

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:
 - a. A court orders his/her release;
 - b. He/she is released on bail, bond or recognizance, personal or otherwise; or
 - 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:
 - a. He/she is on probation or parole, temporary or otherwise; or
 - 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, forcible rape, forcible sodomy, kidnapping, murder in the second degree and robbery in the first degree.

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.

ARTICLE II Offenses Against The Person

Section 210.010. Assault.

- A. 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.¹

- A. 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;

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

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.

Section 210.017. Arrest For Violation of Order.

When a Law Enforcement Officer has probable cause to believe a party has committed a violation of law amounting to abuse or assault, as defined in Section 455.010, RSMo., against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this Section, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any Law Enforcement Officer subsequently called to the same address within a twelve (12) hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this Section against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of non-arrest in the preceding twelve (12) hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this Section.

Section 210.020. Assault of A Law Enforcement Officer.

- A. A person commits the offense of assault of a Law Enforcement Officer if:
1. He/she attempts to cause or recklessly causes physical injury to a Law Enforcement Officer;
 2. With criminal negligence he/she causes physical injury to a Law Enforcement Officer by means of a deadly weapon;
 3. He/she purposely places a Law Enforcement Officer in apprehension of immediate physical injury;
 4. He/she recklessly engages in conduct which creates a grave risk of death or serious physical injury to a Law Enforcement Officer; or
 5. He/she knowingly causes or attempts to cause physical contact with a Law Enforcement Officer without the consent of the Law Enforcement Officer.

Section 210.030. Harassment.

- A. A person commits the offense of harassment if for the purpose of frightening or disturbing another person he/she:
1. Communicates in writing or by telephone a threat to commit any felony;
 2. Makes a telephone call or communicates in writing and uses coarse language offensive to one of average sensibility;
 3. Makes a telephone call anonymously; or
 4. Makes repeated telephone calls.

Section 210.035. Stalking. ²

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

COURSE OF CONDUCT — A pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct". Such constitutionally protected activity includes picketing or other organized protests;

CREDIBLE THREAT — A threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause physical injury to, a person;

HARASSES — To engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to suffer substantial emotional distress, and that actually causes substantial emotional distress to that person.

- B. Any person who purposely and repeatedly harasses or follows with the intent of harassing another person commits the offense of stalking.
- C. Any person who purposely and repeatedly harasses or follows with the intent of harassing or harasses another person, and makes a credible threat with the intent to place that person in reasonable fear of death or serious physical injury, commits the offense of aggravated stalking.
- D. Any Law Enforcement Officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this Section.

Section 210.040. False Imprisonment. ³

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.

Section 210.050. Endangering The Welfare of A Child. ⁴

². Note—Under certain circumstances this offense can be a felony under state law.

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

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

Section 210.055. Leaving A Child Unattended in A Motor Vehicle.⁵

- 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, such person shall be guilty of a misdemeanor.

⁴. Note—Under certain circumstances this offense can be a felony under state law.

⁵. 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. ⁶

- A. 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.

Section 210.070. Hindering Prosecution. ⁷

- A. 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.

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

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

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

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. ⁸

- 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:
1. Threatens or causes harm to any person or property;
 2. Uses force, threats or deception;
 3. Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
 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:
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;
 2. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof; or
 3. Arresting or causing or seeking the arrest of any person in connection with such victimization.

Section 210.105. Tampering With Physical Evidence. ⁹

- A. A person commits the offense of tampering with physical evidence if he/she:
1. Alters, destroys, suppresses or conceals any record, document or thing with purpose to impair its verity, legibility or availability in any official proceeding or investigation; or

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

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

2. Makes, presents or uses any record, document or thing knowing it to be false with purpose to mislead a public servant who is or may be engaged in any official proceeding or investigation.

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 210.115. False Impersonation.

- A. A person commits the offense of false impersonation if he/she:
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
 - a. Performs an act in that pretended capacity; or
 - b. Causes another to act in reliance upon his/her pretended official authority.
 2. Falsely represents himself/herself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this State with purpose to induce another to rely upon such representation, and
 - a. Performs an act in that pretended capacity; or
 - b. Causes another to act in reliance upon such representation.

Section 210.120. False Reports.

- A. A person commits the offense of making a false report if he/she knowingly:
1. Gives false information to a Law Enforcement Officer 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.
- B. 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.

- C. The defendant shall have the burden of injecting the issue of retraction under Subsection (B) of this Section.

Section 210.125. Resisting or Interfering With Arrest. ¹⁰

- A. A person commits the offense of resisting or interfering with arrest 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.
- B. 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.
- 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.

Section 210.130. Escape or Attempted Escape From Custody. ¹¹

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.

Section 210.135. Obstructing Process. [CC 1979 §90.085]

A person commits the crime of obstructing process if he/she knowingly and willfully obstructs, resists, or opposes any officer of the City in the service or execution of any writ, warrant or process or in the discharge of any other duty.

Section 210.137. Obstructing Government Operations.

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

Section 210.140. False Affidavit.

¹⁰. Note—Under certain circumstances this offense can be a felony under state law.
¹¹. Note—Under certain circumstances this offense can be a felony under state law.

- A. A person commits the offense of making a false affidavit if, with purpose to mislead any person, he/she, in any affidavit, swears falsely to a fact which is material to the purpose for which said affidavit is made.
- B. The provisions of Subsections (2) and (3) of Section 575.040, RSMo., shall apply to prosecutions under Subsection (A) of this Section.
- C. It is a defense to a prosecution under Subsection (A) of this Section that the actor retracted the false statement by affidavit or testimony but this defense shall not apply if the retraction was made after:
 - 1. The falsity of the statement was exposed; or
 - 2. Any person took substantial action in reliance on the statement.
- D. The defendant shall have the burden of injecting the issue of retraction under Subsection (C) of this Section.

Section 210.145. False Declarations.

- A. A person commits the offense of making a false declaration if, with the purpose to mislead a public servant in the performance of his/her duty, he/she:
 - 1. Submits any written false statement, which he/she does not believe to be true:
 - a. In an application for any pecuniary benefit or other consideration; or
 - b. On a form bearing notice, authorized by law, that false statements made therein are punishable; or
 - 2. Submits or invites reliance on
 - a. Any writing which he/she knows to be forged, altered or otherwise lacking in authenticity; or
 - b. Any sample, specimen, map, boundary mark, or other object which he/she knows to be false.
- B. The falsity of the statement or the item under Subsection (A) of this Section must be as to a fact which is material to the purposes for which the statement is made or the item submitted; and the provisions of Subsections (2) and (3) of Section 575.040, RSMo., shall apply to prosecutions under Subsection (A) of this Section.
- C. It is a defense to a prosecution under Subsection (A) of this Section that the actor retracted the false statement or item but this defense shall not apply if the retraction was made after:
 - 1. The falsity of the statement or item was exposed; or
 - 2. The public servant took substantial action in reliance on the statement or item.
- D. The defendant shall have the burden of injecting the issue of retraction under Subsection (C) of this Section.

Section 210.150. Proof of Falsity of Statements.

- A. No person shall be convicted of a violation of Sections 575.040, 575.050 or 575.060, RSMo., based upon the making of a false statement except upon proof of the falsity of the statement by:
1. The direct evidence of two (2) witnesses;
 2. The direct evidence of one (1) witness together with strongly corroborating circumstances;
 3. Demonstrative evidence which conclusively proves the falsity of the statement; or
 4. A directly contradictory statement by the defendant under oath together with:
 - a. The direct evidence of one (1) witness; or
 - b. Strongly corroborating circumstances; or
 5. A judicial admission by the defendant that he/she made the statement knowing it was false. An admission, which is not a judicial admission, by the defendant that he/she made the statement knowing it was false may constitute strongly corroborating circumstances.

ARTICLE IV

Offenses Concerning Public Safety

Section 210.160. Abandonment of Airtight or Semi-Airtight Containers.

- A. 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 (1 1/2) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.
- B. Subsection (A) of this Section does not apply to an icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouseman or repairman.
- C. 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.

- A. 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).
- B. 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.

A person commits the offense of abandoning a motor vehicle if he/she abandons any motor vehicle 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.

ARTICLE V
Offenses Concerning Public Peace

Section 210.210. Peace Disturbance.

- A. A person commits the offense of peace disturbance if:
1. He/she unreasonably and knowingly disturbs or alarms another person or persons by:
 - a. Loud noise;
 - 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;
 - 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;
 - d. Fighting; or
 - e. Creating a noxious and offensive odor.
 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. Vehicular or pedestrian traffic; or
 - b. The free ingress or egress to or from a public or private place.

Section 210.220. Private Peace Disturbance.

- A. A person commits the offense of private peace disturbance if he/she is on private property and unreasonably and purposely causes alarm to another person or persons on the same premises by:
1. Threatening to commit a crime or offense against any person; or
 2. Fighting.

Section 210.230. Peace Disturbance Definitions.

For the purposes of Sections 210.210 and 210.220, 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 210.240. Weapons — Carrying Concealed — Other Unlawful Use.¹²

- A. A person commits the offense of unlawful use of weapons if he/she knowingly:
1. Carries concealed upon or about his/her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use;
 2. Discharges or shoots a firearm within the City limits;
 3. Possesses a firearm or projectile weapon while intoxicated;
 4. Carries a firearm or any other weapon readily capable of lethal use; or
 5. 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.
- B. Subparagraphs (1), (2), (4) and (5) of Subsection (A) of this Section shall not apply to or affect any of the following:
1. All State, County and municipal Law Enforcement Officers 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, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 2. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
 3. Members of the Armed Forces or National Guard while performing their official duty;
 4. Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the State and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the Federal judiciary;
 5. Any person whose bona fide duty is to execute process, civil or criminal;
 6. Any Federal Probation Officer;
 7. Any State Probation or Parole Officer, including supervisors and members of the Board of Probation and Parole;
 8. Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the Board of Police Commissioners under Section 84.340, RSMo.; and
 9. The discharge of firearms in connection with any turkey shoots or other charitable event authorized by the Board of Aldermen.

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

- C. Subparagraphs (1), (3), (4) and (5) 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 when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his/her dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through the City. Subparagraph (5) 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.
- D. 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 function or activity sponsored or sanctioned by school officials or the district school board.

Section 210.245. Unlawful Transfer of Weapons — Penalty.

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

Section 210.250. Discharging Air Gun, Etc.

Any person within the limits of this City who shall discharge any spring gun or air gun or shall shoot any pebble, arrow, bullet, slug 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 210.260. 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 210.270. Rioting.¹³

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

Section 210.280. 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 210.286. Lewd Language. [CC 1979 §90.080]

- A. A person commits the crime of lewd language if he/she:
1. Shall address another person, or
 2. Make any statement in public containing wanton, obscene, or lewd language.

Section 210.288. Noise; Penalty. [Ord. No. 375, 11-12-2012]

- A. *Generally.* It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise that either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City.
- B. *Prohibited Acts.* The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:
1. *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the City, except as a danger warning, the creation by means of any such signaling device of any unreasonably loud or harsh sound, and the sounding of any such device for an unnecessary and unreasonable period of time; or the use of any signaling device except one operated by hand or electricity, the use of any horn, whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.
 2. *Radios, phonographs, etc.* Using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the

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

persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 P.M. and 6:00 A.M. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

3. *Loudspeakers used on public streets.* The using of operating of or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure, or for any other purpose, unless upon permit issued by the Chief of Police.
4. *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 P.M. and 6:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
5. *Noisy animals or birds.* The keeping of any animal or bird that, by causing frequent or long-continued noise, shall disturb the comfort or repose of any persons in the vicinity.
6. *Exhausts.* The discharge into the open air of the exhaust of any steam engine, internal combustion engine, including any stationary gasoline or gas engine not employed in portable uses, or motorboat, or motor vehicle, unless the noise from such engine is muffled and equipped with a muffler device sufficient to deaden such noise.
7. *Loading, unloading or opening boxes.* 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.
8. *Construction or repair of buildings; street excavations.* The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 6:00 A.M. and 10:00 P.M. on weekdays, except in case of urgent necessity and 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 three (3) days while the emergency continues, and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the Building Inspector should determine that 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 6:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of

10:00 P.M. and 6:00 A.M. upon application being made at the time the permit for the work is awarded or during the progress of the work.

9. *Creation of noise near school, court, church or hospital.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the school, institution of learning, church or court is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such streets indicating that the street is a school, hospital or court street.
 10. *Hawkers and peddlers.* The shouting and crying of peddlers, hawkers and vendors that disturb the peace and quiet of the neighborhood.
 11. *Piledrivers, hammers etc.* The operation between the hours of 10:00 P.M. and 6:00 A.M. of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
 12. *Domestic power tools.* Operating or permitting the operation of any mechanically, electrically or pneumatic powered saw, drill, sander, grinder, lawn or garden tool, or similar device used in residential areas between the hours of 10:00 P.M. and 6:00 A.M. the following day so as to disturb the comfort or repose of any persons in the vicinity.
 13. *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
 14. *Explosive devices.* Any explosive device, excluding firearms and excluding fireworks when permitted by ordinance, that creates explosive sound so as to disturb the comfort or repose of any persons in the vicinity.
- C. *Penalty.* Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with Missouri law. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this subsection.
- D. *Violations Declared Nuisance; Injunctive Relief.* As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this section and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

ARTICLE VI

Offenses Concerning Property

Section 210.290. Tampering. ¹⁴

- A. A person commits the offense of tampering if he/she:
 - 1. Tamperers 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. Tamperers or makes connection with property of a utility; or
 - 4. Tamperers with, or causes to be tampered with, any meter or other property of an electric, gas, steam or water utility, the effect of which tampering is either:
 - a. To prevent the proper measuring of electric, gas, steam or water service; or
 - b. To permit the diversion of any electric, gas, steam or water service.
- B. In any prosecution under paragraph (4) of Subsection (A), proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam or water service with one (1) or more of the effects described in paragraph (4) of Subsection (A), shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

Section 210.300. Property Damage. ¹⁵

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

Section 210.310. Claim of Right.

- A. A person does not commit an offense by damaging, tampering with, operating, riding in or upon, or making connection with property of another if he/she does so under a claim of right and has reasonable grounds to believe he/she has such a right.
- B. The defendant shall have the burden of injecting the issue of claim of right.

Section 210.320. Trespass in The First Degree. ¹⁶

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

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

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

Section 210.330. Trespass in The Second Degree.

- A. 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.
- B. 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.¹⁷

- A. 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.
- B. Evidence of the following is admissible in any prosecution under this Section on the issue of the requisite knowledge or belief of the alleged stealer that:
 - 1. He/she failed or refused to pay for property or services of a hotel, restaurant, inn or boarding house;

¹⁶. Note—Under certain circumstances this offense can be a felony under state law.

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

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;
3. He/she left the hotel, restaurant, inn or boarding house with the intent to not pay for property or services; or
4. He/she surreptitiously removed or attempted to remove his/her baggage from a hotel, inn or boarding house.

Section 210.370. Receiving Stolen Property. ¹⁸

- A. 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.
- B. Evidence of the following is admissible in any criminal prosecution under this Section to prove the requisite knowledge or belief of the alleged receiver that:
 1. He/she was found in possession or control of other property stolen on separate occasions from two (2) or more persons;
 2. He/she received other stolen property in another transaction within the year preceding the transaction charged; or
 3. He/she acquired the stolen property for a consideration which he/she knew was far below its reasonable value.

Section 210.375. Financial Exploitation of The Elderly and Disabled.

- A. A person is guilty of the offense of financial exploitation of an elderly or disabled person if such person stands in a position of trust and confidence with the elderly or disabled person, and such person knowingly and by deception or intimidation 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/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 two hundred fifty dollars (\$250.00).
- 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

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

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. For purposes of this Section, a person stands in a position of trust and confidence with an elderly or disabled person when such person:
 1. Is a parent, spouse, adult child or other relative by blood or marriage of the elderly or disabled person;
 2. Is a joint tenant or tenant in common with the elderly or disabled person with knowledge of such relationship;
 3. Has a legal or fiduciary relationship with the elderly or disabled person; or
 4. Has a relationship with the elderly or disabled person as a health care or personal care worker.
- D. Nothing in this Section shall be construed to limit the remedies available to the victim pursuant to any State law relating to domestic violence.
- E. 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.

- F. 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.
- G. 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. ¹⁹

- A. 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; or
 - 3. For any other reason his/her use of the device is unauthorized.

Section 210.390. Deceptive Business Practice.

- A. A person commits the offense of deceptive business practice if in the course of engaging in a business, occupation or profession he/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. ²⁰

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

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

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

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

Section 210.410. Failure To Return Rented Personal Property — Enforcement Procedure — Penalty — Venue. ²¹

- 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

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

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.

Section 210.420. Passing Bad Checks. ²²

- A. A person commits the offense of passing a bad check when:
 - 1. With purpose to defraud, he/she 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. He/she makes, issues or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in his/her 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.

²². Note—Under certain circumstances this offense can be a felony under state law.

- B. As used in Subparagraph (2) of Subsection (A) of this Section, "*actual notice in writing*" means notice of the non-payment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten (10) day period during which the instrument may be paid and that payment of the instrument within such ten (10) day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

Section 210.425. Shoplifting — Detention of Suspect By Merchant — Liability Presumption.

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

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

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

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

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

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

ARTICLE VII
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.

Section 210.450. Patronizing Prostitution.

A person commits the offense of patronizing prostitution if he/she patronizes prostitution.

Section 210.460. Prostitution and Patronizing Prostitution — Sex of Parties No Defense, When.

- A. 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:
 - 1. Both persons were of the same sex; or
 - 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.

- A. 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.
- B. The City 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.
- C. All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance, and they may be enjoined from engaging in any sexual contact for pay or unlawful prostitution activity anywhere within the jurisdiction of the court.
- D. Appeals shall be allowed from the judgment of the court as in other civil actions.

Section 210.480. Indecent Exposure (Sexual Misconduct).

A person commits the offense of indecent exposure (sexual misconduct) if he/she exposes his/her genitals under circumstances in which he/she knows that his/her conduct is likely to cause affront or alarm.

ARTICLE VIII
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.²³

- A. 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.

Section 210.510. Furnishing Pornographic Materials To Minors.

- A. 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.

ARTICLE IX
Offenses Concerning Alcohol and Drugs

Section 210.515. Intoxication or Use of Intoxicating Substance in Public Place. [CC 1979 §90.045]

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

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.

Section 210.517. Drunkenness or Drinking in Certain Places Prohibited.

It shall be unlawful for any person in this City to enter any schoolhouse or church house in which there is an assemblage of people, met for a lawful purpose, or any courthouse, in a drunken or intoxicated and disorderly condition, or to drink or offer to drink any intoxicating liquors in the presence of such assembly of people, or in any courthouse within this City.

Section 210.520. Possession of Marijuana. ²⁴

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.

Section 210.530. Possession or Control of A Controlled Substance. ²⁵

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.

Section 210.540. Unlawful Use of Drug Paraphernalia. ²⁶

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.

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.

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

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

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

Section 210.560. Inducing, or Possession With Intent To Induce, Symptoms By Use of Solvents, Prohibited.

- A. 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.
- B. 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.

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

ARTICLE X
Offenses Concerning Minors

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 Diamond, 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 Diamond between the hours of 12:01 A.M. and 6:00 A.M. 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.

Section 210.600. Parental Responsibility.

- A. 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.
- B. No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit any 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.
- C. Each violation of the provisions of this Section shall constitute a separate offense. Any person who shall violate this Section shall be subject to imprisonment for not more than ninety (90) days and/or a fine of not less than one hundred dollars (\$100.00) for the first (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).

Section 210.610. Prohibited Sale of Tobacco Products To Minors.

A. *Definitions.* For purposes of this Section, 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.

B. *Prohibition Of The Sale Of Tobacco Products To A Minor.*

1. No person shall sell any tobacco product or distribute any tobacco product or rolling papers to any minor. This paragraph shall not apply to the distribution by family members on property that is not open to the public.
2. Any person who violates this Section shall be fined:
 - a. For the first (1st) offense, one hundred dollars (\$100.00).
 - b. For the second (2nd) offense, two hundred dollars (\$200.00).
 - c. For the third (3rd) offense and subsequent offenses, five hundred dollars (\$500.00).
3. 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:
 - a. Contain in red lettering at least one-half (1/2) inch high on a white background, the following:
 - a. "IT IS A VIOLATION OF STATE LAW FOR CIGARETTES OR OTHER TOBACCO PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE OF EIGHTEEN."

- b. 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".
4. It shall be unlawful for any person to engage in tobacco product distribution to persons under eighteen (18) years of age.
5. A person selling tobacco products or rolling papers or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen (18).
6. If a sale is made by an employee of the owner of an establishment in violation of this Section, the employee shall be guilty of an offense established in Subparagraph (1). If a vending machine is in violation of Subparagraph (3) of this Section, the owner of the establishment shall be guilty of an offense established in Subparagraph (1). If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in Subparagraph (1).
7. Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of this Section. No person shall be liable for more than one (1) violation of this Section on any single day.