in the 2014 Legislative Session, effective 1-1-2017.

26. Note: Under certain circumstances this offense can be a felony under state law.

7. Promising performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not sufficient evidence to prove that the offender did not intend to perform; or
  8. Undue influence, which means the use of influence by someone who exercises 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. "Undue influence" includes, but is not limited to, the improper or fraudulent use of a power of attorney, guardianship, conservatorship, or other fiduciary authority.
- B. Nothing in this Section shall be construed to limit the remedies available to the victim pursuant to any State law relating to domestic violence.
  - C. Nothing in this Section shall be construed to impose criminal 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.
  - F. *Medicaid Funds.* 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, RSMo., 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. The Department of Social Services, Family Support Division, or its successor is authorized to release information from its records containing the resident's income or assets to any prosecuting or circuit attorney in the State of Missouri for purposes of investigating or prosecuting any suspected violation of this Section.
  - G. The offense of financial exploitation of an elderly person or person with a disability is an ordinance violation.

**Section 215.880. Fraudulent Use of a Credit or Debit Device.** <sup>27</sup>

- A. 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:

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27. Note: Under certain circumstances this offense can be a felony under state law.

1. The device is stolen, fictitious or forged; or
  2. The device has been revoked or canceled; or
  3. For any other reason his or her use of the device is unauthorized; or
- B. 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 paying property taxes and knowingly cancels such charges or payment without just cause. It shall be prima facie evidence of a violation of this Section if a person cancels such charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri Department of Revenue.

**Section 215.890. Deceptive Business Practice.**

- A. A person commits the offense of deceptive business practice if in the course of engaging in a business, occupation or profession, he or she 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;
  2. Sells, offers, displays for sale, or delivers less than the represented quantity of any commodity or service;
  3. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he or she furnishes the weight or measure;
  4. Sells, offers, or exposes for sale adulterated or mislabeled commodities;
  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 a 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 or provide the property or services:
    - a. At the price which he or she offered them;
    - b. In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or
    - c. At all.

**Section 215.900. Alteration or Removal of Item Numbers With Intent To Deprive Lawful Owner.** <sup>28</sup>

- A. A person commits the offense of alteration or removal of item numbers if he/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.

**Section 215.910. Destroying or Defacing Public Notices.**

[R.O. 2009 §13-46; Code 1969 §25-34]

No person shall in any manner destroy or deface any public notice which has been posted by the City or any governmental agency.

**Section 215.920. Posting Notices and Signs.** <sup>29</sup>

[R.O. 2009 §13-202; Code 1969 §25-25]

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 or shall cause the same to be done on or to any curbstone, flagstone or any other portion of any street or sidewalk or upon any tree or lamppost standing or erected on any public street, alley or other public place or 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 this City; provided that nothing in this Section shall apply to any official notice required by law or ordinance to be posted by public officers.

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28. Note: Under certain circumstances this offense can be a felony under state law.

29. Cross Reference — As to signs, ch. 410.

**Section 215.930. Stealing Leased or Rented Personal Property — Enforcement Procedure — Penalty — Venue.** <sup>30</sup>

- A. A person commits the offense of stealing leased or rented property if, with the intent to deprive the owner thereof, such person:
1. Purposefully 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;
  2. Conceals or aids or abets the concealment of the property from the owner;
  3. 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;
  4. 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.
- B. 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.
- C. 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 this 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

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<sup>30</sup>. Note: Under certain circumstances this offense can be a felony under state law.

vehicle, if such property has not been returned within the seven-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.

- D. 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.
- E. 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 569.100, RSMo., or Section 215.770 of this Code in addition to being in violation of this Section.
- F. Venue shall lie in the County where the personal property was originally rented or leased.

**Section 215.940. Passing Bad Checks.** <sup>31</sup>

- A. A person commits the offense of passing a bad check when he/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 Subsection (A)(2) 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-day period during which the

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31. Note: Under certain circumstances this offense can be a felony under state law.

instrument may be paid and that payment of the instrument within such ten-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.

**Section 215.950. Removal of Shopping Carts.**

**[R.O. 2009 §13-18; Code 1969 §25-24]**

It shall be unlawful to remove carts, baskets or other devices furnished by merchants or storekeepers for the convenience of customers for use on the mercantile premises, from such premises without the express written consent of the merchant or storekeeper.

**Section 215.960. Shoplifting — Detention of Suspect by Merchant — Liability Presumption.**

A. *Definitions.* As used in this Section, the following definitions shall apply:

**MERCANTILE ESTABLISHMENT** — Any mercantile place of business in, at or from which goods, wares and merchandise are sold, offered for sale or delivered from and sold at retail or wholesale.

**MERCHANDISE** — All goods, wares and merchandise offered for sale or displayed by a merchant.

**MERCHANT** — Any corporation, partnership, association or person who is engaged in the business of selling goods, wares and merchandise in a mercantile establishment.

**WRONGFUL TAKING** — Includes stealing of merchandise or money and any other wrongful appropriation of merchandise or money.

- B. Any merchant, his/her agent or employee, who has reasonable grounds or probable cause to believe that a person has committed or is committing a wrongful taking of merchandise or money from a mercantile establishment, may detain such person in a reasonable manner and for a reasonable length of time for the purpose of investigating whether there has been a wrongful taking of such merchandise or money. Any such reasonable detention shall not constitute an unlawful arrest or detention, nor shall it render the merchant, his/her agent or employee criminally or civilly liable to the person so detained.
- C. Any person willfully concealing unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment, shall be presumed to have so concealed such merchandise with the intention of committing a wrongful taking of such merchandise within the meaning of Subsection (A), and the finding of such unpurchased merchandise concealed upon the person or among the belongings of such person shall be evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time of such person by a merchant, his/her agent or employee in order that recovery of such merchandise may be effected, and any such reasonable detention shall not be deemed to

be unlawful nor render such merchant, his/her agent or employee criminally or civilly liable.

**Section 215.970. Library Theft.**

- A. Any person who does any of the following shall be deemed to have appropriated said item with the intent to deprive the library of said item without its consent and shall be guilty of the offense of stealing under Section 570.030, RSMo.:
1. Knowingly removes any library material from the premises of a library without authorization;
  2. Borrows or attempts to borrow any library material from a library by the unauthorized use of a library card;
  3. Borrows library materials from any library pursuant to an agreement or procedure established by the library which requires the return of such library material and fails to return the library material to the library; or
  4. Knowingly writes on, injures, defaces, tears, cuts, mutilates, or destroys a book, document, or other library material belonging to, on loan to, or otherwise in the custody of a library.
- B. It shall be prima facie evidence of the person's purpose to deprive the library of the library materials if, within ten (10) days after notice in writing deposited as certified mail from the library demanding the return of such library material, such person without good cause shown fails to return the library material. A person is presumed to have received the notice required by this Subsection if the library mails such notice to the last address provided to the library by such person. Payment to the library, in an amount equal to the cost of replacement of an item of no historical significance, shall be considered returning the item for purposes of this Subsection.

**Section 215.980. through Section 215.1010. (Reserved)**

Division 2

**Offenses Concerning Copper and Scrap Metal**

**Section 215.1020. Copper Wire or Cable, Catalytic Converters, Collectors and Dealers To Keep Register, Information Required — Penalty — Exempt Transactions.**

- A. Every purchaser or collector of, or dealer in, junk, scrap metal or any secondhand property shall keep a register containing a written or electronic record for each purchase or trade in which each type of metal subject to the provisions of this Section is obtained for value. There shall be a separate record for each transaction involving any:
1. Copper, brass or bronze;
  2. Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting or fastener;

3. Material containing copper or aluminum that is knowingly used for farming purposes as farming is defined in Section 350.010, RSMo.; whatever may be the condition or length of such metal; or
  4. Catalytic converter.
- B. The record required by this Section shall contain the following data:
1. A copy of the driver's license or photo identification issued by the State or by the United States Government or agency thereof to the person from whom the material is obtained;
  2. The current address, gender, birth date, and a photograph of the person from whom the material is obtained if not included or are different from the identification required in Subsection (B)(1) of this Subsection;
  3. The date, time and place of the transaction;
  4. The license plate number of the vehicle used by the seller during the transaction;
  5. A full description of the metal, including the weight and purchase price.
- C. The records required under this Section shall be maintained for a minimum of twenty-four (24) months from when such material is obtained and shall be available for inspection by any Law Enforcement Officer.
- D. Anyone convicted of violating this Section shall be guilty of an ordinance violation.
- E. This Section shall not apply to any of the following transactions:
1. Any transaction for which the total amount paid for all regulated scrap metal purchased or sold does not exceed fifty dollars (\$50.00), unless the scrap metal is a catalytic converter;
  2. Any transaction for which the seller, including a farm or farmer, has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or
  3. Any transaction for which the type of metal subject to Subsection (A) of this Section is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications.

**Section 215.1030. Metal Beer Keg, Prohibition on Purchase or Possession by Scrap Metal Dealer — Violation, Penalty.**

- A. No scrap metal dealer shall knowingly purchase or possess a metal beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut or otherwise alter scrap metal

except when the purchase is from the brewer or its authorized representative. For purposes of this Section, "keg" shall have the same meaning as in Section 311.082, RSMo.

- B. Anyone who is found guilty of, or pleads guilty to, violating this Section shall be guilty of an ordinance violation punishable only by fine. Nothing in this Section shall be construed to preclude a person violating this Section from also being prosecuted for any applicable criminal offense.

**Section 215.1040. Metal Belonging to Various Entities — Scrap Yard Not To Purchase — Violation, Penalty.**

- A. No scrap yard shall purchase any metal that can be identified as belonging to a public or private cemetery, political subdivision, telecommunications provider, cable provider, wireless service or other communications-related provider, electrical cooperative, water utility, municipal utility or utility regulated under Chapters 386 or 393, RSMo., including bleachers, guardrails, signs, street and traffic lights or signals, and manhole cover or covers, whether broken or unbroken, from anyone other than the cemetery or monument owner, political subdivision, telecommunications provider, cable provider, wireless service or other communications-related provider, electrical cooperative, water utility, municipal utility, utility regulated under Chapter 386 or 393, RSMo., or manufacturer of the metal or item described in this Section unless such person is authorized in writing by the cemetery or monument owner, political subdivision, telecommunications provider, cable provider, wireless service or other communications-related provider, electrical cooperative, water utility, municipal utility, utility regulated under Chapter 386 or 393, RSMo., or manufacturer to sell the metal.
- B. Anyone convicted of violating this Section shall be guilty of an ordinance violation.

**Section 215.1050. Scrap Metal Dealers — Payments in Excess of \$500.00 To Be Made by Check — Exceptions.**

- A. Any scrap metal dealer paying out an amount that is five hundred dollars (\$500.00) or more shall make such payment by issuing a prenumbered check drawn on a regular bank account in the name of the licensed scrap metal dealer and with such check made payable to the person documented as the seller in accordance with this Section, or by using a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with Chapter 407, RSMo.
- B. Any scrap metal dealer that purchases scrap metal from a seller and pays in the form of cash is required to obtain a copy of the seller's driver's license or non-driver's license if the metal is copper or a catalytic converter. This Section shall not apply to any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business.

- C. Any person in violation of Sections 215.1020 to 215.1050 by selling stolen scrap metal shall be responsible for consequential damages related to obtaining the scrap metal.

**Section 215.1060. through Section 215.1110. (Reserved)**

Division 3  
**Offenses Concerning Computers**

**Section 215.1120. Tampering With Computer Data.** <sup>32</sup>

- A. A person commits the ordinance violation of tampering with computer data if he/she knowingly and without authorization or without reasonable grounds to believe that he/she has such authorization:
1. Modifies or destroys data or programs residing or existing internal to a computer, computer system, or computer network; or
  2. Modifies or destroys data or programs or supporting documentation residing or existing external to a computer, computer system, or computer network; or
  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;
  6. Receives, retains, uses, or discloses any data he/she knows or believes was obtained in violation of this Subsection.

**Section 215.1130. Tampering With Computer Equipment.** <sup>33</sup>

- A. A person commits the ordinance violation of tampering with computer equipment if he/she knowingly and without authorization or without reasonable grounds to believe that he/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.

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32. Note — Under certain circumstances this offense can be a felony under state law.

33. Note — Under certain circumstances this offense can be a felony under state law.

**Section 215.1140. Tampering With Computer Users.** <sup>34</sup>

- A. A person commits the ordinance violation of tampering with computer users if he/she knowingly and without authorization or without reasonable grounds to believe that he/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, which, in whole or in part, is owned by, under contract to, or operated for, or on behalf of, or in conjunction with another.

**Section 215.1150. through Section 215.1190. (Reserved)**

**ARTICLE VIII**  
**Offenses Concerning Prostitution**

**Section 215.1200. Article Definitions.**

As used in this Article, the following terms mean:

**DEVIATE SEXUAL INTERCOURSE** — Any sexual act involving the genitals of one (1) person and the mouth, hand, tongue, or anus of another person; or any act involving the penetration, however slight, of the penis, the female genitalia, or the anus by a finger, instrument, or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**PERSISTENT PROSTITUTION OFFENDER** — A person who has been found guilty of two (2) or more prostitution-related offenses.

**PROSTITUTION-RELATED OFFENSE** — Any violation of State law for prostitution, patronizing prostitution, or promoting prostitution.

**SEXUAL CONDUCT** — Sexual intercourse, deviate sexual intercourse, or sexual contact.

**SEXUAL CONTACT** — Any touching of another person with the genitals or any touching of the genitals or anus of another person or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person or for the purpose of terrorizing the victim.

**SEXUAL INTERCOURSE** — Any penetration, however slight, of the female genitalia by the penis.

**SOMETHING OF VALUE** — Any money or property, or any token, object or article exchangeable for money or property.

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<sup>34</sup>. Note — Under certain circumstances this offense can be a felony under state law.

**Section 215.1210. Prostitution.** <sup>35</sup>

A person commits the offense of prostitution if he or she engages in or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by any person.

**Section 215.1220. Patronizing Prostitution.** <sup>36</sup>

- A. A person commits the offense of patronizing prostitution if he or she:
1. Pursuant to a prior understanding, gives something of value to another person as compensation for having engaged in sexual conduct with any person; or
  2. Gives or agrees to give something of value to another person with the understanding that such person or another person will engage in sexual conduct with any person; or
  3. Solicits or requests another person to engage in sexual conduct with any person in return for something of value.
- B. It shall not be a defense that the person believed that the individual he or she patronized for prostitution was eighteen (18) years of age or older.

**Section 215.1230. (Reserved)** <sup>37</sup>**Section 215.1240. Prostitution Houses Deemed Public Nuisances.**

- A. Any room, building or other structure regularly used for any prostitution activity prohibited by this Article is a public nuisance.
- B. The City Prosecuting Attorney may, in addition to all criminal sanctions, prosecute a suit in equity to enjoin the nuisance. If the court finds that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for prostitution activity, the court may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one (1) year.
- C. All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance, and they may be enjoined from engaging in any prostitution activity anywhere within the jurisdiction of the court.
- D. Appeals shall be allowed from the judgment of the court as in other civil actions.

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35. Note: Under certain circumstances this offense can be a felony under state law.

36. Note: Under certain circumstances this offense can be a felony under state law.

37. Editor's Note: This Section previously noted that in prosecutions of prostitution and patronizing prostitution, the sex (gender) of the parties was no defense. However, the authorizing statute, former RSMo. §567.040, was repealed without replacement by SB 491 in the 2014 Legislative Session, effective 1-1-2017.

**Section 215.1250. through Section 215.1290. (Reserved)****ARTICLE IX  
Sexual Offenses****Section 215.1300. Article Definitions.**

As used in this Article, the following terms shall have the meanings set forth herein:

**DEVIATE SEXUAL INTERCOURSE** — Any act involving the genitals of one person and the hand, mouth, tongue or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**SEXUAL CONDUCT** — Sexual intercourse, deviate sexual intercourse or sexual contact.

**SEXUAL CONTACT** — Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**SEXUAL INTERCOURSE** — Any penetration, however slight, of the female genitalia by the penis.

**Section 215.1310. Sexual Misconduct.**

- A. A person commits the offense of sexual misconduct in the first degree if such person:
1. Exposes his/her genitals under circumstances in which he/she knows that his/her conduct is likely to cause affront or alarm;
  2. Has sexual contact in the presence of a third person or persons under circumstances in which he/she knows that such conduct is likely to cause affront or alarm; or
  3. Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

**Section 215.1320. Sexual Abuse.**<sup>38</sup>

A person commits the offense of sexual abuse in the second degree if he/she purposely subjects another person to sexual contact without that person's consent.

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38. Note: Under certain circumstances this offense can be a felony under state law.

**Section 215.1330. Residency, Loitering, Activity and Location Limitations for Sex Offenders and Certain Facilities.****[Ord. No. 4714 §1, 5-16-2016<sup>39</sup> ]**

A. Any person who:

1. Has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of:
  - a. Chapter 566, RSMo.; or
  - b. The provisions of Subsection (2) of Section 568.020, RSMo., incest; or
  - c. Section 568.045, RSMo., endangering the welfare of a child in the first degree; or
  - d. Subsection (2) of Section 568.080, RSMo., use of a child in a sexual performance; or
  - e. Section 568.090, RSMo., promoting a sexual performance by a child; or
  - f. Section 573.023, RSMo., sexual exploitation of a minor; or
  - g. Section 573.025, RSMo., promoting child pornography in the first degree; or
  - h. Section 573.035, RSMo., promoting child pornography in the second degree; or
  - i. Section 573.037, RSMo., possession of child pornography; or
  - j. Section 573.040, RSMo., furnishing pornographic material to minors; or
  - k. Any offense in any other State or foreign country, or under Federal, tribal, or military jurisdiction which, if committed in this State, would be a violation listed in this Subsection; and
2. Any person required to register with the Chief Law Enforcement Official of the County in which such person resides pursuant to the provisions of Sections 589.400, et seq., RSMo.;

shall not reside within one thousand (1,000) feet of (i) any public school as defined in Section 160.011, RSMo.; or (ii) any private school giving instruction in a grade or grades not higher than the 12th grade; or (iii) any public library; or (iv) any public park; or (v) any pool open to the general public; or (vi) any child-care facility that is licensed under Chapter 210, RSMo.; or (vii) any child-care facility as defined in Section 210.201, RSMo., that is exempt from State licensure but subject to State regulation under Section 210.252, RSMo., and holds itself out to be a child-care facility, which is in existence at the time the individual begins to reside at the location.

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39. Editor's Note: Section 1 of this ordinance repealed former Section 215.1330, Certain Offenders Not to Physically Be Present or Loiter Within Five Hundred Feet of a Child Care Facility — Violation — Penalty.

- B. If such person has already established a residence and a public school, a private school, a child-care facility, a public library, a public park or a pool open to the general public is subsequently built or placed within the requisite distance of such person's residence, then such person shall, within one (1) week of the opening of such public school, private school, public library, public park, pool or child-care facility, notify the Chief of Police that he or she is now residing within the proscribed distance of the relevant facility and shall provide verifiable proof to the Chief that he or she resided there prior to the opening of such facility.
- C. For purposes of this Section:
1. "Resides" means sleeps in a residence, which may include more than one (1) location and may be mobile or transitory; and
  2. The requisite distance between the relevant facility and the residence in question shall be measured by the straight line distance between the nearest point on the property boundary line of the property upon which the relevant facility is located and the nearest point on the boundary line of the property upon which the residence is located.
- D. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of Chapter 566, RSMo., or the provisions of Subsection (2) 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., use of a child in a sexual performance; Section 568.090, 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 any offense in any other state or foreign country, or under Federal, tribal, or military jurisdiction which, if committed in this State, would be a violation listed in this Subsection 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) 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 (E) of this Section.
- E. No parent, legal guardian or custodian who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the offenses listed in Subsection (D) 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) 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 or she wishes to attend for which he or she has not yet had permission granted.

- F. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of Chapter 566, RSMo., or the provisions of Subsection 2 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., use of a child in a sexual performance; Section 568.090, 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 any offense in any other state or foreign country, or under Federal, tribal, or military jurisdiction which, if committed in this State, would be a violation listed in this Subsection shall not knowingly be physically present in or loiter within five hundred (500) feet of or approach, contact, or communicate with any child under eighteen (18) years of age in any child-care facility as defined in Section 210.201, RSMo., on the real property comprising any child-care facility when persons under the age of eighteen 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.
- G. Any person who has pleaded guilty to, or been convicted of, or been found guilty of violating any of the provisions of Chapter 566, RSMo., or the provisions of Subsection 2 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., use of a child in a sexual performance; Section 568.090, 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 any offense in any other state or foreign country, or under Federal, tribal, or military jurisdiction which, if committed in this State, would be a violation listed in this Subsection 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.
- H. No enterprise, business, agency, service or other activity of any kind which is intended, designed or operated so as to serve or attract persons convicted of violent crimes or persons described in Subsection (A), (D), (F), or (G) of this Section, or otherwise cause such persons to congregate at or be present in, at or around the same ("proposed activity"), shall be located 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 12th grade, or public library, or public park, or pool open to the general public, or any child-care facility as defined in Section 210.201, RSMo., that is exempt from State licensure but subject to State regulation under Section 210.252, RSMo., and holds itself out to be a child-care facility (collectively, "relevant facility"), which is in existence at the time the proposed activity begins or is proposed to begin, as measured by the straight line distance between the nearest point on the property boundary line of the property upon which the proposed activity is located and the nearest point on the boundary line of the property upon which the relevant facility is located.

- I. No residency, activity or presence limitation established by Subsection (A), (D), (F) or (G) shall apply to any person who pleaded guilty to, or been convicted of, or been found guilty of the offense giving rise to the limitation prior to the effective date of the enactment of a similar State limitation or to any person as to whom the application of the limitation would render the Subsection an ex post facto or impermissibly retroactive law. The burden of raising the issue and the burden of proof relating to same shall be on the person subject to the limitation at issue. Any person asserting an exemption from any provision of this Section by reason of this Subsection or ex post facto or impermissible retroactive application shall notify the Chief of Police of his or her claim to exemption within thirty (30) days of first learning of the applicability of the limitation to such person.
- J. Any person who violates the provisions of this Section is guilty of an ordinance violation.

**Section 215.1340. (Reserved)** <sup>40</sup>

**Section 215.1350. Halloween, Restrictions on Conduct — Violations.**

- A. Any person required to register as a sexual offender under Sections 589.400 to 589.425, RSMo., shall be required on October 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.
- B. Any person required to register as a sexual offender under Sections 589.400 to 589.425, RSMo., who violates the provisions of Subsection (A) of this Section shall be guilty of an ordinance violation.

**Section 215.1360. Urinating in Public.**

It shall be unlawful for any person within the City to urinate in or upon any street, park, any public place open to the public or private place open to public view other than in the restroom facilities provided for such activity.

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<sup>40</sup> Editor's Note: Former Section 215.1340, Certain Offenders Not to Be Present Within Five Hundred Feet of School Property, Exception — Permission Required for Parents or Guardians Who Are Offenders, Procedure, was repealed 5-16-2016 by Ord. No. 4714 §1.

**Section 215.1370. through Section 215.1410. (Reserved)****ARTICLE X  
Offenses Concerning Pornography****Section 215.1420. Definitions.**

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

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

**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 covering of any part of the nipple or areola.

**OBSCENE** — Any material or performance if, taken as a whole:

1. Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and
2. The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and
3. A reasonable person would find the material 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; and
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.

**SEXUAL EXCITEMENT** — The condition of human male or female genitals when in a state of sexual stimulation or arousal.

**Section 215.1430. Promoting Pornography for Minors or Obscenity.** <sup>41</sup>

- A. A person commits the offense of promoting pornography for minors or obscenity if, knowing of its content and character, he/she:
  1. Promotes or possesses with the purpose to promote any obscene materials for pecuniary gain; or
  2. Produces, presents, directs or participates in any obscene performance for pecuniary gain; or
  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; or
  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.

**Section 215.1440. Furnishing Pornographic Materials to Minors.** <sup>42</sup>

- A. A person commits the offense of furnishing pornographic material to minors if, knowing of its content and character, he/she:

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41. Note: Under certain circumstances this offense can be a felony under state law.

42. Note: Under certain circumstances this offense can be a felony under state law.

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
  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; or
  3. 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.
- B. It is not a defense to a prosecution for a violation of this Section that the person being furnished the pornographic material is a Peace Officer masquerading as a minor.
- C. The offense of furnishing pornographic material to minors or attempting to furnish pornographic material to minors is an ordinance violation.

**Section 215.1450. through Section 215.1490. (Reserved)**

**ARTICLE XI  
Offenses Concerning Drugs**

**Section 215.1500. Possession of Marijuana or Synthetic Cannabinoid.** <sup>43</sup>

A person commits the offense of possession of marijuana or any synthetic cannabinoid, as both terms are defined in Section 195.010, RSMo., if he or she knowingly possesses marijuana or any synthetic cannabinoid, except as authorized by Chapter 579 or Chapter 195, RSMo.<sup>44</sup>

**Section 215.1510. Possession of a Controlled Substance.** <sup>45</sup>

A person commits the offense of possession of a controlled substance, as defined in Section 195.010, RSMo., if he or she knowingly possesses a controlled substance, except as authorized by Chapter 579, RSMo., or Chapter 195, RSMo.<sup>46</sup>

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43. Note: Under certain circumstances this offense can be a felony under state law.

44. State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

45. Note: Under certain circumstances this offense can be a felony under state law.

46. State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

**Section 215.1520. Limitations on the Retail Sale of Methamphetamine Precursor Drugs.**

- A. The retail sale of methamphetamine precursor drugs shall be limited to:
1. Sales in packages containing not more than a total of three (3) grams of one (1) or more methamphetamine precursor drugs calculated in terms of ephedrine base, pseudoephedrine base and phenylpropanolamine base; and
  2. For non-liquid products, sales in blister packs, each blister containing not more than two (2) dosage units, or where the use of blister packs is technically infeasible, sales in unit dose packets or pouches.
- B. The penalty for a knowing violation of Subsection (A) of this Section is found in Section 569.060, RSMo.

**Section 215.1530. Unlawful Possession of Drug Paraphernalia.** <sup>47</sup>

A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses, or possesses 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 Chapter 579, RSMo., or Chapter 195, RSMo.

**Section 215.1540. 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.

**Section 215.1550. 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,

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47. Note: Under certain circumstances this offense can be a felony under state law.

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 215.1540 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.

**Section 215.1560. Possession or Purchase of Solvents To Aid Others in Violations, Prohibited — Violations of Sections 215.1540 to 215.1550 — Penalty. <sup>48</sup>**

- A. No person shall intentionally possess or buy 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 inducing or aiding any other person to violate the provisions of Sections 215.1540 and 215.1550 hereof.
- B. Any person who violates any provision of Sections 215.1540 through 215.1560 is guilty of an ordinance violation for the first violation.

**Section 215.1570. through Section 215.1610. (Reserved)**

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<sup>48</sup> Note: Under certain circumstances this offense can be a felony under state law.

**ARTICLE XII**  
**Offenses Concerning Minors** <sup>49</sup>

**Section 215.1620. Curfew Hours.**

**[R.O. 2009 §13-221; Ord. No. 2925 §1, 4-18-1988]**

It is unlawful for any minor under the age of seventeen (17) years to loiter, idle, wander, stroll or to drive or ride in an automobile or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places 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, except that this Section does not apply to a minor accompanied by his/her 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/her parent, guardian or other adult person having the care and custody of the minor.

**Section 215.1630. Duties of Parents.**

**[R.O. 2009 §13-222; Ord. No. 2925 §1, 4-18-1988]**

It is unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of seventeen (17) years to knowingly permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 P.M. and 6:00 A.M. of the following day, official County time, except that this Section does not apply when the minor is accompanied by his/her 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/her parent, guardian or other adult person having the care and custody of the minor.

**Section 215.1640. Duty of Police Officers — Penalty for Violation.**

**[R.O. 2009 §13-223; Ord. No. 2925 §1, 4-18-1988]**

- A. Any Police Officer finding a child violating the provisions of Section 215.1620 shall warn the child to cease and desist immediately from such violation. The Police Officer may take the child into custody and release him/her to his/her parent or guardian or release the child at the scene with a written notice of referral to the Juvenile Court. The Juvenile Court shall serve upon the parent or guardian or person in charge of said child the written notice setting forth the manner in which the child violated Section 215.1620.
- B. After receiving notice of the first (1st) violation by the child, any parent, guardian or other person in charge of such child who knowingly permits such child to again violate

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<sup>49</sup>. Cross Reference: As to alcohol-related offenses involving minors, §600.240.

the provisions of Section 215.1620 shall be fined not more than one thousand dollars (\$1,000.00).

**Section 215.1650. through Section 215.1690. (Reserved)**

**ARTICLE XIII**

**Offenses Concerning Tobacco, Alternative Nicotine Products or Vapor Products**

**Section 215.1700. 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.<sup>50</sup>

**CENTER OF YOUTH ACTIVITIES** — Any playground, school or other facility, when such facility is being used primarily by persons under the age of eighteen (18) for recreational, educational or other purposes.

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

**MINOR** — A person under the age of eighteen (18).

**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,

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<sup>50</sup>. Editor's Note: See 21 U.S.C. § 351 et seq.

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.

**Section 215.1705. No Tobacco Sales to Minors — Alternative Nicotine Products, Vapor Products and Nicotine Liquid Containers — Sale to Minors Prohibited.**

- A. Any person or entity who sells tobacco products, alternative nicotine products, or vapor products shall deny the sale of such tobacco products to any person who is less than eighteen (18) years of age.
- B. Any person or entity who sells or distributes tobacco products, alternative nicotine products, or vapor products by mail or through the Internet in this State in violation of Subsection (A) of this Section shall be assessed a fine of two hundred fifty dollars (\$250.00) for the first violation and five hundred dollars (\$500.00) for each subsequent violation.
- C. Alternative nicotine products and vapor products shall only be sold to persons eighteen (18) years of age or older, shall be subject to local and State sales tax, but shall not be otherwise taxed or regulated as tobacco products.
- D. *Nicotine Liquid Containers — Regulations.*
  1. Any nicotine liquid container that is sold at retail in this State shall satisfy the child-resistant effectiveness standards set forth in 16 CFR 1700.15(b) as in effect on the effective date of this Section when tested in accordance with the method described in 16 CFR 1700.20 as in effect on the effective date of this Section.
  2. For the purposes of this Subsection, "nicotine liquid container" shall mean a bottle or other container of liquid or other substance containing nicotine if the liquid or substance is sold, marketed, or intended for use in a vapor product. A "nicotine liquid container" shall not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in a vapor product, provided that such cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.
  3. Any person who engages in retail sales of liquid nicotine containers in this State in violation of this Subsection shall be assessed a fine of two hundred fifty dollars (\$250.00) for the first violation and five hundred dollars (\$500.00) for each subsequent violation.
  4. The Department of Health and Senior Services may adopt rules necessary to carry out the provisions of this Subsection. Any rule or portion of a rule, as that term is defined in Section 536.010, RSMo., that is created under the authority delegated in that Section shall become effective only if it complies with and is subject to all of

the provisions of Chapter 536, RSMo., and, if applicable, Section 536.028, RSMo. This Section and Chapter 536, RSMo., are non-severable, and if any of the powers vested with the General Assembly under Chapter 536, RSMo., to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

5. The provisions of this Subsection and any rules adopted hereunder shall be null, void, and of no force and effect upon the effective date of the final regulations issued by the Federal Food and Drug Administration or from any other Federal agency if such regulations mandate child-resistant effectiveness standards for nicotine liquid containers.

**Section 215.1710. Unlawful To Sell or Distribute Tobacco Products, Alternative Nicotine Products or Vapor Products to Minors — Vending Machine Requirements.**

- A. It shall be unlawful for any person to sell, provide or distribute tobacco products, alternative nicotine products or vapor products to persons under eighteen (18) years of age.
- B. All vending machines that dispense tobacco products, alternative nicotine products or vapor products 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 or vapor product 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 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 (D) of this Section. A determination of non-compliance may be made by a local law enforcement agency or the Division of Alcohol and Tobacco 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 215.1740 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 offense, two hundred fifty dollars (\$250.00).
- E. Any owner of the establishment where tobacco products, alternative nicotine products or vapor products 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 to minors products, alternative nicotine products or vapor products; 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 Alcohol and Tobacco 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 or vapor products 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 in violation of Section 215.1740, 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.
- I. Any person adversely affected by this Section may file an appeal with the Administrative Hearing Commission which shall be adjudicated pursuant to the procedures established in Chapter 621, RSMo.

**Section 215.1720. Minors Prohibited From Purchase or Possession of Tobacco Products, Alternative Nicotine Products or Vapor Products — Misrepresentation of Age.**

- A. No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes, tobacco products, alternative nicotine products or vapor products 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 Alcohol and Tobacco 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 or vapor products.
- 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 or vapor products 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 or vapor products confiscated and shall complete a tobacco education or smoking cessation program, if available.

**Section 215.1730. Retail Sales Tax License Required for Sale of Tobacco Products, Alternative Nicotine Products or Vapor Products.**

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

**Section 215.1740. Required Sign Stating Violation of State Law To Sell Tobacco Products, Alternative Nicotine Products or Vapor Products to Minors Under Age 18 — Display of Sign Required, Where.**

- 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, vapor products are sold and on every vending machine where tobacco products, alternative nicotine products, 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."

**Section 215.1750. Restrictions on Sales of Individual Packs of Cigarettes.**

- A. No person or entity shall sell individual packs of cigarettes 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.

**Section 215.1760. 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 or 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).
- 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 Alcohol and Tobacco Control or any owner or employee of an establishment that sells tobacco products, alternative nicotine products or vapor products for the purpose of aiding the registrant, agent 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 or vapor products procured from a registrant. 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. Any person who 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 shall be deemed guilty of an ordinance violation.
- 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

215.1710 of this Article. No person shall be liable for more than one (1) violation of Subsections (B) and (C) of Section 215.1710 on any single day.

**Section 215.1770. through Section 215.1810. (Reserved)**

**ARTICLE XIV**  
**Clean Air Act — Smoking Prohibited**<sup>51</sup>

**Section 215.1820. Purpose.**

**[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

A. The purposes of this Article are to:

1. Promote public health by creating environments which reduce citizens' and workers' exposure to secondhand tobacco smoke and vapor products; and
2. Create tobacco-smoke and vapor-product-free environments for citizens and workers through regulation in public places and the workplace.

**Section 215.1830. Definitions.**

**[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

The following words, terms and phrases, when used in this Article, shall be construed as defined in this Section:

**BAR** — An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets.

**CODE ENFORCEMENT OFFICER** — The Fire Marshal or his or her designee.

**EMPLOYEE** — Any person who performs services for an employer, with or without compensation.

**EMPLOYER** — A person, partnership, association, corporation, trust, or other organized group of individuals, including the City or any agency thereof, which utilizes the services of one (1) or more employees.

**ENCLOSED** — A space bound on all sides by walls or windows continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, lobbies, offices, rooms, all space therein screened by partitions, which do not extend to the ceiling or are not solid, office landscaping or similar structures, and hallways.

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51. Cross References — As to mayor and board of aldermen, ch. 110; as to alcoholic beverages, ch. 600; as to buildings and building regulations, ch. 500; as to fire prevention and protection, ch. 205; as to licenses, taxation and miscellaneous business regulations, ch. 605.

**PLACE OF EMPLOYMENT** — Any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a place of employment unless it is used as a child care, adult day-care or health-care facility.

**PUBLIC PLACE** — Any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, health facilities, laundering facilities, public transportation facilities, reception areas, production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms.

**RESTAURANT** — An eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers at no cost or for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include an attached bar.

**SMOKING** — Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other tobacco product, and inhaling, exhaling, or burning any vapor product.

**VAPOR PRODUCTS** — Any noncombustible 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, electric pipe, or similar product or device and any 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.

**Section 215.1840. Prohibition of Smoking in All Enclosed Places of Employment and All Enclosed Public Places.**

**[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

- A. Smoking shall be prohibited in all enclosed places of employment within the City of Brentwood.
- B. Smoking shall be prohibited in all enclosed public places within the City of Brentwood, including but not limited to the following enclosed places:
  1. Elevators;
  2. Restrooms;
  3. Libraries, educational facilities, child-care and adult day-care facilities, museums, auditoriums, aquariums and art galleries;
  4. Any health-care facility, health clinic or ambulatory care facilities, including but not limited to laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors' offices and dentists' offices;

5. Any place of entertainment or recreation, including but not limited to gymnasiums, theaters, concert halls, bingo halls, billiard halls, bowling alleys, arenas, health spas, swimming pools and roller and ice skating rinks;
6. Any place used for exhibiting a motion picture, stage drama, lecture, musical recital, or other similar performance;
7. Shopping malls;
8. Bars;
9. Restaurants;
10. Convenience facilities;
11. All public areas and waiting rooms of public transportation facilities, including but not limited to bus and train facilities;
12. All facilities, buildings, and all vehicles owned, leased or operated by the City of Brentwood;
13. Rooms in which meetings or hearings open to the public are held, except where such meetings or hearings are in a private residence; and
14. Any vehicle of public transportation, including, but not limited to, buses, limousines for hire and taxicabs;

**Section 215.1850. Responsibilities of Proprietors, Owners and Managers.**

**[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

- A. A person who owns, manages, operates, or otherwise controls a place listed in Section 215.1840 shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this Article in such place. It shall be an affirmative defense to an alleged violation of this Article that a person who owns, manages, operates or otherwise controls a place listed in Section 215.1840 has asked that the lighted cigarette, cigar, pipe or other tobacco product be extinguished or asked the person to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products.
- B. A person who owns, manages, operates or otherwise controls a place listed in Section 215.1840 shall clearly and conspicuously post "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) near all entrances where smoking is prohibited by this Article.

**Section 215.1860. Where Smoking Is Not Regulated.****[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

- A. Notwithstanding any other provision of this Article to the contrary, smoking shall be permitted in any and all places not specified in Section 215.1840. In particular, but not by limitation, the following shall not be subject to this Article.
1. Private residences, except when used as licensed child care facilities, adult day-care facilities, health-care facilities or enclosed places of employment.
  2. Private vehicles.
  3. Twenty-five percent (25%) of hotel and motel rooms may be permanently designated as smoking rooms.
  4. Retail tobacco stores and vapor product stores that derive more than eighty percent (80%) of their total gross revenue from the sale of loose tobacco, cigarettes, cigars, pipes or other tobacco-related products and/or vapor products, and which are not merely a department or subsection of a larger commercial establishment.

**Section 215.1870. Penalty for Violation of This Article.****[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

- A. A person who smokes in an area where smoking is prohibited by this Article shall be guilty of an Article violation, punishable by a fine of twenty-five dollars (\$25.00) for the first violation and fifty dollars (\$50.00) for each subsequent violation.
- B. A person who owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with this Article shall be guilty of an Article violation, punishable by:
1. A fine of fifty dollars (\$50.00) for the first violation;
  2. A fine of one hundred dollars (\$100.00) for a second violation within a one-year period; and
  3. A fine of two hundred dollars (\$200.00) for a third or subsequent violation within a one-year period.
- C. Each day on which a violation of this Article occurs shall be a separate and distinct violation.

**Section 215.1880. Other Applicable Laws.****[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

**Section 215.1890. Construction.**

**[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

This Article shall be strictly construed in any interpretation of its meaning. The provisions of this Article are severable. If any provision or its application to any person or circumstance is held invalid by a court of competent jurisdiction the remaining provisions shall continue in full force and effect.

**Section 215.1900. Enforcement of Article.**

**[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

- A. The authority to administer the provisions of this Article is vested in the Fire Marshal.
- B. The Code Enforcement Officer may call upon the Fire and Police Departments and other departments of the City to aid in the enforcement of the provisions of this Article.
- C. Notice of the provisions of this Article shall be given to all applicants for a business license in the City of Brentwood, Missouri.
- D. Any person who desires to register a complaint under this Article may initiate enforcement with the fire marshal.

**Section 215.1910. Prohibition of Smoking by Chief of Police or Ordinance.**

**[Ord. No. 4243 §§1 — 2, 8-16-2010; Ord. No. 4575 §§1 — 2, 10-20-2014]**

Nothing in this Article shall be construed to limit the authority of the Fire Marshal to designate locations in which smoking may be prohibited nor to repeal any order by the Fire Marshal prohibiting smoking in any location, nor to repeal any ordinance prohibiting smoking in any location.

**ARTICLE XV  
Social Host Regulations**

**Section 215.1915. Legislative Findings.**

**[Ord. No. 4431 §1, 5-20-2013]**

- A. The Board of Aldermen finds as follows:
  - 1. The City of Brentwood, pursuant to the police powers delegated to it by the Missouri Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents.
  - 2. The occurrence of loud or unruly gatherings on private property and motel rooms where alcoholic beverages or controlled substances are served to or consumed by underage persons is harmful to the underage persons themselves and a threat to public health, safety, quiet enjoyment of residential property, other property and general welfare.

3. Underage persons often obtain alcoholic beverages and controlled substances at gatherings held at private residences, rented residential premises or at motel rooms that are under the control of a person who knows or should know of the underage service and/or consumption. Persons responsible for the occurrence of loud or unruly gatherings on private property and motel rooms over which they have possession or control have failed to ensure that alcoholic beverages or controlled substances are neither served to nor consumed by underage persons at these parties.
4. Problems associated with loud or unruly gatherings at which alcoholic beverages and controlled substances are served to or consumed by underage persons are difficult to prevent and deter unless the Police Department has the legal authority to abate the party or gathering by directing or ordering the host or other responsible person to disperse the party or gathering.
5. Control of loud or unruly gatherings on private property or hotel rooms where alcoholic beverages and controlled substances are served to or consumed by underage persons is necessary when such activity is determined to be a threat to the peace, health, safety or general welfare of the public.
6. Persons held responsible for abetting or tolerating loud or unruly gatherings will be more likely to properly supervise or stop such conduct at gatherings held on property under their possession or control.
7. In the past and present, law enforcement, fire and other emergency response services personnel have and are required to respond, sometimes on multiple occasions, to loud or unruly gatherings on private property and motel rooms at which alcoholic beverages and controlled substances are served to or possessed or consumed by underage persons, and responses to such gatherings result in a disproportionate expenditure of public safety resources of the City of Brentwood, which are underwritten by municipal taxes paid by its taxpayers and residents and delaying police responses to regular and emergency calls to the rest of the City.

**Section 215.1920. Purposes.**

**[Ord. No. 4431 §1, 5-20-2013]**

A. The purposes of this Article are:

1. To protect public health, safety and general welfare;
2. To enforce laws prohibiting the service to and consumption and use of alcoholic beverages and controlled substances by underage persons; and
3. To reduce the costs of providing police, fire and other emergency response services to loud or unruly gatherings by imposing a civil fee against social hosts and landowners for the recovery of costs associated with providing law enforcement, fire and other emergency response services to loud or unruly gatherings, including those where alcoholic beverages and controlled substances are served to or consumed by underage persons.

**Section 215.1925. Definitions.****[Ord. No. 4431 §1, 5-20-2013]**

For the purposes of this Article, the following terms shall have the following meanings:

**ADULT** — Any person twenty-one (21) years of age or older.

**ALCOHOL** — Any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol.

**ALCOHOLIC BEVERAGE** — The same meaning as "*intoxicating liquor*" as that term is defined in Chapter 600 of the Municipal Code of the City of Brentwood.

**CONTROLLED SUBSTANCES** — The same meaning as that term is defined in Section 195.010 of the Missouri Revised Statutes.

**JUVENILE** — Any person under seventeen (17) years of age.

**LOUD OR UNRULY GATHERING** — A party or gathering of two (2) or more underage persons at or on a residence, other private property or motel room upon which loud or unruly conduct occurs. Such loud or unruly conduct includes, but is not limited to:

1. Excessive noise;
2. Excessive traffic;
3. Obstruction of public streets or crowds that have spilled into public streets;
4. Public drunkenness, unlawful public consumption or possession of alcohol or alcoholic beverages by underage persons;
5. Service to or consumption of alcohol or alcoholic beverages by any underage person, except as permitted by City Code, State law or Missouri Constitution;
6. Assaults, batteries, fights, domestic violence or other disturbances of the peace;
7. Vandalism;
8. Litter; and
9. Any other conduct which constitutes a threat to public health, safety, quiet enjoyment of residential property or general welfare.

A loud or unruly gathering shall constitute a public nuisance and may be abated by an order of a Police Officer directing the host or other responsible person to cause all persons in or on said premises who are not lawful residents thereof to disperse not more than fifteen (15) minutes after the host or other responsible person receives an order to do so issued by a Police Officer.

**MOTEL ROOM** — Any building, group of buildings, structure, facility, place, or places of business where five (5) or more guest rooms are provided, which is owned, maintained, or

operated by any person and which is kept, used, maintained, advertised or held out to the public for hire which can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, permanent guests, or for both transient and permanent guests, and further includes all areas and rooms located therein which are or may be operated for receptions, parties and meetings.

**RESIDENCE OR OTHER PRIVATE PROPERTY** — A home, yard, open field, vacant lot, apartment, condominium or other dwelling unit or a hall or meeting room, whether occupied as a dwelling, party or other social function and whether owned, leased, rented or used with or without compensation.

**RESPONSE COSTS** — The costs associated with responses by law enforcement, fire and other emergency response providers to loud or unruly gatherings including, but not limited to:

1. Salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at or otherwise dealing with loud or unruly gatherings and the administrative costs attributable to such response(s).
2. The cost of any medical treatment to or for any law enforcement, fire or other emergency response personnel injured responding to, remaining at or leaving the scene of a loud or unruly gathering.
3. The cost of repairing any city or emergency services equipment or property damaged and the cost of the use of any such equipment in responding to, remaining at or leaving the scene of a loud or unruly gathering.

**RESPONSIBLE PERSON** — A person or persons with a right of possession in the residence, other private property or motel room on which a loud or unruly gathering is conducted including, but not limited to:

1. An owner of the residence or other private property, but not the owner of a motel;
2. A tenant or lessee of the residence, other private property or motel room;
3. The person(s) in charge of the residence, other private property or motel room; and
4. The person(s) who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering.

If a responsible person for the gathering is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this Article. To incur liability for response costs imposed by this Article, the responsible person for the loud or unruly gathering need not be present at such gathering resulting in the response giving rise to the imposition of response costs. This Article therefore imposes vicarious as well as direct liability upon a responsible person.

**UNDERAGE PERSON** — Any person under twenty-one (21) years of age.

**Section 215.1930. Responsibility for Proper Management of Property.****[Ord. No. 4431 §1, 5-20-2013]**

Every owner, occupant, lessee or holder of any possessory interest of a residence, other private property or motel room within the City of Brentwood is required to maintain, manage and supervise the property and all persons thereon in a manner so as not to violate the provisions of this Article.

**Section 215.1935. Violations and Penalties.****[Ord. No. 4431 §1, 5-20-2013]****A. Violations.**

1. It shall be unlawful for any responsible person to allow, permit or host a loud or unruly gathering at a residence, other private property or motel room. Whenever an adult having control of the residence, premises or motel room is present at that residence, premises or motel room at the time an underage person obtains, possesses, or consumes any alcoholic beverage or controlled substance, it shall be prima facie evidence that such an adult had the knowledge or should have had the knowledge that the underage person obtained, possessed or consumed an alcoholic beverage or controlled substance at the gathering.
  2. No responsible person shall allow a loud or unruly gathering to take place or continue at said residence, premises or motel room if an underage person at the party obtains, possesses or consumes any alcoholic beverages or controlled substances and the responsible person knows or reasonably should know that the underage person has obtained, possesses or is consuming alcoholic beverages or controlled substances at the gathering.
  3. This Article shall not apply to family gatherings at which underage persons are present and supervised by their parents and/or legal guardians.
- B. *Fines.* A fine may be imposed up to the maximum amount provided for in Section 100.080 of the Brentwood City Code for any violation of this Article.
- C. The fines imposed pursuant to Subsection (B) are in addition to any response costs that may be assessed pursuant to this Article.

**Section 215.1940. Appeals.****[Ord. No. 4431 §1, 5-20-2013]**

Any person upon whom a fine is imposed pursuant to section 13-279 shall have the right to appeal the imposition of such fine in the same manner as provided for other municipal code violations.

**Section 215.1945. Recovery of Response Costs.****[Ord. No. 4431 §1, 5-20-2013]**

- A. When law enforcement, fire or other emergency response provider responds to a loud or unruly gathering at a residence, other private property or motel room within the City of Brentwood within a twelve (12) month period of a warning given to a responsible person for a loud or unruly gathering, all responsible persons shall be jointly and severally liable for the response costs for that response and all subsequent responses during the warning period.
- B. When a law enforcement, fire or other emergency response provider official makes an initial response to a loud or unruly gathering at a residence, other private or motel room property within the City of Brentwood, the official shall inform any responsible person(s) for the gathering at the scene that:
  - 1. The official has determined that a loud or unruly gathering exists; and
  - 2. Responsible person(s) will be charged for any response costs required for subsequent responses to the scene for a loud or unruly gathering within a twelve (12) month period involving the same responsible person(s).
- C. Only one (1) warning will be given to a responsible person(s) pursuant to this article before the City of Brentwood assesses response costs pursuant to Section 215.1945. If a responsible person cannot be identified at the scene, the official may issue a warning to one (1) or more persons identified in Section 215.1925 under the definition of "responsible person" and/or subsequently return to the residence, other private property or motel room and issue the warning to a then-present responsible person. Warnings given to responsible persons who do not reside at the residence, other private property or motel room in question shall be delivered by first class and/or certified mail.

**Section 215.1950. Billing and Collection.****[Ord. No. 4431 §1, 5-20-2013]**

- A. The amount of response costs shall be deemed a debt owed to the City of Brentwood by the responsible person held liable in Section 215.1945 for the loud or unruly gathering and, if a juvenile, by the juvenile's parents or guardians.
- B. Notice of the costs for which the responsible person is liable shall be mailed via first class and/or certified mail within fourteen (14) days of the response giving rise to such costs. The notice shall contain the following information:
  - 1. The name of the person(s) being held liable for the payment of such costs;
  - 2. The address of the residence, other private property or motel room where the loud or unruly gathering occurred;
  - 3. The date and time of the response;
  - 4. The law enforcement, fire or emergency service provider who responded;

5. The date and time of any previous warning given pursuant to Section 215.1945 and/or previous responses to loud or unruly gatherings at the residence, other private property or motel room in question within the previous twelve (12) months; and
  6. An itemized list of the response costs for which the person(s) is being held liable.
- C. The responsible person must remit payment of the noticed response costs to the City Clerk within thirty (30) days of the date of the notice. Any action to recover such costs will be brought in the name of the City of Brentwood in the Circuit Court for the County of St. Louis, Missouri.
- D. In addition to all other remedies provided for in this Section, if a responsible person(s) fails to remit the costs assessed hereunder, said costs shall be certified to the City Clerk who shall cause the costs to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property, and the certified costs shall be collected by the City Collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. Provided, however, that no such costs shall be added to or collected from the owner of a motel, unless such owner is otherwise considered to be a responsible person by virtue of his personal rental of a motel room. If the certified costs are not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

**Section 215.1955. Reservation of Legal Options.**

**[Ord. No. 4431 §1, 5-20-2013]**

Nothing in this Article shall be construed as a waiver by the City of Brentwood of any right to seek reimbursement for actual costs of response services through other legal remedies or procedures. The procedure provided for in this Article is in addition to any other statute, ordinance or law, civil or criminal. This Article in no way limits the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this Article.

**Section 215.1960. Severability.**

**[Ord. No. 4431 §1, 5-20-2013]**

If any provisions of this Article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article that can be given effect without the invalid provision or application and, to this end, the provisions of this Article are severable.

**ARTICLE XVI**  
**Offenses Involving Hours of Construction**

**Section 215.1970. Hours of Construction.**

**[R.O. 2009 §13-271; Ord. No. 3125 §1, 3-18-1991]**

No person shall on any day of the week between the hours of 9:00 P.M. and 7:00 A.M. operate or use tools or equipment in conducting any excavation, demolition, erection, alteration, repair or other construction which makes a loud or disturbing noise disrupting to residential areas within one thousand (1,000) feet.

**Section 215.1980. Exceptions.**

**[R.O. 2009 §13-272; Ord. No. 3125 §1, 3-18-1991]**

This Section does not apply in emergency situations where it is necessary to conduct excavation, demolition, erection, alteration, repair or other construction to protect public health or safety.

**Section 215.1990. Violations.**

**[R.O. 2009 §13-273; Ord. No. 3125 §1, 3-18-1991]**

Upon report or finding of construction occurring between 9:00 P.M. and 7:00 A.M., the Building Official is hereby empowered to notify the contractor, owner or other persons responsible that such violation cease. If the violation continues, the violators shall be issued a summons to appear in court. If found guilty, the violator shall be punished as provided in Section 100.080 of this Code. Each day any violation of this Chapter shall continue shall constitute a separate offense.

**Section 215.2000. through Section 215.2040. (Reserved)**

**ARTICLE XVII**  
**Miscellaneous Offenses**

**Section 215.2050. Fortunetelling.**

**[R.O. 2009 §13-206; Code 1969 §25-19]**

The practice of fortunetelling by palmistry, astrology, phrenology, clairvoyance or other methods is hereby prohibited.