

Chapter 215

OFFENSES

[HISTORY: Adopted by the City Council of the City of Monett 11-21-2016 by Ord. No. 8488. Amendments noted where applicable.]

Cross References – As to general penalty for violations of code, §100.080; as to nuisances generally, ch. 225; as to police generally, ch. 200; as to municipal court generally, ch. 135.

ARTICLE I General Provisions

Section 215.010. Definitions.

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 215.020. 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 215.030. Conspiracy. ¹

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

- 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.*
 - 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 215.040. Aiding Escape of a Prisoner.

- A. A person commits the offense of aiding escape of a prisoner if he:
 - 1. Introduces into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of facilitating the escape or
 - 2. Assists or attempts to assist any prisoner who is being held in custody or confinement

for the purpose of affecting the prisoner's escape from custody or confinement.

B. Aiding escape of a prisoner is a misdemeanor.

Section 215.050. Escape or Attempted Escape From Confinement.

A person commits the offense of escape or attempted escape from confinement if, while being held in confinement after arrest for any crime, or while serving a sentence after conviction for any crime; he/she escapes or attempts to escape from confinement.

Section 215.060. False Affidavit.

- A. A person commits the misdemeanor of making a false affidavit if, with purpose to mislead any person, he/she, in any affidavit, swears falsely to a fact which is material to the purpose for which said affidavit is made.
- B. A fact is material, regardless of its admissibility under the rules of evidence, if it could substantially affect or did substantially affect the course or outcome of the cause, matter or proceeding.
- C. Making a false affidavit is a Class A misdemeanor if done for the purpose of misleading a public servant in the performance of his duty; otherwise making a false affidavit is a Class C misdemeanor.

Section 215.070. False Declarations.

- A. The definition of "written" shall include filings submitted in an electronic or other format or medium approved or prescribed by the Secretary of State.
- B. A person commits the misdemeanor of making a false declaration if, with the purpose to mislead a public servant in the performance of his duty, he:
 - 1. Submits any written false statement which he does not believe to be true:
 - a. In an application for any pecuniary benefit or other consideration; or
 - b. On a form bearing notice, authorized by law, that false statements made therein are punishable; or
 - c. After executing a complaint against another person, fails to appear for the trial of the matter in Municipal Court after having been subpoenaed to appear for the same; or
 - 2. Submits or invites reliance on:
 - a. Any writing which he knows to be forged, altered or otherwise lacking in authenticity; or
 - b. Any sample, specimen, map, boundary mark or other object which he knows to be false.
 - 3. Making a false declaration is a Class B misdemeanor.

Section 215.080. through Section 215.110. (Reserved)

**ARTICLE II
Offenses Against the Person**

Section 215.120. Assault. ²

- 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;
 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 215.130. Domestic Assault. ³

- 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

2. Editor's Note: As to assault of certain other persons, see the definition of "special victim" as set out in Section 215.010 of this Chapter.

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

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 215.135. Affrays.

If two (2) or more persons shall, in any public place in the City, voluntarily or by agreement engage in any fight or use any blows or violence toward each other in an angry or quarrelsome manner, or do each other any wilful mischief, or if any person shall assault another or strike him/her in any public place, to the terror and disturbance of others, the persons so offending shall be deemed guilty of an affray and, on conviction, shall be punished for an ordinance violation.

Section 215.140. (Reserved) ⁴

Section 215.150. 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.

Section 215.160. Stalking – Definitions. ⁵

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 215.170. Kidnapping. ⁶

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 215.180. Endangering the Welfare of a Child. ⁷

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 215.120, Assault, as it relates to a "special victim."

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.

- 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. He/she knowingly encourages, aids or causes a child less than seventeen (17) years of age to enter into any room, building or other structure which has been declared a public nuisance by the City Building Board. [Ord. No. 8265, 3-20-2014]
- 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 215.190. Leaving a Child Unattended in a Motor Vehicle – Definitions. ⁸

- 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 215.200. Laser Pointers – Possession, Sale and Use Regulated.

- A. It shall be unlawful for any person to focus, point or shine a laser point or shine a laser beam directly or indirectly on another person in such a manner as is intended to harass,

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

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

annoy or injure said person.

- B. This Section applies only to handheld pointers and excludes any and all other laser devices that may be used in other professions or occupations.
- C. It is unlawful for any person to sell a laser pointer to any person under the age of eighteen (18) years.
- D. It is unlawful for any person under the age of eighteen (18) years to possess a laser pointer.
- E. The prohibition of Subsection (D) of this Section shall not apply to the use of laser pointers with the permission and supervision of a person twenty-one (21) years of age or older.
- F. Any violation of this Section shall subject the violator to summons to Municipal Court and upon conviction shall be punishable by a fine of up to five hundred dollars (\$500.00) and costs, or ninety (90) days imprisonment, or both a fine and imprisonment.

Section 215.210. Prohibiting Endangerment Of A Public Worker. [Ord. No. A-8455, 8-19-2016]

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

CONSTRUCTION ZONE or WORK ZONE — Any area in which work is being performed on a temporary basis by the City, the State, the County, or other provider of services to the public, and which has been marked with clearly visible markers as an area in which such work is ongoing or in a preparatory or ending stage. The term "construction zone" or "work zone" shall include, by way of example but not of limitation, an area in which public workers are present in an area marked with clearly visible markers indicating infrastructure construction, repair or improvement, actions of law enforcement., ambulance crews, fire department, utility workers, or street crews.

PUBLIC WORKER — Any employee, contractor or subcontractor of the provider of the work defined in this Section.

CLEARLY VISIBLE MARKERS — Shall include brightly colored signs, police tape, and flashing lights that are visible and reasonably recognizable as warning signals at a distance of one hundred (100) feet or more.

- B. A person shall be deemed to commit the offense of endangerment of a public worker upon conviction of any offense otherwise set out in the ordinances of the City of Monett, when such offense causes bodily harm to, or is reasonably perceived to pose a threat or danger of bodily harm to a public worker in a work zone marked with clearly visible markers, regardless of whether such harm or threat of harm is caused intentionally or unintentionally.
- C. Upon conviction of the ordinance violation causing such harm or threat of harm, in addition to any other penalty authorized by the ordinances of the City, the person committing such violation shall be subject to a fine of not more than one thousand dollars (\$1,000.00) or incarceration for a period not to exceed ninety (90) days.
- D. No person shall be convicted of endangerment of a public worker unless at least one (1) worker is within the work zone or construction zone at the time the initial ordinance

violation is committed.

Section 215.220. through Section 215.290. (Reserved)

ARTICLE III
Offenses Concerning Administration of Justice

Section 215.300. Concealing an Offense. ⁹

- 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.

Section 215.310. Hindering Prosecution. ¹⁰

- 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 215.315. Obstructing An Officer.

- A. No person shall:
1. Obstruct a City Officer making an arrest or serving any legal writ, warrant or process or executing or attempting to execute any other duty imposed upon him or her by law.
 2. Engage in conduct which a person knows or should know would prevent an officer from completing an investigation or performing any other lawful duty.
 3. Refuse to comply with a lawful order of an officer when a person knows or should

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

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

know such refusal prevents the officer from completing an investigation or performing any other lawful duty.

- B. When a Police Officer has reasonable cause to believe it necessary for purposes of investigation or prevention of a crime, misdemeanor or breach of the peace to request the identity of a potential suspect or witness, it shall be unlawful for any person:
1. To refuse to identify himself or herself upon request of a Police Officer acting within the line of duty.
 2. To identify himself or herself to a Police Officer by using a false name, date of birth or documentary identification.

Section 215.320. 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 215.330. 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 215.340. Tampering With a Witness or Victim. ¹¹

- 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:
 - 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

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

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 215.350. Tampering With Physical Evidence. ¹²

- 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 215.360. 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 215.370. False Impersonation.

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

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

- 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 215.380. 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 215.390. Resisting or Interfering With Arrest, Detention or Stop. ¹³

- 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.

Section 215.400. Escape or Attempted Escape From Custody. ¹⁴

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 215.410. 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 215.420. through Section 215.510. (Reserved)

ARTICLE IV

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

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

Offenses Concerning Public Safety

Section 215.520. 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 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 215.530. 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 215.540. 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 215.550. 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 215.560. Interference With Traffic Flow.

- A. It shall be unlawful for any person to stand or remain idle either alone or in consort with others on a traffic island, within the actual roadway or on any street corner, located along United States Highway 60 within the corporate City limits of Monett, in such a manner so as to:
 - 1. Obstruct any street, highway, sidewalk or any other 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 street, highway, sidewalk, traffic island or street corner any act obstructing or interfering with the free and uninterrupted passage of vehicles on United States Highway 60 within the corporate City limits of Monett.
- B. It shall be unlawful for any person to loiter, protest, picket or display signs of any kind on any traffic island, within the actual roadway or on any street corner, along United States Highway 60, in such a manner so as to:
 - 1. Obstruct any street, highway, sidewalk or any other 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 street, highway, sidewalk, traffic island or street corner any act obstructing or interfering with the free and uninterrupted passage of vehicles on United States Highway 60 within the corporate City limits of Monett.
- C. When any person commits any of the offenses set forth in this Section, a Police Officer or any Law Enforcement Officer may order that person to stop and to move on or disperse. Any person who fails or refuses to obey such orders shall be subject to arrest and be guilty of a violation of this Section.

Section 215.570. through Section 215.650. (Reserved)

ARTICLE V
Offenses Concerning Public Peace

Section 215.660. 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 215.670. 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 215.680. 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 215.690. 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 215.700. 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 215.710. 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.

Section 215.720. 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 215.730. Disrupting a House of Worship. ¹⁵

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.

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

- 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 215.740. Disorderly Conduct.

- A. *Definitions.* When used in this Section, the following words shall have the prescribed meaning:

INCITE A RIOT — Shall mean, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written:

1. Advocacy of ideas; or
2. Expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts.

PUBLIC PLACE — Any place to which the general public has access and a right to 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, area or parks.

RIOT — A public disturbance involving:

1. An act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual; or
2. A threat or threats of the commission of an act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

- B. *Disorderly Conduct Prohibited.* A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he/she willfully does any of the following acts in a public place:

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his or her life, injury to his or her limb or health;

2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health, or property of another;
4. Interferes with another's pursuit of a lawful occupation by acts of violence;
5. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the City Police or other lawful authority known to be such;
6. Is in a public place under the influence of an intoxicating liquor or drug in such condition as to be unable to exercise care for his or her own safety or the safety of others;
7. Resists or obstructs the performance of duties by City Police or any other authorized official of the City, when known to be such an official;
8. Incites, attempts to incite, or is involved in attempting to incite a riot;
9. Addresses abusive language to or threatens any member of the Police Department, any other authorized official of the City who is engaged in lawful performance of his or her duties, or any other person when such words have a tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited.
10. Damages, befouls, or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition;
11. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;
12. Fails to obey a lawful order to disperse by a Police Officer when known to be such an official, where one (1) or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened;
13. Uses abusive or obscene language or makes an obscene gesture.
14. Make, continue, maintain or cause to be made or continued any excessive, unnecessary, unreasonable or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the City.
15. Use, operate or permit the use or operation of any electronic device, radio receiving set, television, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners

thereto.

16. Congregate because of, participate in or be in any party or gathering of people from which sound emanates of a sufficient volume so as to disturb the peace, quiet or repose of persons residing in any residential area. No person shall visit or remain within any residential dwelling unit wherein such party or gathering is taking place except persons who have gone there for the sole purpose of abating said disturbance. A Police Officer may order all persons present in any group or gathering from the dwelling unit to immediately disperse in lieu of being charged under this Section.
 17. It shall be unlawful for the owner of any property in the City to rent the same for the purpose of maintaining or operating a disorderly house thereon or knowingly to permit a disorderly house to be maintained or operated thereon. Evidence that a disorderly house is being maintained or operated by the tenant or occupant of any property shall be prima facie evidence that the maintenance and operation of the disorderly house is with the knowledge and permission of the owner of the property.
 18. The maintenance and operation of a disorderly house is declared to be a nuisance and subject to be abated as such by appropriate proceedings.
- C. *Exemptions.* Subsections (A) and (B) shall not be construed to suppress the right of lawful assembly, picketing, public speaking, or other lawful means of expressing public opinion not in contravention of other laws, and sounds emanating from emergency vehicles, public safety vehicles, emergency activities of the Fire or Police Department, and emergency activities of any utility company shall be exempt from the provisions of this Section.

Section 215.750. 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 215.760. through Section 215.820. (Reserved)

**ARTICLE VI
Offenses Concerning Weapons and Firearms**

Section 215.830. Definitions.

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

ANTIQUÉ, CURIÓ 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 215.840. Weapons – Carrying Concealed – Other Unlawful Use. ¹⁶ [Ord. No. A-8327 §1, 1-20-2015]

A. A person commits the offense of unlawful use of weapons if he/she knowingly:

¹⁶ Note – Under certain circumstances this offense can be a felony under state law. *State Law Reference – Section 252.243.3, RSMo., limits the discharge of firearms in certain areas known as Hunting Heritage Protection Areas, which are defined therein.

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; 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, unless such individual shall possess a valid concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo.; 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. Subsection (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 persons' official duties, except as otherwise provided in this Subsection. Subsection (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 necessary to the fulfillment of such persons' 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 the 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 (12) of Section 571.030 RSMo., and who carry the identification defined in Subsection (13) 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 Board of Police Commissioners under Section 84.340, RSMo.;
 9. Any coroner, deputy coroner, medical examiner or assistant medical examiner;
 10. Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney or assistant circuit attorney who has completed the firearms safety training course required under Subsection 2 of Section 571.111, RSMo.; and
 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 under Section 571.111, RSMo., when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.
- C. Subsection (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 twenty-one (21) 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. Subsection (A)(1), (6) and (7) of this Section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo., or a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision of another State.
- E. Subsection (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 563.021, 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 215.850. Possession, Manufacture, Transport, Repair, Sale of Certain Weapons. ¹⁷

- A. A person commits an offense if such person knowingly possesses, manufactures, transports, repairs, or sells:
1. An explosive weapon;
 2. An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;
 3. A gas gun;
 4. A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm;
 5. Knuckles; or
 6. Any of the following in violation of Federal law:
 - a. A machine gun;
 - b. A short-barreled rifle or shotgun;
 - c. A firearm silencer; or
 - d. A switchblade knife.
- B. A person does not commit an offense 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

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

performance.

Section 215.860. Defacing Firearm.

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

Section 215.870. 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 215.880. 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 215.890. Unlawful Transfer of Weapons. ¹⁸

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 215.900. 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;

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

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 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 215.840 while within their jurisdiction and on duty, those persons listed in Subsections (B)(2), (4) and (10) of Section 215.840, 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 Monett City Council, except that nothing in this Subsection shall preclude a member of the City Council holding a valid concealed carry permit or endorsement from carrying a concealed firearm at a meeting of the City Council 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 Monett 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 Monett. 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 Monett 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 215.910. 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 215.920. Discharging Air Gun, Etc.

Any person within the limits of this City who shall discharge any BB gun which expels a projectile by means of a spring, air or any other means, paintball gun or air gun or shall shoot any pebble, bullet, slug, arrow or other hard substance by means of a sling, crossbow, rubber band or bow or any other means shall be deemed guilty of an ordinance violation.

Section 215.930. 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 City Council.

Section 215.940. through Section 215.1010. (Reserved)

ARTICLE VII
Offenses Concerning Property

Section 215.1020. 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 215.1030. Tampering. ¹⁹

- 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.
 5. *Unauthorized opening or use of fire hydrants.* No person shall open any fire hydrant and permit water to escape into the street or attach any hose to a fire hydrant, for any purpose other than to extinguish fires, without permission from an authorized representative of the City. [R.O. 2012 §700.320; CC 1979 §31-41]
- 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 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 215.1040. Property Damage. ²⁰

- 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 215.1050. 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

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

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

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 215.1060. 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 215.1070. 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.

Section 215.1080. 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 215.1090. 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 215.1100. 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 215.1110. Stealing. ²¹

- 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.

Section 215.1120. 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 215.1110 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 215.1130. (Reserved) ²²

Section 215.1140. Financial Exploitation of an Elderly Person or Person With a Disability – Certain Defense Prohibited. ²³

- 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:

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

22. 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.

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

1. Deceit;
 2. Coercion;
 3. Creating or confirming another person's impression which is false and which the offender does not believe to be true;
 4. Failing to correct a false impression which the offender previously has created or confirmed;
 5. Preventing another person from acquiring information pertinent to the disposition of the property involved;
 6. Selling or otherwise transferring or encumbering property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record;
 7. Promising performance which the offender does not intend to perform or knows will not be performed. 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 215.1150. Fraudulent Use of a Credit or Debit Device. ²⁴

- 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:
 - 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 215.1160. 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:

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

- 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 215.1170. Alteration or Removal of Item Numbers With Intent To Deprive Lawful Owner.
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- 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 215.1180. Stealing Leased or Rented Personal Property – Enforcement Procedure – Penalty – Venue. 26

- 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.

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

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

- 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 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 215.1040 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 215.1190. Passing Bad Checks. ²⁷

- 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 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 215.1200. 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

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

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 215.1210. 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 215.1220. 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 215.1230. 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 215.1240. 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 210.1210 to 210.1240 by selling stolen scrap metal shall be responsible for consequential damages related to obtaining the scrap metal.

Section 215.1250. Danger Signals On Thoroughfares – Removing, Breaking or Extinguishing.

Any unauthorized person who shall remove, break or extinguish any barricade, lantern or danger signal which has been placed on any thoroughfare to protect persons against accidents shall be deemed guilty of an ordinance violation.

Section 215.1260. Failure To Repay Pawnbroker When Notified That Goods Were Misappropriated.

When tangible personal property subject to the pawn or sales transaction has been delivered or awarded to a claimant pursuant to Section 367.044, RSMo., and within ten (10) business days after a written demand for payment and notice is deposited by the pawnbroker as certified or registered mail in the United States mail and addressed to the conveying customer, the conveying customer fails to repay the pawnbroker the full amount incurred by the pawnbroker in connection with such property and the procedure described in the aforesaid State Statute, the conveying customer shall have committed the crime of fraudulently pledging or selling misappropriated property.

Section 215.1270. Obstructing Streets or Sidewalks Generally – Authority of Merchants, Etc., To Leave Goods On Sidewalks For Limited Time.

Any person who shall obstruct any sidewalk, street or alley in the City, so as to prevent the free use of the same, shall be deemed guilty of an ordinance violation; provided, that this Section shall not be so construed as to prevent merchants, manufacturers and others, while receiving and shipping goods, from occupying not to exceed one-half (½) of such sidewalk with such goods for such purpose, but the same shall in no event remain on the sidewalk longer than two (2) hours.

Section 215.1280. Duty To Keep Gutters and Sidewalks Clean.

The owners or occupants of the buildings in front of which any gutter has been made shall keep the same and the sidewalk in front of such premises swept clean and clear of mud and dirt, snow, filth and other things. Any person neglecting or refusing to comply with the provisions of this Section shall be deemed guilty of an ordinance violation.

Section 215.1290. Duty To Keep Sidewalks Clear of Ice and Snow.

Any owner, occupant or agent of a building or a vacant lot fronting on any sidewalk, who shall fail or neglect to clear sidewalks in front of such building or vacant lot of snow or ice within twelve (12) hours after the same has accumulated thereon, shall be deemed guilty of an ordinance violation.

Section 215.1300. through Section 215.1340. (Reserved)

ARTICLE VIII
Offenses Concerning Prostitution

Section 215.1350. 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.

Section 215.1360. Prostitution. 28

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 215.1370. Patronizing Prostitution. 29

- 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 215.1380. (Reserved) 30

Section 215.1390. 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.

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

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

30. 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 215.1400. through Section 215.1490. (Reserved)

ARTICLE IX
Sexual Offenses

Section 215.1500. 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 215.1510. 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 215.1520. Sexual Abuse. ³¹

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.

Section 215.1530. Certain Offenders Not To Physically Be Present or Loiter Within 500 Feet of a Child Care Facility – Violation – Penalty.

- A. Any person who has been found guilty of:
1. Violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering The Welfare Of A

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

Child In The First Degree; Section 573.200, RSMo., Use Of A Child In A Sexual Performance; Section 573.205, RSMo., Promoting A Sexual Performance By A Child; Section 573.023, RSMo., Sexual Exploitation Of A Minor; Section 573.025, RSMo., Promoting Child Pornography In The First Degree; Section 573.035, RSMo., Promoting Child Pornography In The Second Degree; Section 573.037, RSMo., Possession Of Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material To Minors; or

2. Any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section;

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

B. For purposes of this Section, "child care facility" shall include any child care facility licensed under Chapter 210, RSMo., or any child care facility 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.

C. Violation of the provisions of this Section is an ordinance violation.

Section 215.1540. Certain Offenders Not To Be Present Within 500 Feet of School Property, Exception – Permission Required for Parents or Guardians Who Are Offenders, Procedure.

A. Any person who has been found guilty of:

1. Violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering The Welfare Of A Child In The First Degree; Section 573.200, RSMo., Use Of A Child In A Sexual Performance; Section 573.205, RSMo., Promoting A Sexual Performance By A Child; Section 573.023, RSMo., Sexual Exploitation Of A Minor; Section 573.025, RSMo., Promoting Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material To Minors; or
2. Any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section;

shall not be present in or loiter within five hundred (500) feet of any school building, on real property comprising any school, or in any conveyance owned, leased or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in Subsection (B) of this Section.

B. No parent, legal guardian or custodian who has pleaded guilty or nolo contendere to, or

been convicted of, or been found guilty of violating any of the offenses listed in Subsection (A) of this Section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds, or in the conveyance, unless the parent, legal guardian, or custodian has permission to be present from the Superintendent or School Board or in the case of a private school from the Principal. In the case of a public school, if permission is granted, the Superintendent or School Board President must inform the Principal of the school where the sex offender will be present. Permission may be granted by the Superintendent, School Board, or in the case of a private school from the Principal for more than one (1) event at a time, such as a series of events, however, the parent, legal guardian or custodian must obtain permission for any other event he/she wishes to attend for which he/she has not yet had permission granted.

- C. Regardless of the person's knowledge of his or her proximity to school property or a school-related activity, violation of the provisions of this Section is an ordinance violation.

Section 215.1550. 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 215.1560. 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.

Section 215.1570. Sexually Explicit Conduct On City Property.

- A. It shall be deemed an ordinance violation for any person to do the following on premises owned by the City of Monett.
 - 1. Stalk another person for the purpose of soliciting sexual conduct or after having made such solicitation.
 - 2. Assault another person or threaten assault against such person in connection with

- solicitation to sexual conduct.
3. Solicit sexual conduct of another person.
 4. Make obscene or sexually explicit remarks or gestures in such manner that the same may be heard or seen by those to whom such remarks can be reasonably foreseen as offensive or unwelcome.
 5. Loiter or congregate with others in such place for the purpose of performing lewd, lascivious acts or sexual conduct or solicitation to such acts.
 6. Loiter or congregate with others in a manner which is reasonably likely to cause others in such place apprehension that such loitering or congregating is for the purpose of performing lewd, lascivious or sexual acts or solicitation to sexual conduct.
 7. Utter lascivious or obscene language in such manner that the same may be heard by others to whom such utterances can be reasonably foreseen as disturbing or unwelcome.
 8. Offer to indecently expose himself/herself.
 9. Knowingly direct or transport another person for the purpose of committing lewd and lascivious sexual conduct on City property for the purpose of inducing such person or another to perform such act.
 10. Engage in lewd and lascivious sexual conduct.
 11. Post, deliver or leave solicitations to sexual conduct.

Section 215.1580. through Section 215.1660. (Reserved)

ARTICLE X
Offenses Concerning Pornography

Section 215.1670. 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 215.1680. Promoting Pornography for Minors or Obscenity. ³²

- A. A person commits the offense of promoting pornography for minors or obscenity if, knowing of its content and character, he/she:

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

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 215.1690. Furnishing Pornographic Materials to Minors. ³³

- A. A person commits the offense of furnishing pornographic material to minors if, knowing of its content and character, he/she:
 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 215.1700. through Section 215.1790. (Reserved)

ARTICLE XI
Offenses Concerning Drugs

Section 215.1800. Possession of Marijuana or Synthetic Cannabinoid. ³⁴

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

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.³⁵

Section 215.1810. Possession of a Controlled Substance. ³⁶

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.³⁷

Section 215.1820. 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 215.1830. Unlawful Possession of Drug Paraphernalia. ³⁸

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 215.1840. 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,

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

35. 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.

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

37. 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.

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

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 215.1850. Inducing, or Possession With Intent To Induce, Symptoms by Use of Solvents and Other Substances, Prohibited.

- A. As used in this Section, "alcoholic beverage vaporizer" means any device which, by means of heat, a vibrating element, or any method, is capable of producing a breathable mixture containing one (1) or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose or mouth or both.
- B. No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use or abuse of any of the following substances:
 - 1. Solvents, particularly toluol;
 - 2. Ethyl alcohol;
 - 3. Amyl nitrite and its iso-analogues;
 - 4. Butyl nitrite and its iso-analogues;
 - 5. Cyclohexyl nitrite and its iso-analogues;
 - 6. Ethyl nitrite and its iso-analogues;
 - 7. Pentyl nitrite and its iso-analogues; and
 - 8. Propyl nitrite and its iso-analogues.
- C. This Section shall not apply to substances that have been approved by the United States Food and Drug Administration as therapeutic drug products or are contained in approved over-the-counter drug products or administered lawfully pursuant to the order of an authorized medical practitioner.
- D. No person shall intentionally possess any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues for the purpose of using it in the manner prohibited by Section 215.1840 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 215.1860. Possession or Purchase of Solvents To Aid Others in Violations, Prohibited –

Violations of Sections 210.1840 to 210.1850 – Penalty. ³⁹

- 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 210.1840 and 210.1850 hereof.
- B. Any person who violates any provision of Sections 210.1840 through 210.1860 is guilty of an ordinance violation for the first violation.

Section 215.1870. through Section 215.1960. (Reserved)

ARTICLE XII
Offenses Concerning Minors ⁴⁰

Section 215.1970. Article Definitions.

For the purposes of this Article, the following words and phrases are defined as follows:

GUARDIAN — Guardian appointed by court of competent jurisdiction.

MINOR — Any person under the age of seventeen (17).

PARENT — The natural or adoptive father or mother, legal guardian or any other person having the care or custody of a minor child.

PARENTAL NEGLECT — Any act or omission by which a parent fails to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit any offense.

Section 215.1980. Curfew For Persons Under Seventeen.

- A. It shall be unlawful for any person under the age of seventeen (17) years to be in or upon any public place or way within the City of Monett between the hours of 11:00 P.M. through 6:00 A.M. on Sunday through Thursday and 12:00 Midnight through 6:00 A.M. on Friday and Saturday. The provisions of this Section shall not apply to any such persons accompanied by a parent or guardian, to any such person upon an errand or other legitimate business directed by such person's parent or guardian, to any such person who is engaged in gainful, lawful employment during said time period, or who is returning or in route to said employment, or to any such person who is attending or in route to or from any organized religious or school activity.
- B. *Responsibility Of Parent.* The parent, guardian or other adult person having the care and custody of a person under the age of seventeen (17) years shall not knowingly permit such person to violate this Section.
- C. *Notice To Parent.* Any Law Enforcement Officer finding any person under the age of seventeen (17) years violating the provisions of this Section shall warn such person to

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

40. Cross Reference: As to alcohol-related offenses involving minors, §600.060.

desist immediately from such violation and shall promptly report the violation to his/her superior officer who shall cause a written notice to be served upon the parent, guardian or person in charge of such person setting forth the manner in which this Section has been violated. Any parent, guardian or person in charge of such person who shall knowingly permit such person to violate the provisions of this Section, after receiving notice of the first violation, shall be guilty of an offense.

- D. *Service Of Notice.* The written notice provided in Subsection (C) may be served by leaving a copy thereof at the residence of such parent, guardian or person in charge of the person in violation of this Section with any person found at such residence over the age of seventeen (17) years or by mailing such notice to the last known address of such parent, guardian or person in charge of such person, wherever such person may be found.

Section 215.1990. Parental Responsibility.

- A. Whenever a minor shall be arrested or detained for the commission of any offense within the City, the Police Department shall, as soon as possible thereafter, deliver written notice to the minor's parent of the arrest or detention, and such notice shall advise the parent of his/her responsibility under this Section. The notice shall be in such a form as to be signed by the notified parent signifying receipt thereof. If the parent refuses to sign said notice, the notifying Law Enforcement Officer shall indicate such refusal on the notice.
- B. No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit any offense. Written parental notice as defined in Subsection (A) of this Section shall be prima facie evidence of parental neglect if the minor commits a second or successive violation of any offense.
- C. Each violation of the provisions of this Section shall constitute a separate offense. Any person who shall violate this Section shall be subject to imprisonment for not more than ninety (90) days and/or a fine of not less than one hundred dollars (\$100.00) for the first violation, not less than two hundred dollars (\$200.00) for a second violation, and not less than five hundred dollars (\$500.00) for any successive violation. In addition, the court may, as a condition of any probation granted to any parent found guilty of violating Subsection (B) of this Section, order the defendant to make restitution to any person who has been damaged by the misconduct of the minor in an amount not to exceed two thousand dollars (\$2,000.00).

Section 215.2000. Contributing To The Delinquency of A Minor.

- A. Any person who does any act encouraging, causing or contributing to the delinquency of any minor child shall be deemed guilty of an ordinance violation.
- B. The provision of this Section shall extend to, but not be limited to, include any person who causes or permits the life of such child to be endangered or the health of such child to be impaired or who shall willfully cause or permit such child to be placed in such a situation, business or occupation that his or her life, health or morals shall be injured or who shall willfully abandon such child or shall torture, torment, cruelly punish or willfully or negligently deprive it of necessary food, clothing or shelter or in any other manner shall unnecessarily injure such child.

- C. The provisions of this Section shall also extend to, but not be limited to, include any person by his/her conduct who encourages any person under the age of eighteen (18) years to use any controlled substance, as the same may be or may hereafter be defined by Chapter 195, RSMo., except for his/her parent or guardian, or to encourage any person under the age of twenty-one (21) years to drink any intoxicating liquor or beer or to encourage, cause or contribute to the delinquency of any juvenile so that such juvenile may become a delinquent or neglected child as defined by the Statutes of this State.
- D. Any person seventeen (17) years of age or over who is found guilty of violating this Section shall be guilty of an ordinance violation and fined not more than two hundred fifty dollars (\$250.00) or confined for not more than ninety (90) days in the City Jail.

Section 215.2010. through Section 215.2090. (Reserved)

ARTICLE XIII

Offenses Concerning Tobacco, Alternative Nicotine Products or Vapor Products

Section 215.2100. 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.⁴¹

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,

41. Editor's Note: See 21 U.S.C. § 351 et seq.

cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, but does not include alternative nicotine products or vapor products.

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

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

Section 215.2105. 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 twenty-one (21) years of age. [Ord. No. 8732, 1-20-2020]
- 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 twenty-one (21) 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. [Ord. No. 8732, 1-20-2020]
- 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 215.2110. 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 twenty-one (21) years of age. [Ord. No. 8732, 1-20-2020]
- 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 twenty-one (21) 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 twenty-one (21) 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. [Ord. No. 8732, 1-20-2020]
- 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 215.2140 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 215.2140, 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 twenty-one (21) 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 twenty-one (21) years of age or older. [Ord. No. 8732, 1-20-2020]

- 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 215.2120. Minors Prohibited From Purchase or Possession of Tobacco Products, Alternative Nicotine Products or Vapor Products – Misrepresentation of Age.

- A. No person less than twenty-one (21) 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. [Ord. No. 8732, 1-20-2020]
- B. Any person less than twenty-one (21) years of age shall not misrepresent his/her age to purchase cigarettes, tobacco products, alternative nicotine products or vapor products. [Ord. No. 8732, 1-20-2020]
- 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 215.2130. 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 215.2140. 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:

1. 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 215.2150. 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 215.2160. 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 215.2110 of this Article. No person shall be liable for more than one (1) violation of Subsections (B) and (C) of Section 215.2110 on any single day.

Section 215.2170. through Section 215.2260. (Reserved)

ARTICLE XIV
Miscellaneous Offenses

Section 215.2270. Excessive Noise – Finding and Declaration – Noise Restrictions.

- A. The making or creation of excessive, unnecessary or unusually loud noises within the City of Monett is found and determined to be a detriment to the public health, comfort, convenience, safety and welfare.
- B. It is further found and determined that it is in the best interest of the public that the following provisions be enacted to secure and promote public health, comfort, convenience, safety and welfare and to secure and promote the peace and quiet of the City of Monett and its inhabitants.
- C. The creation of any excessive, unnecessary or unusually loud noise in the City of Monett is prohibited.
- D. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:
1. *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle while not in motion on a public street or highway, except as a danger signal; or, if in motion, the excessive or prolonged sounding of any horn or signaling device except as a danger signal.
 2. *Sound amplification systems within dwellings and yards.* The playing, use or operation of any radio, phonograph, musical instrument or other machine or device for the production, reproduction or other amplification of sound within a dwelling place or lot upon which the same is situated, in such a manner as to disturb the peace, quiet, comfort or repose of reasonable persons in any other dwelling place. The operation of any such device in such a manner as to be audible at a distance of thirty (30) feet from the device or within any other residence or place of business shall be prima facie evidence of a violation of this Section. For purposes of this Section "*dwelling place*" shall mean a house, apartment, mobile home or other structure which is used as a residence.
 3. *Sound amplification systems other than in dwelling places.*
 - a. Operating or permitting the operation of any sound amplification system owned or controlled by the person charged, outside a dwelling place, so that the sound is plainly audible:
 - (1) At a distance of thirty (30) feet from the system, or

- (2) Within a residential structure, or
- (3) Within a place of business other than the place where the system is located.

b. *"Sound amplification system"* means any radio, tape player, compact disc player, loud speaker or other electronic or mechanical device used for the production or amplification of sound.

c. *"Plainly audible"* means any sound produced by a sound amplification system which clearly can be heard at a distance of thirty (30) feet. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and base reverberations are included.

d. *"Audible"* means any sound produced by a sound amplification system which can be heard by the human ear.

e. It is an affirmative defense to a charge under this Section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

- (1) The system was being operated to require medical or vehicular assistance or to warn of a hazardous road condition;
- (2) The system was a bell, carillon or similar device used by a school or religious establishment, which is also not a dwelling place, for the purpose of signaling church services or the passage of time;
- (3) The sound was produced by an emergency or public safety vehicle;
- (4) The system was owned and operated by the City of Monett, Missouri, or a gas, electric, communications or solid waste company;
- (5) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances of the City of Monett, Missouri, relating to permits for public events;
- (6) The system was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

E. Nothing in Chapter 215 shall prohibit the generation of a level of sound which a reasonable person would consider normal and expectable for the location, and conducted in a manner consistent with the otherwise permitted uses in the zoning district from which the sound emanates. [Ord. No. 8524 § 1, 6-20-2017]

Section 215.2280. Loud Vehicle Downshifting Prohibited.

A. It shall be an ordinance violation within the City limits of the City of Monett, Missouri, to:

1. Engage in the practice commonly known as "Jake Braking. "*Jake Braking*" is defined as reducing or attempting to reduce the speed of a vehicle by shifting the transmission from a higher to a lower gear, unless required by emergency, when such act could be reasonably foreseen to result, and does result, in a substantial increase, audible to the ear, in the noise level of the engine or exhaust system of the vehicle.
2. Engage in shifting the transmission of a moving vehicle from a higher to a lower gear for any purpose other than emergency stopping, when such act could be reasonably foreseen to result, and does result, in a substantial increase, audible to the ear, in the noise level of the engine or exhaust system of the vehicle.

Section 215.2290. (Reserved) ⁴²

Section 215.2300. Drinking in Public. ⁴³

Except in the Park Casino and the Public Golf Course, it shall be unlawful for any person to drink intoxicating liquor of any kind, in any quantity, upon any street, avenue, alley, sidewalk, public park or any other public place within the City. Any person violating this Section shall be deemed guilty of an ordinance violation.

Section 215.2310. Spitting On Sidewalks, in Public Buildings, Etc. ⁴⁴

Every person who shall expectorate or spit tobacco juice, saliva or phlegm upon any of the sidewalks of the City, in the corridors or on the stairs of any public building or on the platform or floor of any public conveyance in the City shall be deemed guilty of an ordinance violation.

Section 215.2320. Unlawfully Getting On Trains. ⁴⁵

Any person who shall, except for the purpose of traveling or other legitimate purpose, get on any passenger or freight train in the City shall be deemed guilty of an ordinance violation.

42. Editor's Note: Former Section 215.2290, Begging, was repealed 1-20-2017 by § 1 of Ord. No. 8499.

43. Cross Reference – As to alcoholic beverages generally, ch. 600.

44. Cross Reference – As to streets and sidewalks generally, ch. 510.

45. Cross Reference – As to duty to stop at railroad grade crossings, §335.090.