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WELFARE **TITLE II. PUBLIC HEALTH, SAFETY AND**

CHAPTER 200: POLICE DEPARTMENT

ARTICLE I. GENERALLY

SECTION 200.010: CHIEF OF POLICE-APPOINTMENT-QUALIFICATIONS

The Mayor with the approval of a majority of the members of the Board of Aldermen shall appoint a Chief of Police who shall perform all duties required of the Marshal by law and any other Police Officers found by the Board of Aldermen to be necessary for the good government of the City. The Chief of Police shall be twenty-one (21) years of age or older.

SECTION 200.020: SIZE OF POLICE FORCE-POWERS

The Police of the City may be appointed in such numbers, for such times and in such manner as may be prescribed by ordinance. They shall have power to serve and execute all warrants, subpoenas, writs or other process and to make arrests in the same manner as the Marshal. They may exercise such powers in areas leased or owned by the municipality outside of the boundaries of such municipality. The Marshal and Policemen shall be conservators of the peace and shall be active and vigilant in the preservation of good order within the City.

SECTION 200.030: POLICE TRAINING REQUIRED

The Board of Aldermen hereby requires one hundred twenty (120) hours and only one hundred twenty (120) hours of training for Police certification pursuant to Section 590.040.1(4), RSMo. This one hundred twenty (120) hour basic training and certification of Peace Officers requirement is effective from the time of the passage of this Section through and including September 1, 1996 and shall be effective thereafter unless and until further ordinance is passed by the City of Bernie Board of Aldermen or unless otherwise altered by State Statute or law. (Ord. No. 721 §§I-II, 7-11-94)

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CHAPTER 203: FIRE DEPARTMENT

SECTION 203.010: FIRE DEPARTMENT ESTABLISHED–COMPOSITION

There is hereby established a Fire Department for the City, which shall consist of a Chief, one (1) Assistant Chief, a Captain, a Lieutenant and such organized volunteer firemen as may be enrolled by the Chief with the consent of the Mayor and the Board of Aldermen. (CC 1988 §70.010)

SECTION 203.020: FIRE DEPARTMENT–DUTIES

The Fire Department shall have charge of the fire apparatus and shall keep the same in good order for immediate use and for more effectually perfecting the firemen in discharge of their duties shall as often as practicable thoroughly test the condition of the fire-fighting apparatus. Upon arrival at any fire, the members present shall take all necessary and proper action to extinguish such fire as quickly as possible and with the least damage possible. The department shall take all reasonable steps necessary under the circumstances to prevent the spread of the fire and damage to adjoining property. (CC 1988 §70.020)

SECTION 203.030: RURAL FIRE ASSOCIATION

- . There is hereby established a Bernie Rural Fire Association, membership in which is available to all rural residents living in the Bernie area at a subscription rate of thirty-five dollars (\$35.00) for one (1) year. Money so obtained shall be used to support the Fire Department.
- A. The rate charged for each subscriber is hereby changed from billing every three (3) years to billing annually and the payment is to be made annually for the services rendered. (Ord. No. 623 §§1–2, 12-2-91)

SECTION 203.040: RURAL FIRE ASSOCIATION–FIRE OUTSIDE CITY LIMITS

The Fire Department shall answer all calls from outside the City limits. In so doing, the Fire Chief shall leave one (1) truck and a sufficient number of men for its operation within the City. There shall be no charge for answering a rural fire call at property covered by a membership in the Rural Fire Association. At all other fires, the charge for answering the call shall be two hundred fifty dollars (\$250.00). (Ord. No. 904 §1(70.030), 8-7-00)

SECTION 203.050: FIRE DEPARTMENT BILLING FOR ACCIDENT RUNS OR RURAL FIRE CALLS

- . Bills for ten (10) to fifty (50) (accident) runs for rural fire calls shall be billed initially to the insurance company for the vehicles or carriers or other equipment involved. If there is no insurance, the bill will be sent directly to the owner of the vehicle, equipment or property.

A. The City shall bill for all equipment used including, but not limited to, the following:

A.1. Fire trucks;

- A.2. Extraction equipment;
- A.3. Man hours on scene.
- B. The following rate schedule shall be utilized for billing for the following equipment:
 - B.1. Rate on fire pumper—two hundred fifty dollars (\$250.00) per call;
 - B.2. Rate for extraction—one hundred dollars (\$100.00) per call;
 - B.3. Man hours shall be billed at fifteen dollars (\$15.00) per hour for every hour or part thereof for each man at the scene.
- C. If the person involved in the accident or fire is a rural fire member or a resident of the City of Bernie on the day of the accident or fire, there shall be no charge from the City for such response. Firemen will be paid at the regular fire call rate of seventeen dollars fifty cents (\$17.50) per call.
- D. Firemen shall receive ten dollars (\$10.00) per hour worked for each rural fire call or ten (10) to fifty (50) (accident) when the person is not a rural fire member or a resident of the City of Bernie at the time of the call. (Ord. No. 728 §§1-5, 9-6-94)

SECTION 203.060: CHIEF AND ASSISTANT CHIEF—APPOINTMENT AND TERM

The Chief shall be appointed by the Mayor by and with the consent of the Board of Aldermen at the first (1st) regular meeting of the Board after the City election. The Chief shall hold office for a term of one (1) year and until his/her successor is appointed and qualified. The Assistant Chief and other officers shall be appointed by the Fire Chief. (CC 1988 §70.040)

SECTION 203.070: CHIEF—DUTIES

It shall be the duty of the Chief to examine and report quarterly to the Mayor the condition of the department and its equipment and to recommend such alterations and additions and changes as the department may in his/her judgment require. It shall also be his/her duty to ascertain and report to the Mayor the condition and efficiency of the Fire Department and make such recommendations to insure efficient operation of the department. (CC 1988 §70.050)

SECTION 203.080: ASSISTANT CHIEF—DUTIES

It shall be the duty of the Assistant Chief and Captain to obey all orders of the Chief and in his/her absence to take command according to their rank and to perform all such duties and exercise all such authority that may be vested in such Chief. (CC 1988 §70.060)

SECTION 203.090: APPARATUS TO BE CARED FOR BY WHOM

It shall be the duty of the company to care for all apparatus entrusted to it and all buildings in which the same may be kept. (CC 1988 §70.070)

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SECTION 203.100: RULES AND REGULATIONS–BY WHOM ADOPTED

The company may adopt bylaws and regulations for its government, subject to the ordinances of said City, as they may deem best calculated to accomplish the objective herein contemplated and to adopt, fix and impose reasonable dues and penalties for non-attendance at meetings or for disobedience or offense against any bylaw, rule or regulation of said company, and they may elect such other and subordinate officers as they may deem proper. (CC 1988 §70.080)

SECTION 203.110: COMPANY–DUTIES

The company under command of its proper officers shall upon an alarm or fire repair to the place of fire with hose, carts or carriages and other fire apparatus under their care and there work and manage under the direction of the Chief and his/her assistants and in the event of the absence of such officers to work and place their apparatus in the most effective manner until such fire is extinguished; and then they shall return such fire apparatus, well washed and cleaned, to their proper place of deposit. (CC 1988 §70.090)

SECTION 203.120: CHIEF TO DIRECT COMPANY

The Chief, or in his/her absence the officer in command, may direct the cutting or pulling down or removal of any building or other object for the purpose of checking the progress of such a fire and with the advice of the Mayor, or concurrence of two (2) members of the Board of Aldermen, shall have authority to blow up or cause to be blown up with powder or otherwise any building or other erection for the purpose of extinguishing or checking the progress of such fire, and for twenty-four (24) hours after the extinguishing thereof, it shall be lawful for the Chief or his/her assistants or any Policemen or other officer to arrest any suspected person hindering, resisting or refusing to obey such officer while in the discharge of his/her duty, may be arrested by such officer, and may upon conviction thereof be fined as provided in Section 100.220 of this Code. The Chief, or in his/her absence the officer in command, shall at all fires have the same Police authority that is vested in the City Marshal and may command such assistance from inhabitants of the City as may be required for the suppression or extinguishment of fires. (CC 1988 §70.100)

SECTION 203.130: PERSONS AT FIRE–SUBJECT TO ORDERS

Every person who shall be present at any fire shall be subject to and obedient to the orders of the Chief and his/her assistants in extinguishing such fire and the removal and protection of property, and in such case a person shall refuse to obey such orders, he/she shall be deemed guilty of a misdemeanor. (CC 1988 §70.110)

SECTION 203.140: CHIEF AND ASSISTANTS TO WEAR INSIGNIA OF OFFICE

The Chief and each of his/her assistants while on duty shall wear some sufficient sign or helmet of rank to be known and recognized thereby. (CC 1988 §70.120)

SECTION 203.150: FIRE APPARATUS–NOT SUBJECT TO PRIVATE USE

If any person having charge of any fire apparatus shall suffer or permit the same to be applied to

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private uses, he/she shall upon conviction thereof be fined in a sum not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) unless, however, the same shall be used under the order of the Chief of the same in his/her absence. (CC 1988 §70.130)

SECTION 203.160: INJURY OR DEFACEMENT OF EQUIPMENT, ETC.–PENALTY

Whoever shall in any manner willfully injure, deface or destroy any hose or other fire apparatus or property under the control of the Fire Department shall be deemed guilty of a misdemeanor. (CC 1988 §70.160)

SECTION 203.170: REMUNERATION

While the Fire Department is volunteer in type, the Board of Aldermen are hereby authorized to pay quarterly out of the general revenues of the City the reasonable value of the services rendered by any authorized person for washing, cleaning and greasing the fire truck and all necessary labor on the fire apparatus that the efficiency of the department may be maintained. (CC 1998 §70.220)

CHAPTER 205: ANIMAL REGULATIONS

SECTION 205.010: DEFINITIONS

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

ANIMAL: Any four (4) legged beast of the animal world, or any bird, fowl or reptile, both male and female, otherwise lawfully within the City of Bernie.

AT LARGE: Off the premises of the owner or keeper of such dog, cat or other animal and not on a leash controlled by some person physically able to prevent the dog, cat or other animal from escaping.

CAT: Any of a family (Felidae) of the domestic cat, both male and female.

DOG: All animals of the canine species, both male and female.

LEASH: A leash, cord, chain, leather strap or line for leading or restraining a dog, cat or other animal, and being no longer than six (6) feet in length.

OWNER OR KEEPER: Any person, firm, or corporation owning, keeping, bringing in or harboring a dog, cat or other animal within the City limits of the City of Bernie. (Ord. No. 873 §2(73.010), 9-1-98)

SECTION 205.020: LICENSE REQUIRED

- . It shall be the duty of any person owning, controlling, possessing or having the management or care, in whole or in part, of any dog or cat over six (6) months of age within the City limits of Bernie, Missouri, to apply to the Police Chief or designee and obtain an animal license tag on or before May first (1st) of each and every year, for which license the Police Chief or designee is hereby authorized to charge the sum of three dollars fifty cents (\$3.50) annually for all types of dogs or cats, and it shall be the duty of any person owning, controlling, possessing or having the management or care of a kennel for dogs or cats to apply to the Police Chief or designee and obtain a kennel license on or before May first (1st) of each and every year, for which kennel license the Police Chief or designee is hereby authorized to charge the sum of fifteen dollars (\$15.00) annually. It is hereby declared a misdemeanor for any such person to neglect, fail or refuse to pay said license fee and secure the metal tag of suitable design and inscribed with the words: "Bernie A.L.T" with the year of issuance and to keep the same securely attached to the animal by means of a collar or harness of substantial make and condition, said metal tag to be numbered from one (1) upwards; provided, that no metal tag shall be issued unless the applicant therefor presents a certification of inoculation of such dog or cat against rabies from a licensed veterinarian showing inoculation during the previous twelve (12) month period.
- A. All dogs or cats found within the City without an animal license tag marked as herein provided and an inoculation tag issued by a duly licensed veterinarian showing vaccination against rabies within

the previous twelve (12) months shall be considered as strays and disposed of no sooner than one (1) week after they are picked up. (Ord. No. 873 §2(73.020), 9-1-98)

SECTION 205.030: OFFENSES INVOLVING TAGS

It is unlawful to counterfeit or attempt to counterfeit the animal license tags provided for herein or take from any dog or cat a tag legally placed upon it by its owner with the intent to place it upon another dog or cat, or to place such animal license tag upon another dog or cat. (Ord. No. 873 §2(73.030), 9-1-98)

SECTION 205.040: TAGS NOT TRANSFERABLE

Animal license tags are not transferable, and no refund shall be made on any animal license fee because of leaving the City of Bernie, Missouri, or the death of the dog or cat before the expiration of the license. (Ord. No. 873 §2(73.040), 9-1-98)

SECTION 205.050: RESTRAINT OF DOGS, CATS AND OTHER ANIMALS

The owner or keeper of any dog, cat or other animal within the City limits of Bernie, Missouri, shall keep said dog, cat or other animal restrained or confined on the premises occupied by the owner or keeper thereof, except that such owner or keeper may permit such dog, cat or other animal to be held by a leash when walking or running over any street, alley, thoroughfare or public park or grounds within the City limits of Bernie, Missouri. (Ord. No. 873 §2(73.050), 9-1-98)

SECTION 205.060: HUMANE OFFICER—DUTIES AND IMPOUNDMENT OF DOGS, CATS AND OTHER ANIMALS

There is hereby established the position of Humane Officer of Bernie, Missouri. The duties of the Humane Officer shall be to take up any animals running at large or in violation of the leash law and confine them in a City pound and to give notice of the impounding to the owner or keeper thereof as soon as is reasonably possible. An owner or keeper redeeming a dog or cat or other animal from impoundment shall, before release, pay an impoundment charge of five dollars (\$5.00) per day for each that such dog, cat or other animal has been impounded. If the owner or keeper of an impounded dog, cat or other animal cannot be identified and found, or if an impounded dog, cat or other animal is not redeemed by the owner or keeper within one (1) week after impoundment, such dog, cat or other animal may be given up for adoption or disposed of in a humane manner in one (1) of the following ways:

- .1. Barbiturates.
 - .1.a.Hypodermic injection.
 - .1.b.Per orem (by mouth).
- .2. Chemical.
 - .2.a.Carbon dioxide.

.2.b. Carbon monoxide.

.2.c. Chloroform and ether.

.3. Mechanical.

.3.a.Electrical.

.3.b.High altitude (low pressure).

Cost of same shall be charged to the owner or keeper thereof, if such owner or keeper can be identified. (Ord. No. 873 §2(73.060), 9-1-98)

SECTION 205.070: INTERFERENCE WITH OFFICERS

It shall be unlawful for any unauthorized person to break open the pound or to attempt to do so, or to take or let out any dog, cat or other animal therefrom, or to take or attempt to take from any City Officer any dog, cat or other animal taken up by such Officer in compliance with this Chapter or in any manner to interfere with or hinder such Officer in the discharge of that Officer's duties under this Chapter. (Ord. No. 873 §2(73.070), 9-1-98)

SECTION 205.080: BARKING AND ANNOYING DOGS, CATS OR OTHER ANIMALS

No person shall own, keep or harbor upon his/her premises any dog, cat or other animal that by loud or frequent or habitual barking, yelping or howling, or by threat of attack or biting, causes fear or annoyance to neighbors or to persons passing upon the streets or sidewalks, and the same is also hereby declared to be a public nuisance. (Ord. No. 873 §2(73.080), 9-1-98)

SECTION 205.090: KENNELS

Any person who shall own or keep or harbor upon his/her premises more than three (3) dogs and/or two (2) cats which are over the age of six (6) months shall be deemed to be the owner or keeper of a dog or cat kennel. (Ord. No. 873 §2(73.090), 9-1-98)

SECTION 205.100: RABIES

The owner or keeper of any dog, cat or of any other animal subject to contracting rabies and to vaccination against the same and who shall own, keep or bring such dog, cat or other animal within the City limits of Bernie, Missouri, shall have such dog, cat or other animal vaccinated against rabies and display the proper metal tag as provided by the veterinarian, and the owner or keeper thereof shall have in their possession a current certificate issued by a licensed doctor of veterinary medicine certifying that such dog, cat or other animal has been vaccinated against the disease of rabies. (Ord. No. 873 §2(73.100), 9-1-98)

SECTION 205.110: UNVACCINATED ANIMALS

Any dog, cat or other animal referenced in Section 205.100 hereof, which is found within the City limits of Bernie, Missouri, and which has not been vaccinated against rabies may be impounded or destroyed in accordance with Section 205.060 of this Chapter. (Ord. No. 873 §2(73.110), 9-1-98)

SECTION 205.120: QUARANTINE

- A. *Order Of Quarantine, Generally.* The Board of Aldermen of the City of Bernie, Missouri, shall have the power and authority at any time it shall deem it necessary for the protection of the public peace, health, welfare and safety against the disease known as rabies, to issue an order to quarantine, and it shall be the duty of any person who owns, controls, possesses, keeps or has in his/her custody any dog, cat or other animal subject to rabies to strictly comply with such quarantine order. Notice of such quarantine order shall be given by posting copies thereof in at least six (6) public places within the City or by publication in some newspaper published within the County, provided however, that the Board of Aldermen shall have the power and authority at any time to cancel or recall such quarantine order.
- B. *Animals To Be Confined.* During the time any quarantine order issued by the Board of Aldermen pursuant to this Section shall be and remain in force, all persons owning or keeping or having in their custody and control any dog, cat or other animal subject to rabies within the City limits of Bernie, Missouri, shall confine such dog, cat or other animal upon their premises, unless such dog, cat or other animal shall be muzzled, attached to a leash, and held by a competent person.
- C. *Quarantine Of A Dog, Cat Or Other Animal.* Owners or keepers of a dog, cat or other animal subject to rabies which has bitten a person or another animal, or which acts in a suspicious manner suggesting rabies, or which is viciously inclined, whether the same occurs upon the premises of such owner or keeper or elsewhere, and any person who owns, keeps or brings within the City of Bernie such dog, cat or other animal shall, upon receipt of written notice from the Humane Officer, or other City Officer, impound such dog, cat or other animal as provided in Section 205.060 or quarantine the same as provided in this Section, for a period of fourteen (14) days for rabies observation. Such dog, cat or other animal so impounded or quarantined shall be kept in such manner that neither human beings nor other animals can be bitten during such period of observation. (Ord. No. 873 §2(73.120), 9-1-98)

SECTION 205.130: PIT BULL TERRIERS

It shall be unlawful for any person to own, keep, harbor or allow to be in or upon his/her premises any of the following breeds of dog:

- .1. Bull Terrier breed of dog;
- .2. Staffordshire Terrier breed of dog;
- .3. American Pit Bull Terrier breed of dog;
- .4. American Staffordshire Terrier breed of dog;
- .5. Dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as Pit Bulls, Pit Bull dogs or Pit Bull Terriers; and

- .6. Any dog that has the appearance and characteristics of being predominantly of the breeds of Bull Terrier, Staffordshire Terrier, American Pit Bull Terrier, American Staffordshire Terrier any other breed commonly known as Pit Bulls, Pit Bull dogs or Pit Bull Terriers or a combination of any of these breeds. (Ord. No. 876 §2(73.630), 9-1-98)

SECTION 205.140: DANGEROUS OR VICIOUS DOGS, CATS OR OTHER ANIMALS

It shall be unlawful for any person to keep, harbor, own or in any way possess within the City limits of Bernie, Missouri, any dangerous, annoying or vicious dog, cat or other animal. Any dog, cat or other animal that has attacked any person, or which has bitten any person, or which habitually attacks other dogs, cats or animals in the City is declared to be dangerous and may be impounded in accordance with Section 205.060. If a dog, cat or other animal found running at large in violation of this Chapter of the City Code cannot safely be taken up and impounded, the Chief of Police of the City of Bernie or any of his/her deputies or assistants may kill the same. (Ord. No. 876 §2(73.640), 9-1-98)

SECTION 205.150: ANIMAL NEGLECT OR ABANDONMENT

- A. A person is guilty of animal neglect when he/she has custody or ownership or both of an animal and fails to provide adequate care or adequate control which results in substantial harm to the animal.
- B. A person is guilty of animal abandonment when he/she has knowingly abandoned an animal in any place without making provisions for its adequate care.
- C. Animal neglect or animal abandonment are ordinance violations. For a first (1st) offense of either violation, a term of imprisonment not to exceed fifteen (15) days, or a fine not to exceed five hundred dollars (\$500.00), or both such fine and imprisonment may be imposed. For a second (2nd) or subsequent violation of either offense, a term of imprisonment not to exceed ninety (90) days, or a fine not to exceed five hundred dollars (\$500.00), or both such fine and imprisonment may be imposed. All fines and penalties for a first (1st) conviction of animal neglect or animal abandonment may be waived by the court provided that the person found guilty of animal neglect or abandonment shows that adequate, permanent remedies for the neglect or abandonment have been made. Reasonable costs incurred for the care and maintenance of neglected or abandoned animals may not be waived.
- D. In addition to any other penalty imposed by this Section, the court may order a person found guilty of animal neglect or animal abandonment to pay all reasonable costs and expenses necessary for:
 1. The care and maintenance of neglected or abandoned animals within the person's custody or ownership;
 2. The disposal of any dead or diseased animals within the person's custody or ownership;
 3. The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and
 4. The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

SECTION 205.160: ANIMAL ABUSE

A person is guilty of animal abuse when a person:

- .1. Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of Sections 578.005 to 578.023 and 273.030, RSMo.;
- .2. Purposely or intentionally causes injury or suffering to an animal; or
- .3. Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

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

SECTION 205.170: KNOWINGLY RELEASING AN ANIMAL

- A. A person commits the offense of knowingly releasing an animal if that person, acting without the consent of the owner or custodian of an animal, intentionally releases any animal that is lawfully confined for the purpose of companionship or protection of persons or property or for recreation, exhibition or educational purposes.
- B. As used in this Section, "*animal*" means every living creature, domesticated or wild, but not including *Homo sapiens*.
- C. The provisions of this Section shall not apply to a public servant acting in the course of such servant's official duties.

SECTION 205.180: ANIMAL FIGHTS PROHIBITED

No person in the City shall maintain any place where fowl or animals are suffered to fight upon exhibition or for sport or upon any wager. (CC 1988 §73.430)

SECTION 205.190: WANTON POISONING OF ANIMALS PROHIBITED

No person in the City shall poison any dog or cat or distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any dog or cat. (CC 1988 §73.440)

SECTION 205.200: KEEPING OF ANIMALS

No person, firm or corporation shall keep or maintain any chicken or chickens, hog or hogs, cow or cows, pony or ponies, horse or horses, sheep, or goat or goats within the limits of this City. (Ord. No. 845, 9-8-97)

SECTION 205.210: NUISANCE

The keeping or maintaining of such animal or animals within the limits of this City shall constitute a nuisance. (CC 1988 §73.610)

CHAPTER 210: OFFENSES

ARTICLE I. GENERAL PROVISIONS

SECTION 210.005: DEFINITIONS

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

AFFIRMATIVE DEFENSE: Has the meaning specified in Section 556.056, RSMo.

BURDEN OF INJECTING THE ISSUE: Has the meaning specified in Section 556.051, RSMo.

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.

CONFINEMENT:

- .1. A person is in confinement when he/she is held in a place of confinement pursuant to arrest or order of a court and remains in confinement until:
 - .1.a. A court orders his/her release;
 - .1.b. He/she is released on bail, bond or recognizance, personal or otherwise; or
 - .1.c. A public servant having the legal power and duty to confine him/her authorizes his/her release without guard and without condition that he/she return to confinement.
- .2. A person is not in confinement if:
 - .2.a. He/she is on probation or parole, temporary or otherwise; or
 - .2.b. He/she 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 him/her 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;

- .2. It is given by a person who by reason of youth, mental disease or defect, or intoxication 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.

CRIMINAL NEGLIGENCE: Has the meaning specified in Section 562.016, RSMo.

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

DANGEROUS FELONY: The felonies of arson in the first degree, assault in the first degree, attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy, 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 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 years of age at the time of the commission of the act giving rise to the offense, and abuse of a child pursuant to Subdivision (2) of Subsection 3 of Section 568.060, 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.

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, blackjack or metal knuckles.

FELONY: Has the meaning specified in Section 556.016, RSMo.

FORCIBLE COMPULSION: Means 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 himself/herself or another person.

INCAPACITATED: That physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of his/her conduct, or unable to communicate unwillingness to an act. A person is not "*incapacitated*" with respect to an act committed upon him/her if he/she became unconscious, unable to appraise the nature of his/her conduct, or unable to communicate unwillingness to an act after consenting to the act.

INFRACTION: Has the meaning specified in Section 556.021, RSMo.

INHABITABLE STRUCTURE: Has the meaning specified in Section 569.010, RSMo.

KNOWINGLY: Has the meaning specified in Section 562.016, RSMo.

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: Has the meaning specified in Section 556.016, RSMo.

OFFENSE: Any felony, misdemeanor or infraction.

PHYSICAL INJURY: Physical pain, illness, or any impairment of physical condition.

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 he/she has the object on his/her person or within easy reach and convenient control. A person has constructive possession if he/she 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.

PUBLIC SERVANT: Any person employed in any way by a government of this State who is compensated by the government by reason of his/her 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: Has the meaning specified in Section 562.016, RSMo.

RECKLESSLY: Has the meaning specified in Section 562.016, RSMo.

RITUAL OR CEREMONY: An act or series of acts performed by two (2) or more persons as part of an established or prescribed pattern of activity.

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.

SEXUAL CONDUCT: 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.

SEXUAL CONTACT: Any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing for the purpose of arousing or gratifying sexual desire of any person.

SEXUAL PERFORMANCE: Any performance or part thereof which includes sexual conduct by a child who is less than seventeen (17) years of age.

VOLUNTARY ACT: Has the meaning specified in Section 562.011, RSMo.

PERSON **ARTICLE II. OFFENSES AGAINST THE**

SECTION 210.010: ASSAULT

A person commits the offense of assault if:

- .1. The person attempts to cause or recklessly causes physical injury to another person;
- .2. With criminal negligence the person causes physical injury to another person by means of a deadly weapon;
- .3. The person purposely places another person in apprehension of immediate physical injury;
- .4. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;
- .5. The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or
6. The person knowingly causes physical contact with an incapacitated person, as defined in Section 475.010, RSMo., which a reasonable person, who is not incapacitated, would consider offensive or provocative.

SECTION 210.015: DOMESTIC ASSAULT

A person commits the offense of domestic assault if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor as defined in Section 455.010, RSMo.; and

- .1. The person attempts to cause or recklessly causes physical injury to such family or household member;
- .2. With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument;
- .3. The person purposely places such family or household member in apprehension of immediate physical injury by any means;
- .4. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member;
- .5. The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or

- .6. The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

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

SECTION 210.020: ASSAULT OF A LAW ENFORCEMENT OFFICER

- A. A person commits the offense of assault of a Law Enforcement Officer or emergency personnel if:
- A.1. Such person recklessly causes physical injury to a Law Enforcement Officer or emergency personnel;
 - A.2. Such person purposely places a Law Enforcement Officer or emergency personnel in apprehension of immediate physical injury;
 - A.3. Such person knowingly causes or attempts to cause physical contact with a Law Enforcement Officer or emergency personnel without the consent of the Law Enforcement Officer or emergency personnel.
- B. As used in this Section, "*emergency personnel*" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in Subdivisions (15), (16) and (17) of Section 190.100, RSMo.

SECTION 210.030: HARASSMENT

A person commits the offense of harassment if for the purpose of frightening or disturbing another person he/she:

- B.1. Communicates in writing or by telephone a threat to commit any felony;
- B.2. Makes a telephone call or communicates in writing and uses coarse language offensive to one of average sensibility;
- B.3. Makes a telephone call anonymously; or
- B.4. Makes repeated telephone calls.

SECTION 210.040: FALSE IMPRISONMENT

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

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

SECTION 210.050: ENDANGERING THE WELFARE OF A CHILD

- . A person commits the offense of endangering the welfare of a child if:

- .1. He/she 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;
- .2. He/she knowingly encourages, aids or causes a child less than seventeen (17) years old to engage in any conduct which causes or tends to cause the child to come within the provisions

of Paragraph (d) of Subdivision (2) of Subsection (1) or Subdivision (3) of Subsection (1) of Section 211.031, RSMo.;

- .3. Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen (17) years old, he/she 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 is a public nuisance as defined in Section 195.130, RSMo.
- A. 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.

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

SECTION 210.055: LEAVING A CHILD UNATTENDED IN A MOTOR VEHICLE

- A. *Definitions.* As used in this Section, the following terms shall have these prescribed meanings:

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

INJURY: Physical harm to the body of a person.

MOTOR VEHICLE: Any automobile, truck, truck-tractor, or any motorbus 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 ten (10) years of age or less 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.

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

**ARTICLE III. OFFENSES CONCERNING
ADMINISTRATION OF JUSTICE**

SECTION 210.060: CONCEALING AN OFFENSE

A person commits the offense of concealing an offense if:

- .1. He/she 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. He/she 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.

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

SECTION 210.070: HINDERING PROSECUTION

A person commits the offense of hindering prosecution if for the purpose of preventing the apprehension, prosecution, conviction or punishment of another for conduct constituting a crime he/she:

- .1. Harbors or conceals such person;
- .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;
- .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.

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

SECTION 210.080: REFUSAL TO IDENTIFY AS A WITNESS

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

SECTION 210.090: DISTURBING A JUDICIAL PROCEEDING

A person commits the offense of disturbing a judicial proceeding if, with purpose to intimidate a judge, attorney, juror, party or witness and thereby to influence a judicial proceeding, he/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 210.100: TAMPERING WITH A WITNESS–TAMPERING WITH A VICTIM

- A. A person commits the offense of tampering with a witness if, with purpose to induce a witness or a prospective witness in an official proceeding to disobey a subpoena or other legal process, or to

absent himself/herself or avoid subpoena or other legal process, or to withhold evidence, information or documents, or to testify falsely, he/she:

- A.1. Threatens or causes harm to any person or property;
 - A.2. Uses force, threats or deception;
 - A.3. Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
 - A.4. Conveys any of the foregoing to another in furtherance of a conspiracy.
- B. A person commits the offense of "victim tampering" if, with purpose to do so, he/she 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:
- B.1. Making any report of such victimization to any Peace Officer or State, local or Federal Law Enforcement Officer or prosecuting agency or to any judge;
 - B.2. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof; or
 - B.3. Arresting or causing or seeking the arrest of any person in connection with such victimization.

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

SECTION 210.110: 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 210.120: FALSE IMPERSONATION

- . A person commits the offense of false impersonation if such person:
 - .1. Falsely represents himself/herself to be a public servant with purpose to induce another to submit to his/her pretended official authority or to rely upon his/her pretended official acts, and
 - .1.a. Performs an act in that pretended capacity; or
 - .1.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

.2.a.Performs an act in that pretended capacity; or

.2.b.Causes another to act in reliance upon such representation.

- .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, misdemeanor or felony 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.
- A. 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.
 - B. 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 210.130: FALSE REPORTS

- . 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 a crime or offense;
 - .2. Makes a false report to a Law Enforcement Officer that a crime or 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.
- A. It is a defense to a prosecution under Subsection (A) of this Section that the actor retracted the false statement or report before the Law Enforcement Officer or any other person took substantial action in reliance thereon.
- B. The defendant shall have the burden of injecting the issue of retraction under Subsection (B) of this Section.

SECTION 210.140: RESISTING OR INTERFERING WITH ARREST, DETENTION OR STOP

- . A person commits the offense of resisting or interfering with arrest, detention or stop if, knowing that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a Law Enforcement Officer is

making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

- .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.
- A. This Section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.
- B. A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person 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 that person.
- C. 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.

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

SECTION 210.150: ESCAPE OR ATTEMPTED ESCAPE FROM CUSTODY

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

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

**ARTICLE IV. OFFENSES CONCERNING
PUBLIC SAFETY**

SECTION 210.160: ABANDONMENT OF AIRTIGHT OR SEMI-AIRTIGHT CONTAINERS

- . A person commits the offense of abandonment of airtight icebox if he/she abandons, discards or knowingly permits to remain on premises under his/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 (1½) 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.

- A. 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, warehouseman or repairman.
- B. The defendant shall have the burden of injecting the issue under Subsection (B) of this Section.

SECTION 210.170: LITTERING

A person commits the offense of littering if he/she throws or places or causes to be thrown or placed 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 on any private real property owned by another without his/her consent.

SECTION 210.180: LITTERING VIA CARCASSES

- . If any person or persons shall put any dead animal, carcass or part thereof, the offal or any other filth into any well, spring, brook, branch, creek, pond or lake, every person so offending shall on conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).
- A. If any person shall remove or cause to be removed and placed in or near any public road or highway, or upon premises not his/her own, or in any river, stream or watercourse any dead animal, carcass or part thereof, or other nuisance to the annoyance of the citizens of this City, or any of them, every person so offending shall upon conviction thereof be fined for every offense not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), and if such nuisance be not removed within three (3) days thereafter, it shall be deemed a second (2nd) offense against the provisions of this Section.

SECTION 210.190: CORRUPTING OR DIVERTING WATER SUPPLY

Whoever willfully or maliciously poisons, defiles or in any way corrupts the water of a well, spring, brook or reservoir used for domestic or municipal purposes, or whoever willfully or maliciously 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 their use, shall be adjudged guilty of an ordinance violation and punished by a fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment in the City or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment and shall be liable to the party injured for three (3) times the actual damage sustained, to be recovered by suit at law.

SECTION 210.200: ABANDONING MOTOR VEHICLE OR TRAILER

- A. A person commits the offense of abandoning a motor vehicle or trailer if he/she abandons any motor vehicle or trailer on the right-of-way of any public road or State highway or on or in any of the waters in this State 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 any political subdivision

thereof or on any land or water owned, operated or leased by the Federal Government or on any private real property owned by another without his/her consent.

- B. For purposes of this Section, the last owner of record of a motor vehicle or trailer found abandoned and not shown to be transferred pursuant to Sections 301.196 and 301.197, RSMo., shall be deemed prima facie to have been the owner of such motor vehicle or trailer at the time it was abandoned and

to have been the person who abandoned the motor vehicle or trailer or caused or procured its abandonment. The registered owner of the abandoned motor vehicle or trailer shall not be subject to the penalties provided by this Section if the motor vehicle or trailer was in the care, custody or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address, and other pertinent information of the person who leased, rented, or otherwise had care, custody or control of the motor vehicle or trailer at the time of the alleged violation. The affidavit submitted pursuant to this Subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the motor vehicle or trailer. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the motor vehicle or trailer is alleged to have been stolen, the owner of the motor vehicle or trailer shall submit proof that a Police report was filed in a timely manner indicating that the vehicle was stolen at the time of the alleged violation.

- C. Any person convicted pursuant to this Section shall be civilly liable for all reasonable towing, storage, and administrative costs associated with the abandonment of the motor vehicle or trailer. Any reasonable towing, storage and administrative costs in excess of the value of the abandoned motor vehicle or trailer that exist at the time the motor vehicle is transferred pursuant to Section 304.156, RSMo., shall remain the liability of the person convicted pursuant to this Section so long as the towing company, as defined in Chapter 304, RSMo., provided the title owner and lienholders, as ascertained by the Department of Revenue records, a notice within the timeframe and in the form as described in Subsection (1) of Section 304.156, RSMo.

ARTICLE V. OFFENSES CONCERNING PUBLIC

PEACE

SECTION 210.210: PEACE DISTURBANCE

A person commits the offense of peace disturbance if:

A.1. He/she unreasonably and knowingly disturbs or alarms another person or persons by:

A.1.a.Loud noise;

A.1.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;

A.1.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;

A.1.d.Fighting; or

A.1.e.Creating a noxious and offensive odor.

A.2. He/she is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:

A.2.a. Vehicular or pedestrian traffic; or

A.2.b.The free ingress or egress to or from a public or private place.

SECTION 210.215: PRIVATE PEACE DISTURBANCE

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 a crime or offense against any person; or
- .2. Fighting.

SECTION 210.220: PEACE DISTURBANCE DEFINITIONS

For the purposes of Sections 210.210 and 210.215, the following words shall have the meanings set out herein:

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

PROPERTY OF ANOTHER: Any property in which the actor does not have a possessory interest.

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

If a building or structure is divided into separately occupied units, such units are separate premises.

SECTION 210.225: 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 210.230: 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.

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

SECTION 210.235: 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 210.240: LOITERING

A. *Definitions.* For the purpose of this Section, the following words shall have the meanings set out herein:

LOITERING: Remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and shall also include the colloquial expression "hanging around".

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, areas or parks.

B. *Police Order To Disperse.* It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to:

B.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.

B.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.

C. *Penalty.* When any person causes or commits any of the conditions enumerated in Subsection (A) herein, 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 the Section. (CC 1988 §§75.200, 75.205)

SECTION 210.245: DISORDERLY CONDUCT

. *Definitions.* For the purpose of this Section, the following words shall have the meanings set out herein:

INCITE A RIOT: Means, 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 assertions 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.
- A. *Prohibited.* A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance or if his/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:
- A.1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his/her life, injury to his/her limb or health;
 - A.2. Commits an act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
 - A.3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger his/her life, limb, health or property of another;
 - A.4. Interferes with another's pursuit of a lawful occupation by acts of violence;
 - A.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;
 - A.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/her own safety or the safety of others;
 - A.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;
 - A.8. Incites, attempts to incite, or is involved in attempting to incite a riot;
 - A.9. Addresses abusive language or threats to any member of the Police Department, any other authorized official of the City who is engaged in lawful performance of his/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;
 - A.10. Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition;

A.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;

A.12.Fails to obey a lawful order to dispense 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;

A.13.Uses abusive or obscene language or makes an obscene gesture. (CC 1988 §§75.210, 75.215)

SECTION 210.247: EXEMPTIONS

Sections 210.240 through 210.245 shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or other lawful means of expressing public opinion not in contravention or other laws. (CC 1988 §75.220)

ARTICLE VI. OFFENSE CONCERNING

WEAPONS AND FIREARMS

SECTION 210.250: DEFINITIONS

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

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

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.

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.

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 repellant 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 210.255: WEAPONS-CARRYING CONCEALED-OTHER UNLAWFUL USE

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

§ 210.255

- .1. Carries concealed upon or about his/her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use;
 - .2. Sets a spring gun;
 - .3. Discharges or shoots a firearm;
 - .4. Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner;
 - .5. Possesses a firearm or projectile weapon while intoxicated;
 - .6. Carries a firearm or any other weapon readily capable of lethal use;
 - .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.
- A. Subparagraphs (1), (3), (4), (6) and (7) of Subsection (A) of this Section shall not apply to or affect any of the following:
- A.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 possessing the duty and power of arrest for violation of the general criminal laws of the State or for violation of ordinances of Counties or Municipalities of the State, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - A.2. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
 - A.3. Members of the Armed Forces or National Guard while performing their official duty;
 - A.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;
 - A.5. Any person whose bona fide duty is to execute process, civil or criminal;
 - A.6. Any Federal Probation Officer;
 - A.7. Any State Probation or Parole Officer, including supervisors and members of the Board of Probation and Parole;
 - A.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.;
and

A.9. Any coroner, deputy coroner, medical examiner or assistant medical examiner.

- B. Subparagraphs (1), (5), (6) and (7) of Subsection (A) of this Section do not apply when the actor is transporting such weapons in a non-functioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subparagraph (1) of Subsection (A) of this Section does not apply to any person twenty-one (21) years of age or older 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. Subparagraph (7) of Subsection (A) of this Section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.
- C. Subparagraphs (1), (6) and (7) of Subsection (A) 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.
- D. Subparagraphs (3), (4), (5), (6) and (7) of Subsection (A) of this Section shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.
- E. Nothing in this Section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.
- F. Any person knowingly aiding or abetting any other person in the violation of Subdivision (9) of Subsection (A) of this Section shall be subject to the same penalty as that prescribed by this Section for violations by other persons.

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

SECTION 210.260: DEFACING FIREARM—POSSESSION OF A DEFACED FIREARM

- . It shall be unlawful for any person to knowingly deface a firearm.
- A. It shall be unlawful for any person to knowingly be in possession of a firearm which has been defaced.

SECTION 210.270: UNLAWFUL TRANSFER OF WEAPONS—PENALTY

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

A.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

A.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 210.280: ENDORSEMENT DOES NOT AUTHORIZE CONCEALED FIREARMS, WHERE—PENALTY FOR VIOLATION

A concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo., or a concealed carry endorsement or permit issued by another State or political subdivision of another State shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his/her person or vehicle throughout the State. No driver's license or non-driver's license containing a concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo., or a concealed carry endorsement or permit issued by another State or political subdivision of another State shall authorize any person to carry concealed firearms into:

1. Any Police, Sheriff or Highway Patrol office or station without the consent of the Chief Law Enforcement Officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
2. Within twenty-five (25) feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
3. The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.
4. Any courthouse solely occupied by the Circuit, Appellate or Supreme Court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This Subdivision shall also include, but not be limited to, any juvenile, family, drug or other court offices, any room or office wherein any of the courts or offices listed in this Subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by Supreme Court Rule pursuant to Subdivision (6) of this Subsection. Nothing in this Subdivision shall preclude those persons listed in Subsection (B)(1) of Section 210.255 while within their jurisdiction and on duty, those persons listed in Subsections (B)(2) and (3) of Section 210.255, or such other persons who serve in a law enforcement capacity for a court as may be specified by Supreme Court Rule pursuant to Subdivision (6) of this Subsection from carrying a concealed firearm within any of the areas described in this Subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this Subdivision shall not be 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 Governing Body of a unit of local government or any meeting of the general assembly or a committee of the general assembly, except that nothing in this

Subdivision shall preclude a member of the body holding a valid concealed carry endorsement from carrying a concealed firearm at a meeting of the body which he/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. The general assembly, Supreme Court, County or municipality may by rule, administrative regulation, or ordinance prohibit or limit the carrying of concealed firearms by endorsement holders in that portion of a building owned, leased or controlled by that unit of government. Any portion of a building in which the carrying of concealed firearms is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The Statute, rule or ordinance shall exempt any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of a firearm. The Statute, rule or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the Statute, rule or ordinance may be denied entrance to the building, ordered to leave the building and if employees of the unit of government, be subjected to disciplinary measures for violation of the provisions of the Statute, rule or ordinance. The provisions of this Subdivision shall not apply to any other unit of government.
- .7. Any establishment licensed to dispense intoxicating liquor or non-intoxicating beer for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this Subdivision shall not apply to the licensee of said establishment. The provisions of this Subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than 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 Subdivision 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 Subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated.
- .8. Possession of a firearm in a vehicle on the premises of the airport 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.
- .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. 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 childcare facility without the consent of the manager. Nothing in this Subdivision shall prevent the operator of a childcare facility in a family home from owning or possessing a firearm or a driver's license or non-driver's license containing a concealed carry 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 endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry 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 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.
- A. Carrying of a concealed firearm in a location specified in Subdivisions (1) to (17) of Subsection (A) of this Section by any individual who holds a concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo., shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a Peace Officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars (\$100.00) for the first (1st) offense. If a second (2nd) citation for a similar violation occurs within a six (6) month period, such person shall be fined an amount not to exceed two hundred dollars (\$200.00) and his/her endorsement to carry concealed firearms shall be suspended for a period of one (1) year. If a third (3rd) citation for a similar violation is issued within one (1) year of the first (1st) citation, such person shall be fined an amount not to exceed five hundred dollars (\$500.00) and shall have his/her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three (3) years. Upon conviction of charges arising from a citation issued pursuant to this Subsection, the court shall notify the Sheriff of the County which issued the certificate of qualification for a concealed carry endorsement and the Department of Revenue. The Sheriff shall suspend or revoke the certificate of qualification for a concealed carry endorsement and the Department of Revenue shall issue a notice of such suspension or revocation of the concealed carry endorsement and take action to remove the concealed carry endorsement from the individual's driving record. The Director of Revenue shall notify the licensee that he/she must apply for a new license pursuant to Chapter 302, RSMo., which does not contain

such endorsement. A concealed carry endorsement suspension pursuant to Sections 571.101 to 571.121, RSMo., shall be reinstated at the time of the renewal of his/her driver's license. The notice issued by the Department of Revenue shall be mailed to the last

known address shown on the individual's driving record. The notice is deemed received three (3) days after mailing.

SECTION 210.285: DISCHARGING AIR GUN, ETC.

Any person within the limits of this City who shall discharge any BB gun, spring gun, paint 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 210.286: "TURKEY SHOOT" AND OTHER CHARITABLE EVENTS

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

**ARTICLE VII. OFFENSES CONCERNING
PROPERTY**

SECTION 210.290: TAMPERING

- . A person commits the offense of tampering if he/she:
 - .1. Tamper with property of another for the purpose of causing substantial inconvenience to that person or to another;
 - .2. Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle;
 - .3. Tamper or makes connection with property of a utility; or
 - .4. Tamper with or causes to be tampered with any meter or other property of an electric, gas, steam or water utility, the effect of which tampering is either:
 - .4.a. To prevent the proper measuring of electric, gas, steam or water service; or
 - .4.b. To permit the diversion of any electric, gas, steam or water service.
- A. In any prosecution under paragraph (4) of Subsection (A), proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam or water service with one (1) or more of the effects described in paragraph (4) of Subsection (A), shall be sufficient to support an inference which the trial court may submit to the trier of fact from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

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

SECTION 210.300: PROPERTY DAMAGE

A person commits the offense of property damage if:

- A.1. He/she knowingly damages property of another; or
- A.2. He/she damages property for the purpose of defrauding an insurer.

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

SECTION 210.310: CLAIM OF RIGHT

- . 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.
- A. The defendant shall have the burden of injecting the issue of claim of right.

SECTION 210.320: TRESPASS IN THE FIRST DEGREE

- . 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.
- A. 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:
 - A.1. Actual communication to the actor; or
 - A.2. Posting in a manner reasonably likely to come to the attention of intruders.

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

SECTION 210.330: TRESPASS IN THE SECOND DEGREE

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

SECTION 210.335: TRESPASS OF A SCHOOL BUS

A person commits the offense of trespass of a school bus if he/she knowingly and unlawfully enters any part of or unlawfully operates any school bus.

SECTION 210.340: RECKLESS BURNING OR EXPLODING

A person commits the offense of reckless burning or exploding when he/she knowingly starts a fire or causes an explosion and thereby recklessly damages or destroys a building or an inhabitable structure of another.

SECTION 210.350: NEGLIGENT BURNING OR EXPLODING

A person commits the offense of negligent burning or exploding when he/she with criminal negligence causes damage to property of another by fire or explosion.

SECTION 210.360: STEALING

- . A person commits the offense of stealing if he/she appropriates property or services of another with the purpose to deprive him/her thereof, either without his/her consent or by means of deceit or coercion.
- A. Evidence of the following is admissible in any prosecution pursuant to this Section on the issue of the requisite knowledge or belief of the alleged stealer that:
 - A.1. He/she failed or refused to pay for property or services of a hotel, restaurant, inn or boarding house;
 - A.2. He/she gave in payment for property or services of a hotel, restaurant, inn or boarding house a check or negotiable paper on which payment was refused;
 - A.3. He/she left the hotel, restaurant, inn or boarding house with the intent to not pay for property or services;
 - A.4. He/she surreptitiously removed or attempted to remove his/her baggage from a hotel, inn or boarding house; or
 - A.5. He/she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits or reproduces a retail sales receipt, price tag or universal price code label or possesses, with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

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

SECTION 210.365: THEFT OF MOTOR FUEL

- . 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.
- A. A person found guilty or pleading guilty to stealing pursuant to Section 570.030, RSMo., 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 210.370: RECEIVING STOLEN PROPERTY

- . A person commits the offense of receiving stolen property if, for the purpose of depriving the owner of a lawful interest therein, he/she receives, retains or disposes of property of another knowing that it has been stolen or believing that it has been stolen.
- A. Evidence of the following is admissible in any criminal prosecution pursuant to this Section to prove the requisite knowledge or belief of the alleged receiver that:
 - A.1. He/she was found in possession or control of other property stolen on separate occasions from two (2) or more persons;
 - A.2. He/she received other stolen property in another transaction within the year preceding the transaction charged; or
 - A.3. He/she acquired the stolen property for a consideration which he/she knew was far below its reasonable value.

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

SECTION 210.375: FINANCIAL EXPLOITATION OF THE ELDERLY AND DISABLED

- A. A person commits the offense of financial exploitation of an elderly or disabled person if such person knowingly and by deception, intimidation, or force obtains control over the elderly or disabled person's property with the intent to permanently deprive the elderly or disabled person of the use, benefit or possession of his or her property thereby benefiting such person or detrimentally affecting the elderly or disabled person. Financial exploitation of an elderly or disabled person is a misdemeanor if the value of the property is less than fifty dollars (\$50.00).
- B. *Definitions.* As used in this Section, the following terms shall have these prescribed meanings:

DECEPTION: A misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly or disabled person or to the existing or pre-existing condition of any of the property involved in such contract or agreement or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly or disabled person to enter into a contract or agreement.

"Deception" includes:

1. Creating or confirming another person's impression which is false and which the offender does not believe to be true.

2. Failure to correct a false impression which the offender previously has created or confirmed.
3. Preventing another person from acquiring information pertinent to the disposition of the property involved.

4. 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.
5. 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.

DISABLED PERSON: A person who suffers from a physical or mental impairment resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of avoiding or preventing the commission of an offense.

ELDERLY PERSON: A person sixty (60) years of age or older who is suffering from a disease or infirmity associated with advanced age and manifested by physical, mental or emotional dysfunctioning to the extent that such person is incapable of avoiding or preventing the commission of the offense.

INTIMIDATION: The communication to an elderly or disabled person that he/she will be deprived of food and nutrition, shelter, prescribed medication, or medical care and treatment.

- C. Nothing in this Section shall be construed to limit the remedies available to the victim pursuant to any State law relating to domestic violence.
- D. 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 or disabled person in the management of his/her property, but through no fault of his/her own has been unable to provide such assistance.
- E. 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 or disabled person has become accustomed at the time of such actions.
- F. It shall not be a defense to financial exploitation of an elderly or disabled person that the accused reasonably believed that the victim was not an elderly or disabled person.

SECTION 210.380: FRAUDULENT USE OF A CREDIT OR DEBIT DEVICE

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

- .1. The device is stolen, fictitious or forged;
- .2. The device has been revoked or canceled;
- .3. For any other reason his/her use of the device is unauthorized; or

- .4. Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels said charges or payment without just cause. It shall be prima facie evidence of a

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

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

SECTION 210.390: DECEPTIVE BUSINESS PRACTICE

A person commits the offense of deceptive business practice if in the course of engaging in a business, occupation or profession he/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 or exposes 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/she furnishes the weight or measure;
- .4. Sells, offers or exposes for sale adulterated or mislabeled commodities; or
- .5. Makes a false or misleading written statement for the purpose of obtaining property or credit.

SECTION 210.400: ALTERATION OR REMOVAL OF ITEM NUMBERS WITH INTENT TO DEPRIVE LAWFUL OWNER

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

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

**SECTION 210.410: FAILURE TO RETURN RENTED PERSONAL PROPERTY–
ENFORCEMENT PROCEDURE–PENALTY–VENUE**

- A. A person commits the offense of failing to return leased or rented property if, with the intent to deprive the owner thereof, he/she 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. In addition, any person who has leased or rented personal property of another, who conceals the property from the owner or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the offense of failing to return leased or rented property. 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.
- B. It shall be prima facie evidence of the offense of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten (10) days after proper notice following the expiration of the lease or rental agreement, except that if the 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 failing to return 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 ten (10) 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.
- C. 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.
- D. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.

- 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 shall be guilty of property damage pursuant to Section 210.300 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.

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

SECTION 210.420: PASSING BAD CHECKS

- . A person commits the offense of passing a bad check when:
- .1. With purpose to defraud, the person makes, issues or passes a check or other similar sight order for the payment of money knowing that it will not be paid by the drawee; or
 - .2. The person makes, issues or passes a check or other similar sight order for the payment of money knowing that there are insufficient funds in that account and fails to pay the check or sight order 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.
- A. As used in Subparagraph (2) of Subsection (A) of this Section, "*actual notice in writing*" means notice of the non-payment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten (10) day period during which the instrument may be paid and that payment of the instrument within such ten (10) day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

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

SECTION 210.425: SHOPLIFTING—DETENTION OF SUSPECT BY MERCHANT—LIABILITY PRESUMPTION

- . *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.

- A. Any merchant, his/her agent or employee, who has reasonable grounds or probable cause to believe that a person has committed or is committing a wrongful taking of merchandise or money from a mercantile establishment, may detain such person in a reasonable manner and for a reasonable length of time for the purpose of investigating whether there has been a wrongful taking of such merchandise or money. Any such reasonable detention shall not constitute an unlawful arrest or detention, nor shall it render the merchant, his/her agent or employee criminally or civilly liable to the person so detained.

- B. 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.

ARTICLE VIII. OFFENSES CONCERNING PROSTITUTION AND MORALS

SECTION 210.430: ARTICLE DEFINITIONS

As used in this Article, the following terms mean:

PATRONIZING PROSTITUTION: A person patronizes prostitution if:

1. Pursuant to a prior understanding, he/she gives something of value to another person as compensation for that person or a third (3rd) person having engaged in sexual conduct with him/her or with another;
2. He/she gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third (3rd) person will engage in sexual conduct with him/her or with another; or
3. He/she solicits or requests another person to engage in sexual conduct with him/her or with another, or to secure a third (3rd) person to engage in sexual conduct with him/her or with another, in return for something of value.

PROSTITUTION: A person commits prostitution if he/she engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third (3rd) person.

SEXUAL CONDUCT: Occurs when there is:

1. *Sexual intercourse.* Any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.
2. *Deviate sexual intercourse.* Any sexual act involving the genitals of one (1) person and the mouth, hand, tongue or anus of another person.
3. *Sexual contact.* Any touching, manual or otherwise, of the anus or genitals of one (1) person by another done for the purpose of arousing or gratifying sexual desire of either party.

SOMETHING OF VALUE. Money or property or any token, object or article exchangeable for money or property.

SECTION 210.440: PROSTITUTION

A person commits the offense of prostitution if the person performs an act of prostitution.

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

SECTION 210.450: PATRONIZING PROSTITUTION

- A. A person commits the offense of patronizing prostitution if he/she patronizes prostitution.
- B. It shall not be an affirmative defense that the defendant believed that the person he/she patronized for prostitution was eighteen (18) years of age or older.

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

SECTION 210.460: PROSTITUTION AND PATRONIZING PROSTITUTION—SEX OF PARTIES NO DEFENSE, WHEN

In any prosecution for prostitution or patronizing a prostitute, the sex of the two (2) parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

- B.1. Both persons were of the same sex; or
- B.2. The person who received, agreed to receive or solicited something of value was a male and the person who gave or agreed or offered to give something of value was a female.

SECTION 210.470: PROSTITUTION HOUSES DEEMED PUBLIC NUISANCES

- . Any room, building or other structure regularly used for sexual contact for pay as defined in Section 210.430 or any unlawful prostitution activity prohibited by this Article is a public nuisance.
- A. The Prosecuting Attorney may, in addition to all other 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 sexual contact for pay or unlawful 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.
- B. 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 sexual contact for pay or unlawful prostitution activity anywhere within the jurisdiction of the court.
- C. Appeals shall be allowed from the judgment of the court as in other civil actions.

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SECTION 210.480: INDECENT EXPOSURE (SEXUAL MISCONDUCT)

A person commits the offense of indecent exposure (sexual misconduct) 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.

**ARTICLE IX. OFFENSES CONCERNING
PORNOGRAPHY**

SECTION 210.490: 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 under the age of eighteen (18).

NUDITY: The showing of post-pubertal human genitals or pubic area with less than a fully opaque covering.

OBSCENE: Any material or performance is obscene if, taken as a whole:

1. Applying contemporary community standards, its predominant appeal is to prurient interest in sex;
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 is pornographic for minors if the following apply:

1. The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors;
2. The material or performance depicts or describes nudity, sexual conduct, sexual excitement 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 210.500: PROMOTING PORNOGRAPHY

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

1. Promotes or possesses with the purpose to promote any obscene materials for pecuniary gain;
2. Produces, presents, directs or participates in any obscene performance for pecuniary gain;
3. Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain;
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.

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

SECTION 210.510: FURNISHING PORNOGRAPHIC MATERIALS TO MINORS

A person commits the offense of furnishing pornographic material to minors if, knowing 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;
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.

ALCOHOL AND DRUGS **ARTICLE X. OFFENSES CONCERNING**

SECTION 210.520: POSSESSION OF MARIJUANA

Except as authorized by Sections 195.005 to 195.425, RSMo., it is unlawful for any person to possess or have under his/her control marijuana as defined in Section 195.010, RSMo.

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

SECTION 210.530: POSSESSION OR CONTROL OF A CONTROLLED SUBSTANCE

Except as authorized by Sections 195.005 to 195.425, RSMo., it is unlawful for any person to possess or have under his/her control a controlled substance as defined by Section 195.010, RSMo.

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

SECTION 210.531: INTOXICATION OR USE OF INTOXICATING SUBSTANCE IN PUBLIC PLACE

A person commits the offense of public intoxication when he/she is in a public place in a state of intoxication which has been caused or induced by the use of a narcotic.

- A. A person commits the offense of public use of an intoxicating substance when he/she shall drink or otherwise consume any alcoholic beverage, intoxicating liquor or use any controlled substance or narcotic drug in any street, public park or other public place. (CC 1988 §75.100)

SECTION 210.532: LIMIT ON OVER-THE-COUNTER SALE OF METHAMPHETAMINE-EXCEPTIONS

- . No person shall deliver in any single over-the-counter sale more than:
 - .1. Two (2) packages or any number of packages that contain a combined total of no more than six (6) grams, of any drug containing a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers; or
 - .2. Three (3) packages of any combination drug containing, as one of its active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, or any number of packages of said combination drug that contain a combined total of no more than nine (9) grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.
- A. All packages of any drug having a sole active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, shall be displayed and offered for sale only behind a checkout counter where the public is not permitted, or within ten (10) feet and an unobstructed view of an attended checkout counter. This Subsection shall not apply to any retailer utilizing an electronic anti-theft system that utilizes a product tag and detection alarm which specifically prevents the theft of such drugs from the place of business where such drugs are sold.
- B. This Section shall supersede any municipal ordinances or regulations passed on or after December 23, 2002, to the extent that such ordinances or regulations are more restrictive than the provisions of this Section. This Section shall not apply to any product labeled pursuant to Federal regulation for use only in children under twelve (12) years of age or to any products that the State Department of Health and Senior Services, upon application of a manufacturer, exempts by rule from this Section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors or to the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.
- C. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine or phenylpropanolamine products are available for sale who violates Subsection (A) of this Section shall not be penalized pursuant to this Section if such person documents that an employee training program was in place to provide the employee with information on the State and Federal regulations regarding ephedrine, pseudoephedrine or phenylpropanolamine.

SECTION 210.535: LIMITATIONS ON THE RETAIL SALE OF METHAMPHETAMINE PRECURSOR DRUGS

- . 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.

- A. Any person holding a retail sales license pursuant to Chapter 144, RSMo., who knowingly violates Subsection (A) of this Section is guilty of a misdemeanor.
- B. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine or phenylpropanolamine products are available for sale who violates Subsection (A) of this Section shall not be penalized pursuant to this Section if such person documents that an employee training program was in place to provide the employee with information on the State and Federal regulations regarding ephedrine, pseudoephedrine or phenylpropanolamine.

SECTION 210.540: UNLAWFUL USE OF DRUG PARAPHERNALIA

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia as defined by Section 195.010, RSMo., 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 as defined by Section 195.010, RSMo., or an imitation controlled substance as defined by Section 195.010, RSMo., in violation of Sections 195.005 to 195.425, RSMo.

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

SECTION 210.550: 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, or induce any other person to do so for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental processes; except that this Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

SECTION 210.560: INDUCING, OR POSSESSION WITH INTENT TO INDUCE, SYMPTOMS BY USE OF SOLVENTS, PROHIBITED

- . 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 of any solvent, particularly toluol.
- A. No person shall intentionally possess any solvent, particularly toluol, for the purpose of using it in the manner prohibited by Section 210.550 and this Section.

SECTION 210.570: POSSESSION OR PURCHASE OF SOLVENTS TO AID OTHERS IN VIOLATIONS, PROHIBITED-VIOLATIONS OF SECTIONS 210.550 TO 210.560-PENALTY

- . No person shall intentionally possess or buy any solvent, particularly toluol, for the purpose of inducing or aiding any other person to violate the provisions of Sections 210.550 and 210.560 hereof.

§ 210.570
§ 210.590

Bernie City Code

- A. Any person who violates any provision of Sections 210.550–210.570 is guilty of an ordinance violation.

MINORS

ARTICLE XI. OFFENSES CONCERNING

SECTION 210.580: DEFINITIONS

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

CRIMINAL ACT: An act which violates the Statutes of the United States, the Statutes of the State of Missouri or the ordinances of the City of Bernie, including curfew and moving traffic violations.

GUARDIAN: Guardian appointed by court of competent jurisdiction.

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

PARENT: The natural father or mother or the adoptive father or mother.

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 criminal act.

SECTION 210.590: 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 Bernie between the hours of 10:00 P.M. and 6:00 A.M. of the following day, except on Fridays and Saturdays when the hours shall be 11:00 P.M. to 6:00 A.M. of the following day. 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 Police Officer finding any person under the age of seventeen (17) years violating the provisions of this Section shall warn such person to 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 (1st) 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. (Ord. No. 823 §77.030, 1-6-97)

SECTION 210.600: PARENTAL RESPONSIBILITY

- . Whenever a minor shall be arrested or detained for the commission of any criminal act 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 Police Officer shall indicate such refusal on the notice.
- A. 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 criminal act. 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 (2nd) or successive violation of any criminal act.
- B. 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 (1st) violation, not less than two hundred dollars (\$200.00) for a second (2nd) 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).

ARTICLE XII. OFFENSES CONCERNING TOBACCO

SECTION 210.610: DEFINITIONS

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

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 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 samples.

TOBACCO PRODUCTS: Any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

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.

SECTION 210.615: SMOKING

A person commits the offense of smoking in a public building if he/she smokes cigarettes, cigars, a pipe or consumes any type of tobacco products while he/she is in the Bernie municipal courtroom, City Hall building or public library. (CC 1988 §75.300)

SECTION 210.620: UNLAWFUL TO SELL OR DISTRIBUTE TOBACCO PRODUCTS TO MINORS—VENDING MACHINE REQUIREMENTS

- A. It shall be unlawful for any person to sell, provide or distribute tobacco products to persons under eighteen (18) years of age.
- B. All vending machines that dispense tobacco products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen (18) years of age from purchasing any tobacco product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than eighteen (18) years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this Subsection shall be subject to the penalties contained in Subsection (E) of this Section. A determination of non-compliance may be made by a local Law Enforcement Agency or the Division of Liquor Control. Nothing in this Section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.
- C. No person or entity shall sell, provide or distribute any tobacco product 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 Subsections (A), (B) or (C) of this Section or Section 210.650 of this Article shall be penalized as follows:
 1. For the first (1st) offense, twenty-five dollars (\$25.00);
 2. For the second (2nd) offense, one hundred dollars (\$100.00); and
 3. For a third (3rd) and subsequent offense, two hundred fifty dollars (\$250.00).

- E. Any owner of the establishment where tobacco 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 tobacco sales to minors. Such training program must be attended by all employees who sell tobacco 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; and
 3. Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety (90) minutes in length, established by the Division of Liquor Control.
- F. The exemption in Subsection (E) of this Section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products are available for sale if:
1. Four (4) or more violations per location of Subsection (C) of this Section occur within a one (1) 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 210.650, 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 to any individual less than eighteen (18) years of age in violation of Subsections (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:
1. Such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older.
- I. Any person adversely affected by this Section may file an appeal with the Administrative Hearing Commission which shall be adjudicated pursuant to the procedures established in Chapter 621, RSMo.

SECTION 210.630: MINORS PROHIBITED FROM PURCHASE OR POSSESSION OF TOBACCO—MISREPRESENTATION OF AGE

- A. No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products unless such person is an employee of a seller of cigarettes or tobacco products and is in such possession to effect a sale in the course of employment or an

employee of the Division of Liquor Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.

- B. Any person less than eighteen (18) years of age shall not misrepresent his/her age to purchase cigarettes or tobacco products.
- C. Any person who violates the provisions of this Section shall be penalized as follows:
 - 1. For the first (1st) violation, the person is guilty of an infraction and shall have any cigarettes or tobacco products confiscated;
 - 2. For a second (2nd) violation and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes or tobacco products confiscated and shall complete a tobacco education or smoking cessation program, if available.

SECTION 210.640: RETAIL SALES TAX LICENSE REQUIRED FOR SALE OF TOBACCO PRODUCTS

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

SECTION 210.650: REQUIRED SIGN STATING VIOLATION OF STATE LAW TO SELL TOBACCO TO MINORS UNDER AGE EIGHTEEN—DISPLAY OF SIGN REQUIRED WHERE

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

- 1. Contain in red lettering at least one-half (½) inch high on a white background the following:

"IT IS A VIOLATION OF STATE LAW FOR CIGARETTES OR OTHER TOBACCO 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 OR OTHER TOBACCO 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 210.660: RESTRICTIONS ON SALES OF INDIVIDUAL PACKS OF CIGARETTES

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 210.670: PROOF OF AGE REQUIRED, WHEN DEFENSE TO ACTION FOR VIOLATION IS REASONABLE RELIANCE ON PROOF-LIABILITY

- A. A person or entity selling tobacco products or rolling papers or distributing tobacco 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 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 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 a misdemeanor.
- 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 210.620 of this Article. No person shall be liable for more than one (1) violation of Subsections (B) and (C) of Section 210.620 on any single day.

ARTICLE XIII. FIREWORKS

SECTION 210.680: SALE PROHIBITED-EXCEPTION

It shall be unlawful for any person to sell or offer for sale any type or kind of fireworks or firecrackers within the corporate limits of this City. (CC 1988 §66.010)

SECTION 210.690: SALE FROM PUBLIC PROPERTY PROHIBITED

Fireworks and firecrackers shall not be advertised for sale from any street, alley, sidewalk or other public property within the corporate limits. (CC 1988 §66.020)

SECTION 210.700: DISCHARGE PROHIBITED IN CERTAIN AREAS, AT CERTAIN TIMES

It shall be unlawful for any person to discharge or shoot any type of fireworks or firecrackers:

- .1. On any day other than July fourth (4th), Independence Day.

- .2. At any time in or on any public street, public sidewalk, public park, public grounds, or within the business district of the City.

Provided, that the Board of Aldermen, by resolution, may permit the discharge or shooting of fireworks or firecrackers on public or private property within the business district on July fourth (4th) if the same is a public display for which no admission charge is collected and if the same is sponsored and conducted by a local organization. (CC 1988 §66.030)

ARTICLE XIV. BERNIE CITY LAKES AND

PARK

SECTION 210.710: BERNIE CITY LAKES

- A. The following rules and operating procedures shall be observed at the Bernie fishing lakes at all times:
 - A.1. No boats or other watercraft shall be allowed in the lakes.
 - A.2. No live minnows shall be utilized as fishing bait.
 - A.3. No wading or swimming is permitted in the lakes.
 - A.4. Fishing shall only be by hand lines. No traps, trot lines or other methods shall be permitted. No feeding of fish or baiting of fish is permitted.
 - A.5. No person shall clean fish at the lakes.
 - A.6. Parking is limited to marked areas only.
 - A.7. No person shall discharge a firearm at the lakes or at any of the adjoining property subject to the jurisdiction of the City of Bernie.
 - A.8. No person shall park or operate a motor vehicle such that it blocks or impedes traffic in the driveways or roads.
 - A.9. Operating a motor vehicle on the levee is prohibited.
 - A.10. The south lake shall be open for fishing from fifteen (15) minutes prior to daylight to fifteen (15) minutes after sunset each day.
- B. No person shall fish in the north lake at any time.
- C. No person shall fish in the south lake unless that person has obtained a permit from the City of Bernie (or is otherwise exempt) as follows:
 - C.1. Residents of City of Bernie:

C.1.a. Twelve (12) years of age or under–no permit required.

C.1.b. Thirteen (13) through sixty-four (64) years of age–five dollars (\$5.00) yearly permit.

C.1.c.Sixty-five (65) years of age or older–no permit required.

C.1.d.Disabled veteran–no permit required at any age.

C.2. A non-resident of the City of Bernie seven (7) years of age or older must be accompanied by a resident (with fishing permit) to purchase a permit to fish and shall have a permit to fish and be accompanied by a resident with a fishing permit when fishing at the lake. Permits will be issued for two dollars (\$2.00) for a two (2) day permit.

D. No person shall take more than the following number of fish during any day nor shall any person have in their possession more than the following number of fish at any time:

- D.1. Bass 4
- D.2. Channel catfish..... 4
- D.3. Perch..... no limit

E. No person shall keep or possess a bass or a channel catfish less than fifteen (15) inches in length.

F. Any City of Bernie Police Officer or Maintenance Department employee has the right to inspect the permit of any person at the Bernie fishing lakes or the adjacent property subject to the jurisdiction of the City of Bernie, which said lakes and adjacent property are hereinafter referred to the grounds. Any person on the grounds shall allow, if they have a permit, any City Police Officer or City maintenance employee to inspect the permit. Any City Police Officer or maintenance employee shall have the right to inspect the fish in the possession of any person. Upon request, any person in possession of fish shall permit the inspection of the fish by any Bernie City Police Officer or a Bernie City maintenance employee.

G. Permits to fish at the Bernie City lake may be purchased at City Hall during regular business hours and at the Police station in Bernie at any time.

H. Any person violating any of the provisions of this Section may be fined up to five hundred dollars (\$500.00) for each separate violation. (Ord. No. 578 §§1–8(26.060–26.130), 6-4-90; Ord. No. 930 §1(26.080(B)), 4-8-02)

SECTION 210.720: BERNIE CITY PARK PAVILION

The pavilion located on the west side of the Bernie City park, which pavilion shall be known as Pavilion No. 3, may be reserved for use by the general public. Any person, company or corporation desiring to reserve said Pavilion No. 3 may do so at the Bernie Police Department. Reservations shall be on a first come, first serve basis. The fee for reserving said Pavilion No. 3 shall be fifteen dollars (\$15.00) and shall be paid at the time the reservation is made. It shall be the responsibility of the Bernie Police Department to post a notice at Pavilion No. 3 regarding all reservations at least twelve (12) hours before the date for which said pavilion is reserved. The notice shall contain the name of the person, company or corporation reserving same and the date for which said pavilion is reserved. Additionally, the Bernie Police Department shall maintain a log book for the specific

purpose of recording the name of the person, company or corporation reserving Pavilion No. 3, the address and telephone number for such person, company or corporation, and the date for which said Pavilion No. 3 is reserved by such person, company or corporation. (Ord. No. 891 §1(26.140), 11-1-99)

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CHAPTER 215: NUISANCES

Cross References—As to dangerous buildings as a nuisance, ch. 505; as to prostitution houses deemed a nuisance, §210.470.

ARTICLE I. GENERALLY

SECTION 215.010: NUISANCES AFFECTING HEALTH

A. The following are declared to be nuisances affecting health:

1. All decayed or unwholesome food offered for sale to the public or offered to the public at no charge.
2. All diseased animals running at large.
3. All ponds or pools of stagnant water.
4. Carcasses of dead animals not buried or destroyed within twenty-four (24) hours after death.
5. Accumulations, wheresoever they may occur, of manure, rubbish, garbage, refuse and human and industrial, noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes.
6. Privy vaults or garbage cans which are not fly-tight, that is, privy vaults or garbage cans which do not prevent the entry of flies, insects and rodents.
7. The pollution of any well, cistern, spring, underground water, stream, lake, canal or body of water by sewage or industrial wastes, or other substances harmful to human beings.
8. Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities, or the presence of any gas, vapor, fume, smoke, dust or any other toxic substance on, in or emitted from the equipment of any premises in quantities sufficient to be toxic, harmful or injurious to the health of any employee or to any premises, occupant or to any other person.
9. Common drinking cups, roller towels, combs, brushes or eating utensils in public or semi-public places where not properly sanitized after use.
10. Any vehicle used for septic tank cleaning which does not meet the requirements of this Chapter of the Code of Ordinances of the City of Bernie.
11. Any vehicle used for garbage or rubbish disposal which is not equipped with a watertight metal body and provided with a tight metal cover or covers and so constructed as to prevent any of the contents from leaking, spilling, falling or blowing out of such vehicle at any time, except while being loaded, or not completely secured and covered so as to prevent offensive odors from escaping therefrom or exposing any part of the contents at any time.

12. Any and all infestations of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae and hookworm larvae.

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13. The keeping of animals and fowls in any area within the City not zoned for agricultural uses except pet cats and dogs, animals in public or licensed zoos, and farm animals in laboratories.
 14. Unlicensed dumps and licensed dumps not operated or maintained in compliance with the ordinances of the City of Bernie and the Statutes of the State of Missouri.
 15. No person shall discharge or cause to be discharged into a stormwater system any waste materials, liquids, vapor, fat, gasoline, benzene, naphtha, oil or petroleum product, mud, straw, lawn clippings, tree limbs or branches, metal or plastic objects, rags, garbage or any other substance which is capable of causing an obstruction to the flow of the storm system or interfere with the proper operation of the system or which will pollute the natural creeks or waterways.
 16. All articles or things whatsoever, caused, kept, maintained, or permitted by any person, to the injury, inconvenience, or annoyance of the public.
 17. All pursuits followed or engaged in, or acts done by any person to the injury, annoyance, or inconvenience of the public.
 18. All ashes, cinders, filth, excrement, sawdust, stones, rocks, dirt, straw, soot, sticks, shavings, wastewater, fish, putrid meat, entrails, decayed fruit or vegetables, refuse, debris, broken ware, rags, old iron, or all other metal, old wearing apparel, all animal or vegetable matter, all dead animals or any other offensive or disagreeable substance or thing thrown, left, deposited or caused to be thrown, left, or deposited by anyone in or upon any street, avenue, alley, sidewalk, park, public square, public enclosure, pond or pool water, or allowed to accumulate on private property.
 19. All other acts, practices, conduct, business, occupation callings, trades, uses of property and all other things detrimental or certain to be detrimental to the health of the inhabitants of the City of Bernie.
- B. *Unlawful To Cause, Maintain Within City Or One-Half Mile Thereof.* It is unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied lot or land or any part thereof in the City of Bernie or within one-half (½) mile of the corporate limits of the City of Bernie, Missouri, to cause, permit or maintain a nuisance on any such lot or land. Additionally, it is unlawful for any person or his/her agent, servant, representative or employee to cause or maintain a nuisance on the land or property of another with or without permission.
- Each day that a nuisance shall be maintained is a separate offense.
- C. *Authority To Abate Emergency Cases.* In cases where it reasonably appears that there is an immediate danger to the health, safety or welfare of the public due to the existence of a nuisance, the City shall have authority to immediately abate the nuisance in an appropriate manner.
(CC 1988 §74.020(5-7))

ARTICLE II. ABANDONED PROPERTY

SECTION 215.020: DEFINITIONS

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

ABANDONED PROPERTY: Any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in this Article, whether or not operational. For any vehicle towed from the scene of an accident at the request of law enforcement and not retrieved by the vehicle's owner within five (5) days of the accident, the agency requesting the tow shall be required to write an abandoned property report or a criminal inquiry and inspection report.

PERSON: Any natural person, corporation or other legal entity.

RIGHT-OF-WAY: The entire width of land between the boundary lines of a public road or State highway, including any roadway.

ROADWAY: That portion of a public road or State highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

TOWING COMPANY: Any person or entity which tows, removes or stores abandoned property.

URBANIZED AREA: An area with a population of fifty thousand (50,000) or more designated by the Bureau of the Census within boundaries to be fixed by the State Highways and Transportation Commission and local officials in cooperation with each other and approved by the Secretary of Transportation. The boundary of an urbanized area shall, at a minimum, encompass the entire urbanized area as designed by the Bureau of the Census.

SECTION 215.030: ABANDONED VEHICLES PROHIBITED

No person shall abandon any motor vehicle on the right-of-way of any public road or State highway or on any private real property owned by another without his/her consent.

SECTION 215.040: OPEN STORAGE OF INOPERABLE VEHICLES OR PUBLIC SAFETY HAZARDS PROHIBITED

The open storage of inoperable vehicles or other vehicles deemed by the City to constitute a public safety hazard is prohibited. Nothing in this Section shall apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property nor to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing or storage facility so long as the business is operated in compliance with its business license and the property is in compliance with applicable zoning ordinances.

SECTION 215.050: OBSTRUCTING THE FLOW OF TRAFFIC PROHIBITED

Except in the case of an accident resulting in the injury or death of any person, the driver of a vehicle which for any reason obstructs the regular flow of traffic on the roadway of any public road or State highway shall make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic. Any person who fails to comply with the requirements of this

Section is guilty of an ordinance violation and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

SECTION 215.060: TOWING OF ABANDONED PROPERTY ON PUBLIC REAL PROPERTY

- . Any Law Enforcement Officer, or an official of the City where the City's real property is concerned, may authorize a towing company to remove to a place of safety:
 - .1. Any abandoned property on the right-of-way of:
 - .1.a. Any State highway or interstate highway or freeway in an urbanized area of the City left unattended for ten (10) hours, or after four (4) hours if a Law Enforcement Officer determines that the abandoned property is a serious hazard to other motorists;
 - .1.b. Any State highway or interstate highway or freeway outside of an urbanized area of the City left unattended for more than forty-eight (48) hours, or after four (4) hours if a Law Enforcement Officer determines that the abandoned property is a serious hazard to other motorists;
- provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this Section to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice.
- .2. Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal.
 - .3. Any abandoned property which has been abandoned under Section 215.030 herein or Section 577.080, RSMo.
 - .4. Any abandoned property which has been reported as stolen or taken without consent of the owner.
 - .5. Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal.
 - .6. Any abandoned property which due to any other State law or City ordinance is subject to towing because of the owner's outstanding traffic or parking violations.
 - .7. Any abandoned property left unattended in violation of a State law or City ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard.
- A. When the City Police Department authorizes a tow pursuant to this Section in which the abandoned property is moved from the immediate vicinity, it shall complete a crime inquiry and inspection report.

- B. Any City agency other than the City Police Department authorizing a tow under this Section where property is towed away from the immediate vicinity shall report the tow to the City Police Department within two (2) hours of the tow, along with a crime inquiry and inspection report.

SECTION 215.070: TOWING OF ABANDONED PROPERTY ON PRIVATE REAL PROPERTY

- . *Generally.* The City, including the City Police Department, may tow motor vehicles from real property which are deemed a public safety hazard pursuant to Section 215.040 or are derelict, junk, scrapped, disassembled or otherwise harmful to the public health. The City shall perform such tow pursuant to the terms of Section 215.080. When a City agency other than the Police Department authorizes a tow under this Subsection, it shall report the tow to the Police Department within two (2) hours with a crime inquiry and inspection report.
- A. *Towing Authorized By City Police Department.* If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the real property, at the request of the person in possession of the real property, any City Police Officer may authorize a towing company to remove such abandoned property from the property in the following circumstances:
- A.1. The abandoned property is left unattended for more than forty-eight (48) hours; or
- A.2. In the judgment of a Police Officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.
- B. *Towing Authorized By Real Property Owner, Lessee Or Property Or Security Manager.*
- B.1. The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a Law Enforcement Officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this Subsection may be made only under any of the following circumstances:
- B.1.a.*Sign.* There is displayed, in plain view at all entrances to the property, a sign not less than seventeen (17) by twenty-two (22) inches in size, with lettering not less than one (1) inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four (24) hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property.
- B.1.b.*Unattended on owner-occupied residential property.* The abandoned property is left unattended on owner-occupied residential property with four (4) residential units or less and the owner, lessee or agent of the real property in lawful possession has notified the City Police Department, and ten (10) hours have elapsed since that notification.

B.1.c. *Unattended on other private real property.* The abandoned property is left unattended on private real property and the owner, lessee or agent of the real property in lawful possession of real property has notified the City Police Department, and ninety-six (96) hours have elapsed since that notification.

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- B.2. Pursuant to this Section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a City Police Officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to Section 575.060, RSMo. The report shall be in the form designed, printed and distributed by the Missouri Director of Revenue and shall contain the following:
- B.2.a. The year, model, make and abandoned property identification number of the property, and the owner and any lienholders, if known;
 - B.2.b. A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;
 - B.2.c. The license plate or registration number and the State of issuance, if available;
 - B.2.d. The physical location of the property and the reason for requesting the property to be towed;
 - B.2.e. The date the report is completed;
 - B.2.f. The printed name, address and telephone number of the owner, lessee or property or security manager in possession of the real property;
 - B.2.g. The towing company's name and address;
 - B.2.h. The signature of the towing operator;
 - B.2.i. The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this Section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;
 - B.2.j. Space for the name of the law enforcement agency notified of the towing of the abandoned property and for the signature of the Law Enforcement Official receiving the report; and
 - B.2.k. Any additional information the Missouri Director of Revenue deems appropriate.
- B.3. Any towing company which tows abandoned property without authorization from the City Police Department pursuant to Subsection (B) of this Section shall deliver a copy of the abandoned property report to the City Police Department. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the City Police Department has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two (2) hours if the tow was made from a signed location pursuant to Subsection (C)(1)(a) of this Section, otherwise the report shall be delivered within twenty-four (24) hours.

B.4. The City Police Department, after receiving such abandoned property report, shall record the date on which the abandoned property report is filed with the Police Department and shall promptly make an inquiry into the National Crime Information Center (NCIC) and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The Police Department shall enter the information pertaining to

the towed property into the statewide law enforcement computer system and a Police Officer shall sign the abandoned property report and provide the towing company with a signed copy.

- B.5. The City Police Department, after receiving notification that abandoned property has been towed by a towing company, shall search the records of the Missouri Department of Revenue and provide the towing company with the latest owner and lienholder information on the abandoned property, and if the tower has online access to the Department of Revenue's records, the tower shall comply with the requirements of Section 304.155, RSMo. If the abandoned property is not claimed within ten (10) working days, the towing company shall send a copy of the abandoned property report signed by a Law Enforcement Officer to the Department of Revenue.
- B.6. No owner, lessee or property or security manager of real property shall knowingly authorize the removal of abandoned property in violation of this Section.
- B.7. Any owner of any private real property causing the removal of abandoned property from that real property shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:
- B.7.a. Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and
- B.7.b. The removal of property other than the property specified by the owner of the private real property from which the abandoned property was removed.
- C. *Damage To Property.* The owner of abandoned property removed from private real property may recover for any damage to the property resulting from any act of any person causing the removal of, or removing, the abandoned property.
- D. *Real Property Owner Liability.* Any owner of any private real property causing the removal of abandoned property parked on that property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this Article.
- E. *Written Authorization Required—Delegation Of Authority To Tow.*
- E.1. Except for the removal of abandoned property authorized by the City Police Department pursuant to this Section, a towing company shall not remove or commence the removal of abandoned property from private real property without first obtaining written authorization from the real property owner. All written authorizations shall be maintained for at least one (1) year by the towing company.
- E.2. General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the

case of abandoned property unlawfully parked within fifteen (15) feet of a fire hydrant or in a fire lane designated by a Fire Department or the State Fire Marshal.

F. *Towing Company Liability.* Any towing company, or any affiliate of a towing company, which

removes, or commences removal of, abandoned property from private property without first obtaining written authorization from the property owner or lessee, or any employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in Subsection (F) of this Section, is liable to the owner of the property for four (4) times the amount of the towing and storage charges, in addition to any applicable ordinance violation penalty, for a violation of this Section.

SECTION 215.080: GENERAL PROVISIONS AND PROCEDURES

- . *Payment Of Charges.* The owner of abandoned property removed as provided in this Article shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in Section 215.090.
- A. *Crime Inquiry And Inspection Report.* Upon the towing of any abandoned property pursuant to Section 215.060 or under authority of a Law Enforcement Officer or local governmental agency pursuant to Section 215.070, the City Police Department, where it authorized such towing or was properly notified by another governmental agency of such towing, shall promptly make an inquiry with the National Crime Information Center (NCIC) and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system.

If the abandoned property is not claimed within ten (10) working days of the towing, the tower who has online access to the Department of Revenue's records shall make an inquiry to determine the abandoned property owner and lienholder, if any, of record. In the event that the records of the Department of Revenue fail to disclose the name of the owner or any lienholder of record, the tower shall comply with the requirements of Subsection (3) of Section 304.156, RSMo. If the tower does not have online access, the City Police Department shall submit a crime inquiry and inspection report to the Missouri Director of Revenue. The City Police Department shall also provide one (1) copy of the report to the storage facility and one (1) copy to the towing company. A towing company that does not have online access to the department's records and that is in possession of abandoned property after ten (10) working days shall report such fact to the City Police Department. The crime inquiry and inspection report shall be designed by the Director of Revenue and shall include the following:

- A.1. The year, model, make and property identification number of the property and the owner and any lienholders, if known;
- A.2. A description of any damage to the property noted by the Law Enforcement Officer authorizing the tow;
- A.3. The license plate or registration number and the State of issuance, if available;
- A.4. The storage location of the towed property;
- A.5. The name, telephone number and address of the towing company;

A.6. The date, place and reason for the towing of the abandoned property;

A.7. The date of the inquiry of the National Crime Information Center, any statewide Missouri law enforcement computer system, and any other similar system which has titling and registration

information to determine if the abandoned property had been stolen. This information shall be entered only by the City Police Department;

- A.8. The signature and printed name of the Law Enforcement Officer authorizing the tow and the towing operator; and
- A.9. Any additional information the Missouri Director of Revenue deems appropriate.
- B. *Reclaiming Property.* The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.
- C. *Lienholder Repossession.* If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the City Police Department within two (2) hours of the repossession and shall further provide the Police Department with any additional information the Police Department deems appropriate. The City Police Department shall make an inquiry with the National Crime Information Center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.
- D. *Notice To Owner/Tow Lien Claim.* Any towing company which comes into possession of abandoned property pursuant to this Article and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the Missouri Department of Revenue or of a corresponding agency in any other State. The towing company shall notify the owner and any lienholder within ten (10) business days of the date of mailing indicated on the notice sent by the Missouri Department of Revenue pursuant to Section 304.156, RSMo., by certified mail, return receipt requested. The notice shall contain the following:
- D.1. The name, address and telephone number of the storage facility;
- D.2. The date, reason and place from which the abandoned property was removed;
- D.3. A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
- D.4. A statement that the storage firm claims a possessory lien for all such charges;
- D.5. A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
- D.6. A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this Section to contest the propriety of such towing or removal;

D.7. A statement that if the abandoned property remains unclaimed for thirty (30) days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and

- D.8. A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.
- E. *Physical Search Of Property.* In the event that the Missouri Department of Revenue notifies the towing company that the records of the Department of Revenue fail to disclose the name of the owner or any lienholder of record, the towing company shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents were found and a good faith effort has been made. For purposes of this Section, "*good faith effort*" means that the following checks have been performed by the company to establish the prior State of registration and title:
- E.1. Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a State of possible registration and title;
- E.2. Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;
- E.3. Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and
- E.4. If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.
- F. *Petition In Circuit Court.* The owner of the abandoned property removed pursuant to this Article or any person claiming a lien, other than the towing company, within ten (10) days after the receipt of notification from the towing company pursuant to Subsection (E) of this Section may file a petition in the Associate Circuit Court in the County where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The Missouri Director of Revenue shall not be a party to such petition but a copy of the petition shall be served on the Director of Revenue.
- G. *Notice To Owner.* Notice as to the removal of any abandoned property pursuant to this Article shall be made in writing within five (5) working days to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and the place to which the property has been removed by either:
- G.1. The public agency authorizing the removal; or
- G.2. The towing company, where authorization was made by an owner or lessee of real property.

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this Section shall include the amount of mileage if available shown on the abandoned property at the time of removal.

H. *Tow Truck Requirements.* Any towing company which tows abandoned property for hire shall have the towing company's name, City and State clearly printed in letters at least three (3) inches in height on the sides of the truck, wrecker or other vehicle used in the towing.

- I. *Storage Facilities.* Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this Article shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property.
- J. *Disposition Of Towed Property.* Notwithstanding the provisions of Section 301.227, RSMo., any towing company who has complied with the notification provisions in Section 304.156, RSMo., including notice that any property remaining unredeemed after thirty (30) days may be sold as scrap property may then dispose of such property as provided in this Subsection. Such sale shall only occur if at least thirty (30) days has passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in Section 304.156, RSMo. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the Director of Revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the Director of Revenue within two (2) weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three (3) years that shall be available for inspection by law enforcement and authorized Department of Revenue officials. The record shall contain the year, make, identification number of the property, date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing company as required in this Chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in Section 301.227, RSMo., Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in Section 301.227, RSMo., on vehicles purchased on a bill of sale pursuant to the Section.

SECTION 215.090: MAXIMUM CHARGES

- . A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of this Article.
- A. The Board of Aldermen may from time to time establish maximum reasonable towing, storage and other charges which can be imposed by towing and storage companies operating within the City and which are consistent with this Article and with Sections 304.155 to 304.158, RSMo. Any violation of said established maximum charges shall be deemed a violation of this Section of the Code and shall be punishable pursuant to Section 100.220.
- B. A towing company may impose a charge of not more than one-half (½) of the regular towing charge for the towing of abandoned property at the request of the owner of private real property or that owner's agent pursuant to this Article if the owner of the abandoned property or the owner's agent returns to the abandoned property before it is removed from the private real property. The regular towing charge may only be imposed after the abandoned property has been removed from the property and is in transit.

SECTION 215.100: SALE OF ABANDONED PROPERTY BY CITY

When the City has physical possession of the abandoned property, it may sell the abandoned property in accordance with its established provisions and regulations and may transfer ownership

by means of a bill of sale signed by the City Clerk and sealed with the official City Seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number, and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of Section 301.218, RSMo., or Section 301.560, RSMo., or for any other person.

ARTICLE III. WEEDS, HIGH GRASS OR OTHER VEGETATION

SECTION 215.110: WEEDS, HIGH GRASS OR OTHER VEGETATION

- . *Failure To Keep Weeds, High Grass And Other Vegetation Cut And Removed, A Nuisance.* All persons owning or occupying any lot or tract of land in the City shall keep the weeds, high grass and other vegetation growing on such property cut and removed. Whenever such weeds, high grass or other vegetation shall attain the height of six (6) inches, it shall be deemed a public nuisance.
- A. *Unlawful To Maintain Such Nuisance.* It shall be unlawful for any person to create or maintain a nuisance as defined in Subsection (A).
- B. *Liability.* Whenever weeds, high grass or other vegetation in violation of Subsection (A) of this Section are allowed to grow on any part of any lot or ground within the City, the owner of the ground or, in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof shall be liable.
- C. *Notice.* The City Superintendent or other official designated by the Mayor shall give a hearing after ten (10) days' notice thereof either personally or by United States mail to the owner or owners, or his/her or their agents, or by posting such notice on the premises; thereupon, the City Superintendent or other designated City Official may declare the weeds, high grass or other vegetation to be a nuisance and order the same to be abated within five (5) days.
- D. *Disposition.* In case the weeds, high grass or other vegetation are not cut down and removed within the five (5) days, the City Superintendent or other designated City Official shall have the weeds, high grass or other vegetation cut down and removed and shall certify the costs of same to the City Clerk.
- E. *Tax Bill.* The City Clerk shall cause a special tax bill therefor against the property to be prepared and to be collected by the Collector with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first (1st) lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the City Clerk and delivered to the Collector on or before the first (1st) day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent (8%) per annum.

- F. *Penalty.* Each person who shall neglect to cut and remove weeds, grass or other vegetation as directed in this Section, or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided, or who shall resist or obstruct the City Superintendent or other representative of the City in the cutting and removal of weeds, grass and other vegetation shall upon conviction thereof be guilty of a misdemeanor. The preparation of a tax bill as authorized by Subsection (G) shall not relive any person of liability under this Subsection.

- F.1. Each person convicted of a violation of this Section shall be penalized as provided in Section 100.220 of this Code.
- F.2. As provided in Section 100.220 of this Code, each day on which a violation of this Article continues shall constitute a separate offense. (CC 1998 §65.040; Ord. No. 639 §1(65.025), 5-4-92)

ARTICLE IV. TREES AND TREE TRIMMING

SECTION 215.120: DUTY OF PROPERTY OWNERS AS TO DECAYED OR DISEASED TREES

- . It shall be unlawful for the owner of any lot or parcel of ground in the City to maintain or allow to stand upon such lot or parcel of ground any tree or tree limb which, due to a diseased, decayed or broken condition or for any other reason, endangers or is likely to injure any person or property in and upon a street or any adjacent property in the City or to cause damage to any tree of other land owners by the spread of a contagious disease.
- A. It shall be the duty of the owner of any lot or parcel of ground in the City to properly cause such trees or tree limbs as are described in Subsection (A) of this Section to be cut down, and no tree or tree limb in the City which has been cut down or which has fallen or been broken down shall be permitted to remain in or upon any sidewalk, street or adjacent property in the City or so near thereto as to endanger any person thereon, and it shall be the duty of the owner of such lot or parcel of ground to cause the same to be promptly removed, and it shall be unlawful for any such owner to fail so to do. (CC 1988 §67.040)

SECTION 215.130: TRIMMING OF TREES, ETC.-PROHIBITED

It shall be unlawful and a nuisance for the owner, and the term "*owner*" shall include persons having the fee simple title to any lot, his/her rental agent or the agent or trustee of such owner who has control or management of such lot, of any lot alongside any intersecting street or alongside any street which enters or runs into another street to have or to permit any fence, wall, sign or signboard or billboard to be erected nearer than thirty (30) feet to the curb of such street or to erect such street or to erect such structure to a greater height than three (3) feet above the crown of the street at the point of intersection. Every person owning any such lot shall keep all trees trimmed of limbs, branches and leaves which hang down or obstruct the vision between a point six (6) feet above the crown of any such street and a point three (3) feet above the crown of any such street where such trees are located nearer than eight (8) feet from the curb of any such street. It shall be unlawful and a nuisance for the owner of any such lot to keep or maintain any plants, flowers, shrubs, bushes, weeds or other vegetation, other than trees, on any such lot at a point nearer than eight (8) feet to the curb line of any street at a greater height than three (3) feet above the crown of such street, unless the same are trimmed of limbs, branches and leaves between a point six (6) feet above the crown of such street and a point three (3) feet above the crown of such street. (CC 1988 §67.070)

SECTION 215.140: ABATEMENT, ETC., BY CITY

In the event any obstruction to the view of any street intersection shall be maintained in violation of this Article, the City, after due notice to the owner to abate or remove such nuisance, may

through the proper officer enter upon such real estate and remove any such obstructions to the view or trim any such plants, flowers, shrubs, bushes, weeds, trees or other vegetation which do not meet the requirements of this Article. The cost of such work shall be assessed against the owner in the manner prescribed by law. (CC 1988 §67.080)

ARTICLE V. NOISE

SECTION 215.150: NOISE-PROHIBITED IF UNREASONABLY LOUD, DISTURBING OR UNNECESSARY

The creating of any unreasonably loud, disturbing and unnecessary noise within the City is hereby prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is prohibited. (Ord. No. 647 §74.140, 8-4-92)

SECTION 215.160: NOISE-ENUMERATION OF PROHIBITED NOISES

The following acts, among others, are declared to be loud, disturbing and unnecessary noises and constitute violations of the preceding Section, but this enumeration shall not be deemed to be exclusive:

- .1. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle for a prolonged, unnecessary and unreasonable period of time.
- .2. The playing of any radio, phonograph, juke box, musical instrument or any sound reproduction device in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any dwelling, hotel or other type of residence of any persons in the vicinity.
- .3. Yelling, shouting, hooting, whistling or singing on the public streets at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in the vicinity, both in residential and commercial districts.
- .4. The keeping of any animal, bird or fowl which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.
- .5. The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- .6. The unreasonable and unnecessary and prolonged blowing of any steam whistle.
- .7. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

- .8. The erection (including excavation), demolition, alteration or repair of any building in any residential district and the excavation of streets and highways in any residential district other than between the hours of 7:00 A.M. and 10:00 P.M. on weekdays except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the

Building Inspector, which permit may be granted for a period not to exceed thirty (30) days while the emergency continues. If the Building Inspector should determine the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 10:00 P.M. and 7:00 A.M. and if he/she shall further determine that loss or inconvenience would result to any party in interest, he/she may grant permission for such work to be done within the hours of 10:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during progress of the work.

- .9. The creation of any excessive noise within one thousand (1,000) feet of any school, institution of learning, church or court while the same are in session, which unreasonably interferes with the workings or sessions thereof, or the creation of any excessive noise within one thousand (1,000) feet of any hospital, sanitarium, nursing or convalescent facility.
- .10. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- .11. The use of any musical instrument, loud speaker or other noise-making device for the purpose of attracting attention to any performance, show or sale or display of merchandise or for any other purpose between the hours of 9:00 P.M. and 8:00 A.M.
- .12. The use of loud speakers or amplifiers on either moving or standing vehicles for advertising, singing or public speaking or other purposes. (Ord. No. 647 §74.150, 8-4-92)

SECTION 215.170: NOISE-EXCEPTIONS

There shall be excepted from the terms of Sections 215.150 and 215.160 and the prohibitions therein contained shall not apply to or be enforced against:

- .1. Any ambulance, any officer of the law while engaged in necessary public business, or any vehicle of the City while engaged in necessary public business.
- .2. Sounds created by fire alarms and other safety and protective devices where noise suppression would defeat the safety intent of the device.
- .3. Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community.
- .4. Excavations or repairs of bridges, streets or highways by or on behalf of the City, the County or the State during the nighttime when the public welfare and inconvenience render it impracticable to perform such work during the day.
- .5. The reasonable use of amplifiers in the course of public addresses which are non-commercial in character. (Ord. No. 647 §74.160, 8-4-92)

SECTION 215.180: NOISE-PLAYING MUSICAL INSTRUMENTS AT NIGHT

No person shall play or cause to be played any musical instrument or device producing musical sound between the hours of 1:30 A.M. and 6:00 A.M.; provided, that this Section shall not apply to musical instruments being played in churches or as part of regular church entertainment, social

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entertainment in private homes, entertainments in public buildings where an admission fee is charged therefor, or in any enclosed structure located at a greater distance than two hundred (200) feet from any dwelling, hotel, hospital, nursing home or sanitarium. (Ord. No. 647 §74.170, 8-4-92)

CHAPTER 220: HUMAN RIGHTS

ARTICLE I. DISCRIMINATORY PRACTICES

SECTION 220.010: UNLAWFUL HOUSING PRACTICES

A. It shall be an unlawful housing practice:

1. To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, to deny or otherwise make unavailable a dwelling to any person because of race, color, religion, national origin, ancestry, sex, disability or familial status.
2. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, disability or familial status.
3. To make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, ancestry, sex, disability or familial status or an intention to make any such preference, limitation or discrimination.
4. To represent to any person because of race, color, religion, national origin, ancestry, sex, disability or familial status that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
5. To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, ancestry, sex, disability or familial status.
6. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:
 - a. That buyer or renter;
 - b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
 - c. Any person associated with that buyer or renter.
7. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
 - a. That person;

- b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
- c. Any person associated with that person.

- B. For purposes of Sections 220.010, 220.020 and 220.030, discrimination includes:
1. A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
 2. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
 3. In connection with the design and construction of covered multi-family dwellings for first (1st) occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:
 - a. The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability.
 - b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs.
 - c. All premises within such dwellings contain the following features of adaptive design:
 - (1) An accessible route into and through the dwelling;
 - (2) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
 - (3) Reinforcements in bathroom walls to allow later installation of grab bars; and
 - (4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- C. As used in Subdivision (3) of Subsection (B) of this Section, the term "*covered multi-family dwelling*" means:
1. Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and
 2. Ground floor units in other buildings consisting of four (4) or more units.
- D. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for people with physically disabilities, commonly cited as "ANSI A117.1", suffices to satisfy the requirements of Subsection (B)(3)(a) of this Section.

SECTION 220.020: DISCRIMINATION IN COMMERCIAL REAL ESTATE LOANS

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making

of commercial real estate loans to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, disability or familial status to a person applying therefor for the purpose of purchasing, construction, improving, repairing or maintaining a dwelling, or to discriminate against him/her in fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, religion, national origin, ancestry, sex, disability or familial status of such person or of any person associated with him/her in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwellings in relation to which such loan or other financial assistance is to be made or given.

SECTION 220.030: DISCRIMINATION IN SELLING OR RENTING BY REAL ESTATE AGENCIES PROHIBITED

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization or facility relating to the business of selling or renting dwellings on account of race, color, religion, national origin, ancestry, sex, disability or familial status.

SECTION 220.040: DISCRIMINATION IN PUBLIC ACCOMMODATIONS PROHIBITED—EXCEPTIONS

- A. All persons within the City of Bernie are free and equal and shall be entitled to the full and equal use and enjoyment within this State of any place of public accommodation, as hereinafter defined, without discrimination or segregation on the grounds of race, color, religion, national origin, sex, ancestry or disability.
- B. It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person or to attempt to refuse, withhold from or deny any other person any of the accommodations, advantages, facilities, services or privileges made available in any place of public accommodation, as defined in Section 213.010, RSMo., and this Section, or to segregate or discriminate against any such person in the use thereof on the grounds of race, color, religion, national origin, sex, ancestry or disability.
- C. The provisions of this Section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association or society or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in Section 213.010, RSMo., and this Section.

SECTION 220.050: ADDITIONAL UNLAWFUL DISCRIMINATORY PRACTICES

It shall be an unlawful discriminatory practice:

1. To aid, abet, incite, compel or coerce the commission of acts prohibited under this Chapter or to attempt to do so;

2. To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this Chapter or because such person has filed a complaint,

testified, assisted or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this Chapter;

3. For the City to discriminate on the basis of race, color, religion, national origin, sex, ancestry, age as it relates to employment, disability or familial status as it relates to housing; or
4. To discriminate in any manner against any other person because of such person's association with any person protected by this Chapter.

SECTION 220.060: EXEMPTIONS

- A. Nothing in this Chapter shall be construed to invalidate or limit any law of the State or of the City that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this Chapter.
- B. Nothing in Sections 220.010, 220.020 and 220.030:
 1. Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
 2. Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling, nor does any provision of said Sections regarding familial status apply with respect to housing for older persons.
 3. Shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by Section 195.010, RSMo.
- C. Nothing in this Chapter shall prohibit a religious organization, association or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.
- D. Nothing in this Chapter, other than the prohibitions against discriminatory advertising in Subsection (A)(3) of Section 220.010, shall apply to:
 1. The sale or rental of any single-family house by a private individual owner, provided the following conditions are met:
 - a. The private individual owner does not own or have any interest in more than three (3) single-family houses at any one (1) time; and

- b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does

not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this Section applies to only one (1) such sale in any twenty-four (24) month period.

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his/her residence.

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CHAPTER 225: EMERGENCY MANAGEMENT

SECTION 225.010: ESTABLISHMENT

There is hereby created within and for the City of Bernie an emergency management organization to be known as the Bernie Emergency Management Organization which is responsible for the preparation and implementation of emergency functions required to prevent injury and minimize and repair damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, and emergency activities (excluding functions for which military forces are primarily responsible) in accordance with Chapter 44, RSMo., and supplements thereto, and the Missouri Emergency Operations Plan adopted thereunder.

SECTION 225.020: ORGANIZATION

This agency shall consist of a Director and other members appointed by the Bernie Emergency Management Organization to conform to the State organization and procedures for the conduct of emergency operations as outlined in the Missouri Emergency Operations Plan.

SECTION 225.030: FUNCTIONS

The organization shall perform emergency management functions within the City of Bernie and may conduct these functions outside the territorial limits as directed by the Governor during the time of emergency pursuant to the provisions of Chapter 44, RSMo., and supplements thereto.

SECTION 225.040: DIRECTOR

- A. The Director will be appointed by the Mayor and shall serve at the pleasure of the Board of Aldermen.
- B. The Director shall have direct responsibility for the organization, administration and operations of local emergency management operations, subject to the direction and control of the Mayor or Board of Aldermen.
- C. The Director shall be responsible for maintaining records and accounting for the use and disposal of all items of equipment placed under the jurisdiction of the Bernie Emergency Management Organization.

SECTION 225.050: SCOPE OF OPERATION

The City of Bernie in accordance with Chapter 44, RSMo., may:

1. Appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for emergency management purposes; provide for the health and safety of persons, the

safety of property; and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the Federal and State Governments.

2. Appoint, provide or remove rescue teams, auxiliary fire and Police personnel and other emergency operation teams, units or personnel who may serve without compensation.

SECTION 225.060: MUTUAL-AID AGREEMENTS

- A. The Mayor may enter into mutual-aid arrangements or agreements with other public and private agencies within and without the State for reciprocal emergency aid. Such arrangements or agreements shall be consistent with the State disaster plan and program and the provisions of Section 70.837, RSMo., and Section 320.090, RSMo. In time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual-aid arrangements or agreements.
- B. The coordinator of each local organization for emergency management may assist in negotiation of reciprocal mutual-aid agreements between the coordinator's organization and other public and private agencies and between the Governor and the adjoining States or political subdivisions thereof, and shall carry out arrangements or agreements relating to the local unit.

SECTION 225.070: CITY MAY ACCEPT SERVICES, ETC.

The Mayor of the City may, with the consent of the Governor, accept services, materials, equipment, supplies or funds gifted, granted or loaned by the Federal Government or an officer or agency thereof for emergency management purposes, subject to the terms of the offer.

SECTION 225.080: OATH

No person shall be employed or associated in any capacity in the Bernie Emergency Management Organization who advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this State or the overthrow of any Government in the United States by force or violence or has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in the Bernie Emergency Management Organization shall, before entering upon his/her duties, take an oath, in writing, before a person authorized to administer oaths in this State, which oath shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Missouri against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence; and that during such a time as I am a member of the Bernie Emergency Management Organization, I will not advocate nor become a member of any political party or organization that advocates

the overthrow of the Government of the United States or of this State by force or violence."

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SECTION 225.090: OFFICE SPACE

The Mayor is authorized to designate space in any City-owned or leased building for the Bernie Emergency Management Organization.

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CHAPTER 230: SOLID WASTE

ARTICLE I. GENERALLY

SECTION 230.010: DEFINITIONS

For the purposes of this Chapter, the following terms shall be deemed to have the meanings indicated below:

BULKY RUBBISH: Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded in solid waste transportation vehicles by solid waste collectors with the equipment available therefor.

CITY: The City of Bernie, Missouri.

COLLECTION: Removal of solid waste from its place of storage to the transportation vehicle.

COMMERCIAL SOLID WASTE: All solid waste generated from a source other than a dwelling unit.

CONTRACTOR: Such person, firm or corporation as may be contracted with to provide solid waste transportation and disposal for the City.

CURBSIDE: A location adjacent to and not more than five (5) feet from any street.

DISPOSABLE SOLID WASTE CONTAINER: Disposable plastic sacks with a capacity of twenty (20) to thirty-nine (39) gallons or, if specifically designated for storage of solid waste, a maximum of fifty-five (55) gallons.

DWELLING UNIT: Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and eating. Units of multiple-housing facilities may be billed as dwelling units upon request by the owner of said dwelling units.

GARBAGE: Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food.

HAZARDOUS WASTES: Any waste or combination of wastes, as determined by the Hazardous Waste Management Commission by rules and regulations, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a present or potential threat to the health of humans or the environment.

MAJOR APPLIANCES: Clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, wood stoves, air-conditioners, refrigerators and freezers.

OCCUPANT: Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as a tenant.

PERSON: Any natural individual, firm, partnership, trust, association or corporation. As applied to partnerships or associations, the word includes the partners or members thereof; and as applied to corporations, it includes the officers, agents or employees thereof who are responsible for the act referred to.

PROCESSING: Incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

PROHIBITED ITEMS: Items which are eliminated by State law from being disposed of in a solid waste disposal area including, but not limited to, major appliances, waste oil, lead acid batteries, waste tires and the like as the same may be now or hereafter defined by State law.

PROHIBITED YARD WASTES: Leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

RESIDENTIAL SOLID WASTE: Solid waste resulting from the maintenance and operation of dwelling units.

SOLID WASTE: Garbage, refuse and other discarded materials including, but not limited to, solid and semi-solid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in Sections 260.360 to 260.432, RSMo., recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting. Solid waste does not include "yard waste" as defined herein.

SOLID WASTE CONTAINER: Receptacle used by any person to store solid waste during the interval between solid waste collections.

SOLID WASTE DISPOSAL: The process of discarding or getting rid of unwanted material. In particular the final disposition of solid waste by man.

SOLID WASTE MANAGEMENT: The entire solid waste system of storage, collection, transportation, processing and disposal.

STORAGE: Keeping, maintaining or storing solid waste from time of its production until the time of its collection.

TRANSPORTATION: The transporting of solid waste from the place of collection or processing to a solid waste processing facility or solid waste disposal area.

SECTION 230.020: SOLID WASTE STORAGE

- . The occupant of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste within the corporate limits of the City shall provide sufficient and adequate containers for the storage of all solid waste, except bulky rubbish and demolition and construction waste, to serve each such dwelling unit and/or establishment and to maintain such solid waste containers at all times in good repair.

- A. The occupant of every dwelling unit and of every institutional, commercial, business, industrial or agricultural establishment shall place all solid waste to be collected in proper solid waste containers and shall maintain such solid waste containers and the area surrounding them in a clean, neat and

sanitary condition at all times. Accumulation of waste in suitable containers shall not be stored upon any site in the City for a period longer than ten (10) days.

- B. Residential solid waste shall be stored in containers of not more than thirty-nine (39) gallons nor less than twenty (20) gallons in nominal capacity, except that residential solid waste may be stored in trash bags of adequate strength in a size not to exceed fifty-five (55) gallons. All containers, including bags, shall be leakproof and waterproof, fly-tight and properly covered, tied or enclosed, except when depositing waste therein or removing the contents thereof. Containers other than bags shall have handles, bails or other suitable lifting devices or features. Containers other than bags shall be of a type originally manufactured for residential solid waste with tapered sides for easy emptying. They shall be of lightweight and sturdy construction. The weight of any individual container, including bags and its contents, shall not exceed fifty (50) pounds. Galvanized metal containers or rubber, fiberglass or plastic containers which do not become brittle in cold weather may be used in addition to bags. Disposable solid waste containers with suitable frames or containers as approved by the City may also be used for storage of residential solid waste. Galvanized metal containers or rubber, fiberglass or plastic containers with suitable frames or containers as approved by the City may also be used for storage of residential solid waste. All solid waste must be bagged and tied even in containers.
- C. Commercial solid waste shall be stored in solid waste containers as approved by the Board. The containers shall be waterproof, leakproof and shall be covered at all times except when depositing waste therein or removing the contents thereof and shall meet all requirements as set forth by Section 230.060.
- D. Solid waste containers which are not approved will be collected together with their contents and disposed of.

SECTION 230.030: COLLECTION OF SOLID WASTE

- . The City shall provide for the collection of solid waste as follows:
 - .1. *Collection of residential solid waste.* The City shall provide for the collection of residential solid waste in the City, provided however, that the City may provide the collection service by contracting with a person, County or other City or a combination thereof for the entire City or portions thereof as deemed to be in the best interests of the City.
 - .2. *Other collections.* The City may, at its discretion, provide commercial solid waste collection services upon specific application of the owners or persons in charge thereof. However, in the event that such application is not made or approved, it shall be the duty of such establishment to provide for collection of all solid waste produced upon any such premises in a manner approved by City. If and when the City does provide commercial collection service, the provisions herein concerning such service shall apply.
- A. All solid waste from premises to which collection services are provided under contract with the City shall become the property of the collection agency upon being loaded into the transportation equipment.

- B. Solid waste containers as required by this Chapter for the storage of residential solid waste shall be placed at curbside for collection but shall not be so placed until after 6:00 P.M. on the day next preceding the regularly scheduled collection day. Containers shall be removed from curbside no

later than 8:00 P.M. on the day of collection. No alley service shall be allowed under the terms of this Chapter, except as approved by the Board of Aldermen.

- C. Individuals desiring the collection of bulky rubbish shall deal directly with those licensed by the City for the collection of the same.
- D. Solid waste collectors, employed by the City or a solid waste collection agency operating under contract with the City, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this Chapter. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste.
- E. It shall be the responsibility of the occupants of each dwelling unit to prepare, package and deliver solid waste to curbside for collection as prescribed in this Chapter and as it may be amended from time to time.
- F. It shall be the responsibility of each commercial, industrial, institutional or other non-residential generator of solid waste to prepare, package and store solid waste so generated as prescribed by this Chapter and as it may be amended from time to time.
- G. It shall be the responsibility of every solid waste collector to abide by this Chapter and receive and transport solid waste in a manner consistent with the provisions of this Chapter.
- H. The following collection frequencies shall apply to collections of solid waste within the City: All residential solid waste, other than bulky rubbish, shall be collected at least once weekly. All commercial solid waste shall be collected once weekly and shall be collected at such lesser intervals as may be fixed by the Board upon a determination that such lesser intervals are necessary for the preservation of the health and/or safety of the public.
- I. Residential solid waste containers shall be stored upon the residential premises. Except as provided in Subsection (C) hereof, all solid waste containers stored out-of-doors shall be stored behind any building located on the tract of land. Commercial solid waste containers shall remain in the location from which they are to be serviced except while being serviced.
- J. All solid waste collectors operating under contract with the City or otherwise collecting solid waste within the City limits shall be responsible for the collected solid waste from the point of collection to the point of disposal, provided the solid waste was stored in compliance with the applicable Sections of this Chapter. Any spillage or blowing litter caused as a result of the duties of the solid waste collector shall be collected and placed in the transportation vehicle by the solid waste collector.
- K. It shall be unlawful for any person, firm or corporation collecting and disposing of rubbish, garbage or waste material from premises in the residential districts or premises in any commercial district which abuts or adjoins a residential district in the City to make such collection or dispose of rubbish, garbage or waste materials between the hours of 9:00 P.M. and 7:00 A.M.

SECTION 230.040: TRANSPORTATION OF SOLID WASTE

- . All transportation vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever

the vehicle is transporting solid waste or, as an alternative, the entire bodies thereof shall be enclosed with only loading hoppers exposed. Provided however, other vehicles may be used to transport bulky rubbish which because of its size or weight is not susceptible to being loaded or unloaded in vehicles described above, but in no event shall such vehicles be operated without adequate cover or binding to prevent spillage or waste therefrom and in accordance with the rules and regulations made by the Board.

- A. Permits shall not be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities. However, all such material shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.
- B. Transportation and disposal of demolition and construction wastes shall be in accordance with this Section and Section 230.050.

SECTION 230.050: DISPOSAL OF SOLID WASTE

- . Solid wastes shall be deposited at a processing facility or disposal area approved by the City and complying with all requirements of the Missouri Solid Waste Management Law, Sections 260.200 to 260.255, RSMo., and the rules and regulations adopted thereunder. The City may designate the processing or disposal facility to be utilized by persons holding permits under this Chapter.
- A. The Board may classify certain wastes as hazardous wastes which will require special handling and shall be disposed of only in a manner acceptable to the Board which will meet all local, State and Federal regulations.

SECTION 230.060: RULES AND REGULATIONS

- . The Board may make, amend, revoke and enforce reasonable and necessary rules and regulations governing, but not limited to:
 - .1. Preparation, drainage and wrapping of garbage deposited in solid waste containers.
 - .2. Specifications for solid waste containers including the type, composition, equipment, size and shape thereof.
 - .3. Identification of solid waste containers and of the covers thereof and of equipment thereto appertaining, if any.
 - .4. Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations on bundles of solid waste too large for solid waste containers.
 - .5. Storage of solid waste in solid waste containers.

- .6. Sanitation, maintenance and replacement of solid waste containers.
- .7. Schedules of and routes for collection and transportation of solid waste.
- .8. Collection points of solid waste containers.

- .9. Collection, transportation, processing and disposal of solid waste.
 - .10. Processing facilities and fees for the use thereof.
 - .11. Disposal facilities and fees for the use thereof.
 - .12. Records of quantity and type of wastes received at processing and/or disposal facilities.
 - .13. Handling of special wastes such as toxic wastes, sludge, ashes, agriculture, construction, bulky items, tires, automobiles, oils, greases, etc.
- A. The City Clerk or such other City Official who is responsible for preparing utility or other service charge billings for the City is hereby authorized to make and promulgate reasonable and necessary rules and regulations for the billing and collection of solid waste collection and/or disposal service charges, as hereinafter provided for, subject to the approval of the Board.
- B. A copy of any and all rules and regulations made and promulgated under the provisions hereof shall be filed in the office of the City Clerk of the City.

SECTION 230.070: PROHIBITED PRACTICES

It shall be unlawful for any person to:

- .1. Deposit solid waste in any solid waste container other than his/her own without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal.
- .2. Interfere in any manner with solid waste collection and transportation equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the City, those of a solid waste collection agency operating under contract with the City, or any duly licensed collector.
- .3. Dispose of solid waste at any facility or location which is not approved by the City and the Missouri Division of Health.
- .4. Engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City without a permit from the City, or operate under an expired permit, or operate after a permit has been suspended or revoked.

SECTION 230.080: BONDS

The Board may require performance or payment bonds of any solid waste collection agency prior to issuing permits to so operate.

SECTION 230.090: SERVICE CHARGES

There is hereby imposed for the collection and disposal of solid wastes and for the improvement of the general public and environment a service charge which shall be set forth in the City budget.

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Solid Waste

ARTICLE II. STREETS AND SIDEWALKS

SECTION 230.100: STREET USE PERMIT–WHEN REQUIRED

Any person proposing to place any obstruction or obstructions upon a public way, as set out in the preceding Sections, shall first secure a permit so to do from the City Administrator and such person may be required, at the discretion of the Board of Aldermen, to make a cash deposit with the City Collector to insure that all such obstructions will be safeguarded as required by this Chapter and promptly removed. Said deposit shall be in an amount not to exceed five hundred dollars (\$500.00) and shall be refunded after full compliance herewith and conditions restored equal to that existing prior to the placing of the obstructions. (CC 1988 §90.030)

SECTION 230.110: SIDEWALKS TO BE KEPT CLEAN–PENALTY

The tenants or occupants of all premises occupied by them and the owners or agents of vacant lots owned by them or under their control shall keep the sidewalks in front of and adjoining the property owned, controlled or occupied by them swept and clear of paper, dirt, mud, filth, animal or vegetable matter or any substance or article. After any fall of snow or sleet or formation of ice thereon, said owners, agents, occupants or tenants shall cause the same to be immediately removed from the sidewalk fronting or adjoining the property owned, managed or occupied by them. Where buildings are occupied by more than one (1) tenant, it shall be the duty of the person or persons occupying the tenement or tenements nearest the street to comply with the requirements of this Section. Any person violating any provision of this Section shall be deemed guilty of a misdemeanor. (CC 1988 §90.040)

SECTION 230.120: GOODS FOR SALE ON SIDEWALK–PROHIBITED

It shall be unlawful to place and display for sale upon any public sidewalk within the City of Bernie any groceries, provisions, commodities, vegetables, fruit, produce, goods, wares or merchandise. Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor. (CC 1988 §90.050)

SECTION 230.130: USE OF CLOSED STREET A MISDEMEANOR

It shall be unlawful for any person to use any street or highway or part thereof which has been withdrawn from use by the public, or to drive or attempt to drive any vehicle thereon, or to remove or destroy any barricade, warning light or sign placed upon said street or highway or around or upon any obstruction or defect thereon as protection or warning to the public. Any person who violates any provision of this Section shall be deemed guilty of a misdemeanor. (CC 1988 §90.060)

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CHAPTER 235: GARAGE SALES

SECTION 235.010: DEFINITIONS

For the purpose of this Chapter, the following terms, phrases, words and their normal derivations will have the meanings given herein:

GARAGE SALE: A sale of goods offered to the public conducted at a single-family, a dual-family, or a multi-family residential dwelling place.

GOODS: Any goods, wares, merchandise, articles or other personal property capable of being the object of a sale regulated hereunder.

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind. (CC 1988 §59.010)

SECTION 235.020: NUMBER OF SALES

It shall be unlawful to conduct more than four (4) garage sales at the same location within any calendar year. (Ord. No. 549 §1(59.020), 8-8-88)

SECTION 235.030: NOTIFICATION

Any person proposing to conduct a garage sale must notify, in writing, the Bernie Police Department of the place where such sale is to be conducted, the dates of such sale, and the names, addresses and telephone numbers of the persons responsible for conducting such sale. (CC 1988 §59.030)

SECTION 235.040: DURATION OF SALES

It shall be unlawful to conduct a garage sale lasting longer than two (2) days duration. (Ord. No. 549 §2(59.040), 8-8-88)

SECTION 235.050: ADVERTISING SIGNS RESTRICTED

No person shall erect, place, post or mark any sign advertising a garage sale on any public property, including street signs and posts and traffic signs and posts or on any public utility pole. Any sign erected, placed, posted or marked advertising such garage sale shall be placed no longer than two (2) days before the sale and shall be removed on or before the last day of such sale. The person responsible for conducting such garage sale shall be responsible for removing any such sign. (CC 1988 §59.050)

SECTION 235.060: NO CONSIGNMENT OF GOODS

No personal property of any type belonging to anyone not living in the residence, or which the person living in such residence has not owned at least six (6) months, shall be brought upon the premises for the purpose of being sold in such garage sale, provided that the members of a

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neighborhood may jointly hold a garage sale at one (1) or more locations, provided each person is listed on the license therefor. (CC 1988 §59.060)

SECTION 235.070: GOODS NOT TO BE DISPLAYED ON PUBLIC PROPERTY

No goods offered for sale at a garage sale shall be displayed for sale on any public street or right-of-way. (CC 1988 §59.080)