

Chapter 16 - OFFENSES AND MISCELLANEOUS PROVISIONS*

Cross reference—General penalty for Code violations, §; 1-8; administration generally, Ch. 2; alcoholic beverages, Ch. 4; civil defense, Ch. 7; motor vehicles and traffic, Ch. 14; offenses and miscellaneous provisions, Ch. 16; police, Ch. 21.

ARTICLE I. - IN GENERAL

Secs. 16-1—16-15. - Reserved.

ARTICLE II. - CODE OF OFFENSES

DIVISION 1. - GENERALLY

Sec. 16-16. - Short title.

This article shall be known as the "Code of Offenses of the City of Columbia, Missouri, " hereinafter referred to in this article as "this article."

(Code 1964, § 7.400)

Sec. 16-17. - Definitions.

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

Affirmative defense. The phrase "affirmative defense" means:

(1)

The defense referred to is not submitted to the trier of fact unless supported by evidence; and

(2)

If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not.

Agent. "Agent" means any director, officer or employee of a corporation or unincorporated association or any other person who is authorized to act in behalf of the corporation or unincorporated association.

Burden of injecting the issue. The phrase "the defendant shall have the burden of injecting the issue" means:

(1)

The issue referred to is not submitted to the trier of fact unless supported by evidence; and

(2)

If the issue is submitted to a trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue.

Coercion. Coercion means a threat, however communicated:

(1)

To commit any crime; or

(2)

To inflict physical injury in the future on the person threatened or another; or

(3)

To accuse any person of any crime; or

(4)

To expose any person to hatred, contempt or ridicule; or

(5)

To harm the credit or business repute of any person; or

(6)

To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(7)

To inflict any other harm which would not benefit the actor.

A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Confinement. A person is in "confinement" when he is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

(1)

- A court orders his release; or
- (2) He is released on bail, bond or recognizance, personal or otherwise; or

- (3) A public servant having the legal power and duty to confine him authorizes his release without guard and without condition that he return to confinement.

A person is not in confinement if:

- (1) He is on probation or parole, temporary or otherwise; or
- (2) He 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 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 is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifest or known to the actor; or
- (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.

Custody. A person is in custody when he has been arrested but has not been delivered to a place of confinement.

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 or another person.

High managerial agent. "High managerial agent" means an officer of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

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

Law enforcement officer. "Law enforcement officer" means any public servant having both the power and the duty to make arrests for violations of the laws of this city.

Offense. "Offense" means any misdemeanor or infraction.

Physical injury. "Physical injury" means physical pain, illness, or any impairment of physical condition.

Place of confinement. "Place of confinement" means 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.

Police dog. A dog trained to obey the commands of a police officer which is maintained and utilized by the Columbia Police Department or other law enforcement agency.

Public servant. "Public servant" means any person employed in any way by the government of this city who is compensated by the government by reason of his employment and includes, but is not limited to, legislators, jurors, members of the judiciary and both regular and special or reserve law enforcement officers. It does not include witnesses.

Serious physical injury. "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(Code 1964, §§ 7.440, 7.445, 7.450, 7.590(3); Ord. No. 14512, § 2, 6-5-95)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 16-18. - Classification of offenses.

- (a) An offense defined by this article for which a sentence of imprisonment is authorized, shall constitute a "misdemeanor."
- (b) An offense defined by this article constitutes an "infraction" if it is so designated or if no other sentence than a fine or fine and forfeiture or other civil penalty is authorized upon conviction.
- (c) An infraction does not constitute a crime and conviction of an infraction shall not give rise to any disability or legal disadvantage based on conviction of a crime.
(Code 1964, § 7.410)

Cross reference—Similar provisions, RSMo. §§ 556.016, 556.021.

Sec. 16-19. - Offenses must be defined by ordinance.

No conduct constitutes an offense unless made so by this article or other applicable ordinance.

(Code 1964, § 7.415)

State law reference—Similar provisions, RSMo. § 556.026.

Sec. 16-20. - Application to offenses committed before and after enactment.

- (a) The provisions of this article shall govern the construction and punishment for any offense defined in this code and committed after March 19, 1979, as well as the construction and application of any defense to a prosecution for such an offense.
- (b) Offenses defined outside of this article and not repealed shall remain in effect, but unless otherwise expressly provided, the provisions of this article shall not govern the construction of any such offenses, nor shall the construction and application of any defense to a prosecution for such offenses be affected.
- (c) The provisions of this article do not apply to or govern the construction of and punishment for any offense committed prior to March 19, 1979, or the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this article had not been enacted.
(Code 1964, § 7.420)

State law reference—Similar provisions, RSMo. § 556.031.

Sec. 16-21. - Time limitations.

- (a) Except as otherwise provided in this section, prosecutions for offenses must be commenced within the following periods of limitation:
 - (1) For any misdemeanor, one year;
 - (2) For any infraction, six (6) months.
- (b) If the period prescribed in paragraph (a) of this section has expired, a prosecution may nevertheless be commenced for:
 - (1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by the aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three (3) years; and
 - (2) Any offense based upon misconduct in office by a public officer or employee at any time the defendant is in public office or employment or within two (2) years thereafter, but in no case shall this provision extend the period of limitation by more than three (3) years.
- (c) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.
- (d) A prosecution is commenced when an information is filed.

(e)

The period of limitation does not run:

(1)

During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three (3) years; or

(2)

During any time when the accused is concealing himself from justice either within or without this state; or

(3)

During any time when a prosecution against the accused for the offense is pending in this state.

(Code 1964, § 7.425)

State law reference—Similar provisions, RSMo. § 556.036.

Sec. 16-22. - Imitation on conviction for multiple offenses.

When the same conduct of a person may establish the commission of more than one offense he may be prosecuted for each such offense. He may not, however, be convicted of more than one offense if:

(1)

One offense is included in the other, as defined in section 16-23; or

(2)

Inconsistent findings of fact are required to establish the commission of the offenses; or

(3)

The offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or

(4)

The offense is defined as a continuing course of conduct and the person's course of conduct was uninterrupted, unless the law provides that specific periods of such conduct constitute separate offenses.

(Code 1964, § 7.430)

State law reference—Similar provisions, RSMo. § 556.036.

Sec. 16-23. - Conviction of included offenses.

(a)

A defendant may be convicted of an offense included in an offense charged in the indictment or information. An offense is so included when:

(1)

It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(2)

It is specifically denominated by ordinance as a lesser degree of the offense charged; or

(3)

It consists of an attempt to commit the offense charged or to commit an offense otherwise included therein.

(b)

The court shall not be obligated to charge the jury with respect to an included offense unless there is a basis for a verdict acquitting the defendant of the offense charged and convicting him of the included offense.

(Code 1964, § 7.435)

State law reference—Similar provisions, RSMo. § 556.046.

Secs. 16-24—16-30. - Reserved.

DIVISION 2. - GENERAL SENTENCING PROVISIONS

Sec. 16-31. - Authorized dispositions.

(a)

Every person found guilty of an offense defined by this article shall be dealt with by the court in accordance with the provisions of this article.

(b)

Whenever any person has been found guilty of a misdemeanor the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1)

Sentence the person to a term of imprisonment as authorized by sections 16-41 through 16-43.

- (2) Sentence the person to pay a fine as authorized by sections 16-66 through 16-70.
- (3) Suspend the imposition of sentence, with or without placing the person on probation.
- (4) Pronounce sentence and suspend its execution, placing the person on probation.
- (5) Impose a period of detention as a condition of probation, as authorized by section 16-54.

(c)

Whenever any person has been found guilty of an infraction, the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

- (1) Sentence the person to pay a fine as authorized by sections 16-66 and 16-67.
- (2) Suspend the imposition of sentence, with or without placing the person on probation.
- (3) Pronounce sentence and suspend its execution, placing the person on probation.

(d)

Whenever any organization has been found guilty of an offense, the court shall make one or more of the following dispositions of the organization in any appropriate combination. The court may:

- (1) Sentence the organization to pay a fine as authorized by sections 16-66 through 16-70;
- (2) Suspend the imposition of sentence, with or without placing the organization on probation;
- (3) Pronounce sentence and suspend its execution, placing the organization on probation;
- (4) Impose any special sentence or sanction authorized by law.

(e)

Whenever any person shall have been found guilty of violating any ordinance involving the possession of marijuana or hashish, in addition to or in lieu of any other punishment, the court shall require the offender to attend and complete a drug education program where a suitable program exists. Persons required to attend a drug education program pursuant to this paragraph may be charged a reasonable fee to cover the costs of such program.

(f)

This article shall not be construed to deprive the court of any other authority which has, or may be, conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. An appropriate order exercising such authority may be included as part of any sentence.

(Code 1964, § 7.455; Ord. No. 10638, § 1, 7-1-85)

State law reference—Similar provisions, RSMo. § 557.011.

Sec. 16-32. - Classification of offenses for purposes of sentencing.

(a)

Misdemeanors are classified for the purpose of sentencing into the following three (3) categories:

- (1) Class A misdemeanors;
- (2) Class B misdemeanors; and
- (3) Class C misdemeanors.

(b)

Infractions are not further classified.

(Code 1964, § 7.460)

State law reference—Similar provisions, RSMo. § 557.016.

Sec. 16-33. - Application of provisions to offenses outside of this article.

The provisions of this article, including, but not limited to, definition, defense, principles of liability, sentencing and penalty provisions, shall have no effect on or application to any offense defined outside of this article unless such provision shall specifically state that it shall have effect and application beyond this article or unless an offense defined outside of this article shall specifically state that a provision of this article shall have effect on or application to that offense.

Sec. 16-34. - Presentence investigation and report.

- (a) When a probation officer is available to the court, the officer shall, if directed by the court, make a presentence investigation and report to the court before any authorized disposition under section 16-31.
- (b) The report shall not be submitted to the court or its contents disclosed to anyone until the defendant has pleaded guilty or been found guilty.
- (c) This section shall not be construed as to require the appointment of a probation officer.
- (d) The presentence investigation report shall be prepared, presented and utilized as provided by rule of court except that no court shall prevent the defendant or the attorney for the defendant from having access to the complete presentence investigation report and recommendations before any authorized disposition under section 16-31.
- (e) The defendant shall not be obligated to make any statement to a probation officer in connection with any presentence investigation hereunder.

(Code 1964, § 7.470)

State law reference—Similar provisions, RSMo. § 557.026.

Secs. 16-35—16-40. - Reserved.

DIVISION 3. - IMPRISONMENT

Sec. 16-41. - Sentence of imprisonment; incidents.

- (a) The authorized terms of imprisonment, including both prison and conditional release terms are:
 - (1) For a class A misdemeanor, a term not to exceed one year.
 - (2) For a class B misdemeanor, a term not to exceed six (6) months.
 - (3) For a class C misdemeanor, a term not to exceed fifteen (15) days.
- (b) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the defendant to the county jail or other authorized penal institution for the term of his sentence or until released under procedures established elsewhere by law.
- (c) A sentence of imprisonment for a term of years shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 16-31 shall be one-third for terms of one year or less.
- (d) "Conditional release" means the conditional discharge of a prisoner by the court subject to conditions of release that the court deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the court. The conditions of release shall include avoidance by the offender of any other crime, federal or state offenses as defined by ordinances of this city and shall prohibit technical violation of his probation and parole.

(Code 1964, § 7.475)

State law reference—Similar provisions, RSMo. § 558.011.

Sec. 16-42. - Concurrent and consecutive terms of imprisonment.

- (a) Multiple sentences of imprisonment shall run concurrently unless the court specifies that they shall run consecutively.
- (b) If a person who is on probation, parole or conditional release is sentenced to a term of imprisonment for an offense committed after the granting of probation or parole or after the start of his conditional release term, the court shall direct the manner in which the sentence or sentences imposed by the court shall run with respect to any resulting probation, parole or conditional release revocation term or terms. If the subsequent sentence to imprisonment is in another jurisdiction, the court shall specify how any resulting probation, parole or conditional release revocation term or terms shall run with respect to the foreign sentence of imprisonment.

(Code 1964, § 7.480)

State law reference—Similar provisions, RSMo. § 558.026.

Sec. 16-43. - Calculation of terms of imprisonment; credit for jail time awaiting trial.

(a)

A person convicted of a crime in this city shall receive as credit toward service of a sentence of imprisonment all time spent by him in jail because of awaiting trial for such crime. Time required by law to be credited upon some other sentence shall be applied to that sentence alone, except that:

(1)

Time spent in jail awaiting trial for an offense because of a detainer for such offense shall be credited toward service of a sentence of imprisonment for that offense even though the person was confined awaiting trial for some unrelated bailable offense; and

(2)

Credit for jail time shall be applied to each sentence if they are concurrent.

(b)

The officer required by law to deliver a convicted person to jail shall endorse upon the commitment papers the period of time to be credited as provided in paragraph (a) of this section.

(c)

If a sentence of imprisonment is vacated and a new sentence is imposed on the defendant for the same offense, the new sentence is calculated as if it had commenced at the time the vacated sentence was imposed, and all time served under the vacated sentence shall be credited against the new sentence.

(d)

If a person serving a sentence of imprisonment escapes from custody, the escape interrupts the sentence. The interruption continues until the person is returned to the institution in which the sentence was being served.

(Code 1964, § 7.485)

State law reference—Similar provisions, RSMo. § 558.031.

Secs. 16-44—16-50. - Reserved.

DIVISION 4. - PROBATION

Sec. 16-51. - Eligible for probation, when.

The court may place a person on probation for a specified period upon conviction of any offense or upon suspending imposition of sentence if, having regard to the nature and circumstances of the offense and to the history and character of the defendant, the court is of the opinion that:

(1)

Institutional confinement of the defendant is not necessary for the protection of the public; and

(2)

The defendant is in need of guidance, training or other assistance which, in his case, can be effectively administered through probation supervision.

(Code 1964, § 7.490)

State law reference—Similar provisions, RSMo. § 559.012.

Sec. 16-52. - Terms of probation.

(a)

Unless terminated as provided in section 16-56, the terms during which probation shall remain conditional and be subject to revocation are:

(1)

A term not less than six (6) months and not to exceed two (2) years for a misdemeanor.

(2)

A term not less than six (6) months and not to exceed one year for an infraction.

(b)

The court shall designate a specific term of probation at the time of sentencing or at the time of suspension of imposition of sentence.

(Code 1964, § 7.495)

State law reference—Similar provisions, RSMo. § 558.016.

Sec. 16-53. - Conditions of probation.

- (a) The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law. When a defendant is placed on probation, he shall be given a certificate explicitly stating the conditions on which he is being released.
- (b) The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.
- (Code 1964, § 7.500)

State law reference—Similar provisions, RSMo. § 559.021.

Sec. 16-54. - Detention condition of probation.

- (a) Except in infraction cases, when probation is granted, the court, in addition to conditions imposed under section 16-53, may require as a condition of probation that the defendant submit to a period of detention in an appropriate institution at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court shall designate.
- (b) In misdemeanor cases, the period of detention under this section shall not exceed the shorter of fifteen (15) days or the maximum term of imprisonment authorized for the misdemeanor by division 3 of this article.
- (c) If probation is revoked and a term of imprisonment is served by reason thereof, the time spent in jail or other institution as a detention condition of probation shall be credited against the prison or jail term served for the offense in connection with which the detention condition was imposed.
- (Code 1964, § 7.505)

State law reference—Similar provisions, RSMo. § 559.026.

Sec. 16-55. - Transfer to another court.

Jurisdiction over a probationer may be transferred from the court which imposed probation to a court having equal jurisdiction over offenders in any other part of the state, if any, with the concurrence of both courts. Retransfers of jurisdiction may also occur in the same manner. The court to which jurisdiction has been transferred under this section shall be authorized to exercise all power permissible under this chapter over the defendant, except that the term of probation shall not be terminated without the consent of the sentencing court.

(Code 1964, § 7.510)

State law reference—Similar provisions, RSMo. § 559.031.

Sec. 16-56. - Duration of probation; revocation.

- (a) A term of probation commences on the day it is imposed. Multiple terms of probation, whether imposed at the same time or at different times, shall run concurrently. Terms of probation shall also run concurrently with any federal or other state jail, prison, probation or parole term for another offense to which the defendant is or becomes subject during the period, unless otherwise specified by the court.
- (b) The court may terminate a period of probation and discharge the defendant at any time before completion of the specific term fixed under section 16-52 if warranted by the conduct of the defendant and the ends of justice. Procedures for termination and discharge may be established by rule of court.
- (c) If the defendant violates a condition of probation at any time prior to the expiration or termination of the probation term, the court may continue him on the existing conditions, with or without modifying or enlarging the conditions, or, if such continuation, modification, or enlargement is not appropriate, may revoke probation and order that any sentence previously imposed be executed. If imposition of sentence was suspended, the court may revoke probation and impose any sentence available under section 16-83. The court may mitigate any sentence of imprisonment by reducing the prison or jail term by all or part of the time the defendant was on probation.
- (d) Probation shall not be revoked without giving the probationer notice and an opportunity to be heard on the issues of whether he violated a condition of probation and, if he did, whether revocation is warranted under all the circumstances.
- (e) At any time during the term of probation the court may issue a notice to the probationer to appear to answer a charge of a violation, and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the probationer. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court.
- (f)

Any probation officer, if he has probable cause to believe that the probationer has violated a condition of probation, may arrest the probationer without a warrant, or may deputize any other officer with the power of arrest to do so by giving him a written statement of the circumstances of the alleged violation, including a statement that the probationer has, in the judgment of the probation officer, violated the conditions of his probation. The written statement, delivered with the probationer to the official in charge of any jail or other detention facility, shall be sufficient authority for detaining the probationer pending a preliminary hearing on the alleged violation.

(g)

If the probationer is arrested under the authority granted in paragraphs (e) and (f) of this section, he shall have the right to a preliminary hearing on the violation charged. He shall be notified immediately in writing of the alleged probation violation. If he is arrested in the jurisdiction of the sentencing court, and the court which placed him on probation is immediately available, the preliminary hearing shall be heard by the sentencing court. Such preliminary hearings shall be conducted as provided by rule of court. If it appears that there is probable cause to believe that the probationer has violated a condition of his probation, or if the probationer waives the preliminary hearing, the judge shall order the probationer held for further proceedings in the sentencing court. If probable cause is not found, this shall not bar the sentencing court from holding a hearing on the question of the probationer's alleged violation of a condition of probation nor from ordering the probationer to be present at such a hearing. Provisions regarding release on bail of persons charged with offenses shall be applicable to probationers arrested and ordered held under this provision.

(h)

Upon such arrest and detention, the probation officer shall immediately notify the sentencing court and shall submit to the court a written report showing in what manner the probationer has violated the conditions of probation. Thereupon, or upon arrest by warrant, the court shall cause the probationer to be brought before it without unnecessary delay for a hearing on the violation charged. Revocation hearings shall be conducted as provided by rule of court.

(i)

The power of the court to revoke probation shall extend for the duration of the term of probation designated by the court and for any further period which is reasonably necessary for the adjudication of matters arising before its expiration, provided that some affirmative manifestation of an intent to conduct a revocation hearing occurs prior to the expiration of the period and that every reasonable effort is made to notify the probationer and to conduct the hearing prior to the expiration of the period.

(Code 1964, § 7.515)

State law reference—Similar provisions, RSMo. § 559.036.

Secs. 16-57—16-65. - Reserved.

DIVISION 5. - FINES

Sec. 16-66. - Fines for misdemeanors and infractions.

Except as otherwise provided for an offense outside this Code, a person who has been convicted of a misdemeanor or infraction may be sentenced to pay a fine which does not exceed:

(1)

For a class A misdemeanor, one thousand dollars (\$1,000.00);

(2)

For a class B misdemeanor, five hundred dollars (\$500.00);

(3)

For a class C misdemeanor, three hundred dollars (\$300.00);

(4)

For an infraction, two hundred dollars (\$200.00).

(Code 1964, § 7.520)

State law reference—Similar provisions, RSMo. § 560.011.

Sec. 16-67. - Fines for corporations.

(a)

A sentence to pay a fine, when imposed on a corporation for an offense defined in this article or for any offense defined outside this article for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, not exceeding:

(1)

Five thousand dollars (\$5,000.00), when the conviction is of a class A misdemeanor.

(2)

Two thousand dollars (\$2,000.00), when the conviction is of a class B misdemeanor.

(3)

One thousand dollars (\$1,000.00), when the conviction is of a class C misdemeanor.

(4)

Five hundred dollars (\$500.00), when the conviction is of an infraction.

(b)

In the case of an offense defined outside this article, if a special fine for a corporation is expressly specified in the ordinance that defines the offense, the fine fixed by the court shall be an amount within the limits specified in the ordinance that defines the offense.

(Code 1964, § 7.525)

State law reference—Similar provisions, RSMo. § 560.021.

Sec. 16-68. - Imposition of fines.

(a)

In determining the amount and the method of payment of a fine, the court shall, insofar as practicable, proportion the fine to the burden that payment will impose in view of the financial resources of an individual. The court shall not sentence an offender to pay a fine in any amount which will prevent him from making restitution or reparation to the victim of the offense.

(b)

When any other disposition is authorized by statute, the court shall not sentence an individual to pay a fine only unless, having regard to the nature and circumstances of the offense and the history and character of the offender, it is of the opinion that the fine alone will suffice for the protection of the public.

(c)

The court shall not sentence an individual to pay a fine in addition to any other sentence authorized by section 16-31 unless:

(1)

He has derived a pecuniary gain from the offense; or

(2)

The court is of the opinion that a fine is uniquely adapted to deterrence of the type of offense involved or to the correction of the defendant.

(d)

When an offender is sentenced to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, the fine shall be payable forthwith.

(e)

When an offender is sentenced to pay a fine, the court shall not impose at the same time an alternative sentence to be served in the event that the fine is not paid. The response of the court to nonpayment shall be determined only after the fine has not been paid, as provided in section 16-69.

(Code 1964, § 7.530)

State law reference—Similar provisions, RSMo. § 560.026.

Sec. 16-69. - Response to nonpayment.

(a)

When an offender sentenced to pay a fine defaults in the payment of the fine or in any installment, the court upon motion of the city counselor or upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.

(b)

Following an order to show cause under paragraph (a) of this section, unless the offender shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned for a term not to exceed thirty (30) days if the fine was imposed for conviction of a misdemeanor or infraction. The court may provide in its order that payment or satisfaction of the fine at any time will entitle the offender to his release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.

(c)

If it appears that the default in the payment of a fine is excusable under the standards set forth in paragraph (b) of this section, the court may enter an order allowing the offender additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion in whole or in part.

(d)

When a fine is imposed on a corporation it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from the assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under paragraphs (a) and (b) of this section.

(e)

Upon default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments.

(Code 1964, § 7.535)

State law reference—Similar provisions, RSMo. § 560.031.

Sec. 16-70. - Revocation of a fine.

A defendant who has been sentenced to pay a fine may at any time petition the sentencing court for a revocation of a fine or any unpaid portion thereof. If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine no longer exist or that it would otherwise be unjust to require payment of the fine, the court may revoke the fine or the unpaid portion in whole or in part or may modify the method of payment.

(Code 1964, § 7.540)

State law reference—Similar provisions, RSMo. § 560.036.

Secs. 16-71—16-80. - Reserved.

DIVISION 6. - GENERAL PRINCIPLES OF LIABILITY

Sec. 16-81. - Voluntary act.

(a)

A "voluntary act" is:

(1)

A bodily movement performed while conscious as a result of effort or determination; or

(2)

An omission to perform an act of which the actor is physically capable.

(b)

A person is not guilty of an offense unless his liability is based on conduct which includes a voluntary act.

(c)

Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed, or having acquired control of it was aware of his control for a sufficient time to have enabled him to dispose of it or terminate his control.

(d)

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

(Code 1964, § 7.545(1), (3), (4))

State law reference—Similar provisions, RSMo. § 562.011.

Sec. 16-82. - Culpable mental state—Defined.

(a)

A person "acts knowingly, " or with knowledge:

(1)

With respect to his conduct or to attendant circumstances when he is aware of the nature of his conduct or that those circumstances exist; or

(2)

With respect to a result of his conduct when he is aware that his conduct is practically certain to cause that result.

(b)

A person "acts purposely, " or with purpose, with respect to his conduct or to a result thereof when it is his conscious object to engage in that conduct or to cause that result.

(c)

A person "acts recklessly" or is reckless when he consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

(d)

A person "acts with criminal negligence" or is criminally negligent when he fails to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

(e)

Except as provided in section 16-84, a person is not guilty of an offense unless he acts with a culpable mental state, that is, unless he acts purposely or knowingly or recklessly or with criminal negligence, as the statute defining the offense may require with respect to the conduct, the result thereof or the attendant circumstances which constitute the material elements of the crime.

(Code 1964, § 7.550)

State law reference—Similar provisions, RSMo. § 562.016.

Sec. 16-83. - Same—Application.

(a)

If the definition of an offense prescribes a culpable mental state but does not specify the conduct, attendant circumstances or result to which it applies, the prescribed culpable mental state applies to each such material element.

(b)

Except as provided in section 16-84, if the definition of an offense does not expressly prescribe a culpable mental state, a culpable mental state is nonetheless required and is established if a person acts purposely or knowingly or recklessly, but criminal negligence is not sufficient.

(c)

If the definition of an offense prescribes criminal negligence as the culpable mental state, it is also established if a person acts purposely or knowingly or recklessly. When recklessness suffices to establish a culpable mental state, it is also established if a person acts purposely or knowingly. When acting knowingly suffices to establish a culpable mental state, it is also established if a person acts purposely.

(d)

Knowledge that conduct constitutes an offense, or knowledge of the existence, meaning or application of the statute defining an offense is not an element of an offense unless the ordinance clearly so provides.

(Code 1964, § 7.555)

State law reference—Similar provisions, RSMo. § 562.021.

Sec. 16-84. - Same—When not required.

A culpable mental state is not required:

(1)

If the offense is an infraction and no culpable mental state is prescribed by the ordinance defining the offense; or

(2)

If the ordinance defining the offense clearly indicates a purpose to dispense with the requirement of any culpable mental state as to a specific element of the offense.

(Code 1964, § 7.560)

State law reference—Similar provisions, RSMo. § 562.026.

Sec. 16-85. - Ignorance and mistake.

(a)

A person is not relieved of criminal liability for conduct because he engages in such conduct under a mistaken belief of fact or law unless such mistake negatives the existence of the mental state required by the offense.

(b)

A person is not relieved of criminal liability for conduct because he believes his conduct does not constitute an offense unless his belief is reasonable and

(1)

The offense is defined by an administrative regulation or order which is not known to him and has not been published or otherwise made reasonably available to him, and he could not have acquired such knowledge by the exercise of due diligence pursuant to facts known to him; or

(2)

He acts in a reasonable reliance upon an official statement of the law, afterward determined to be invalid or erroneous, contained in:

a.

A statute or ordinance;

b.

An opinion or order of an appellate court;

c.

An official interpretation of the statute, regulation or order defining the offense made by a public official or agency legally authorized to interpret such statute, regulation or order.

(c)

The burden of injecting the issue of reasonable belief that conduct does not constitute an offense under subparagraphs (b)(1) and (2) of this section is on the defendant.

(Code 1964, § 7.565)

State law reference—Similar provisions, RSMo. § 562.031.

Sec. 16-86. - Accountability for conduct.

A person with the required culpable mental state is guilty of an offense if it is committed by his own conduct or by the conduct of another person for which he is criminally responsible, or both.

(Code 1964, § 7.570)

State law reference—Similar provisions, RSMo. § 562.036.

Sec. 16-87. - Responsibility for the conduct of another.

(a)

A person is criminally responsible for the conduct of another when:

(1)

The ordinance defining the offense makes him so responsible; or

(2)

Either before or during the commission of an offense with the purpose of promoting the commission of an offense, he aids or agrees to aid or attempts to aid such other person in planning, committing or attempting to commit the offense.

(b)

However, a person is not so responsible if:

(1)

He is the victim of the offense committed or attempted;

(2)

The offense is so defined that his conduct was necessarily incident to the commission or attempt to commit the offense. If his conduct constitutes a related but separate offense, he is criminally responsible for that offense but not for the conduct or offense committed or attempted by the other person;

(3)

Before the commission of the offense he abandons his purpose and gives timely warning to law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.

(c)

The defense provided by subparagraph (b)(3) of this section is an affirmative defense.

(Code 1964, § 7.575)

State law reference—Similar provisions, RSMo. § 562.041.

Sec. 16-88. - Defense precluded.

It is no defense to any prosecution for an offense in which the criminal responsibility of the defendant is based upon the conduct of another that:

(1)

Such other person has been acquitted or has not been convicted or has been convicted of some other offense or degree of offense or lacked criminal capacity or was unaware of the defendant's criminal purpose or is immune from prosecution or is not amenable to justice; or

(2)

The defendant does not belong to that class of persons who was legally capable of committing the offense in an individual capacity.

(Code 1964, § 7.580)

State law reference—Similar provisions, RSMo. § 562.046.

Sec. 16-89. - Conviction of different degrees of offenses.

Except as otherwise provided, when two (2) or more persons are criminally responsible for an offense which is divided into degrees, each person is guilty of such degree as is compatible with his own culpable mental state and with his own accountability for an aggravating or mitigating fact or circumstance.

(Code 1964 § 7.585)

State law reference—Similar provisions, RSMo. § 562.051.

Sec. 16-90. - Liability of corporations and unincorporated associations.

(a)

A corporation is guilty of an offense if:

(1)

The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or

(2)

The conduct constituting the offense is engaged in by an agent of the corporation while acting within the scope of his employment and in behalf of the corporation, and the offense is a misdemeanor or an infraction, or the offense is one defined by an ordinance that clearly indicates a legislative intent to impose such criminal liability on a corporation; or

(3)

The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment and in behalf of the corporation.

(b)

An unincorporated association is guilty of an offense if:

(1)

The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on the association by law; or

(2)

The conduct constituting the offense is engaged in by an agent of the association while acting within the scope of his employment and in behalf of the association and the offense is one defined by an ordinance that clearly indicates a legislative intent to impose such criminal liability on the association.

(Code 1964, § 7.590(1), (2))

State law reference—Similar provisions, RSMo. § 562.056.

Sec. 16-91. - Liability of individual for conduct of corporation or unincorporated association.

A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or in behalf of a corporation or unincorporated association to the same extent as if such conduct were performed in his own name or behalf.

(Code 1964, § 7.600)

State law reference—Similar provisions, RSMo. § 562.061.

Sec. 16-92. - Entrapment.

(a)

The commission of acts which would otherwise constitute an offense is not criminal if the actor engaged in the prescribed conduct because he was entrapped by a law enforcement officer or a person acting in cooperation with such an officer.

(b)

An entrapment is perpetrated if a law enforcement officer or a person acting in cooperation with such an officer, for the purpose of obtaining evidence of the commission of an offense, solicits, encourages or otherwise induces another person to engage in conduct when he was not ready and willing to engage in such conduct.

(c)

The relief afforded by paragraph (a) of this section is not available as to any crime which involves causing physical injury to or placing in danger of physical injury a person other than the person perpetrating the entrapment.

(d)

The defendant shall have the burden of injecting the issue of entrapment.

(Code 1964, § 7.605)

State law reference—Similar provisions, RSMo. § 562.066.

Sec. 16-93. - Duress.

(a)

It is an affirmative defense that the defendant engaged in the conduct charged to constitute an offense because he was coerced to do so, by the use of, or threatened imminent use of, unlawful physical force upon him or a third person, which force or threatened force a person of reasonable firmness in his situation would have been unable to resist.

(b)

The defense of duress, as defined in paragraph (a) of this section, is not available as to any offense when the defendant recklessly places himself in a situation in which it is probable that he will be subjected to the force or threatened force described in paragraph (a) of this section.

(Code 1964, § 7.610)

State law reference—Similar provisions, RSMo. § 562.071.

Sec. 16-94. - Intoxicated or drugged condition.

(a)

A person who is in an intoxicated or drugged condition whether from alcohol, drugs, or other substance, is criminally responsible for conduct unless such condition:

(1)

Negatives the existence of the mental states of purpose or knowledge when such mental states are elements of the

offense charged or of an included offense; or

(2)

Is involuntarily produced and deprived him of the capacity to know or appreciate the nature, quality or wrongfulness of his conduct or to conform his conduct to the requirements of law.

(b)

The defendant shall have the burden of injecting the issue of intoxicated or drugged condition.

(Code 1964, § 7.615)

State law reference—Similar provisions, RSMo. § 562.076.

Sec. 16-95. - Infancy.

(a)

No person shall be convicted of any offense unless he had attained his fourteenth birthday at the time the offense was committed.

(b)

The defendant shall have the burden of injecting the issue of infancy.

(Code 1964, § 7.620)

State law reference—Similar provisions, RSMo. § 562.081.

Sec. 16-96. - Lack of responsibility because of mental disease or defect.

(a)

A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he did not know or appreciate the nature, quality or wrongfulness of his conduct or was incapable of conforming his conduct to the requirements of law.

(b)

The procedures for the defense of lack of responsibility because of mental disease or defect are governed by the applicable provisions of chapter 522 RSMo.

(Code 1964, § 7.625)

State law reference—Similar provisions, RSMo. § 562.086.

Secs. 16-97—16-105. - Reserved.

DIVISION 7. - DEFENSE OF JUSTIFICATION

Sec. 16-106. - Definitions.

As used in sections 16-106.1 through 16-115, the following terms shall have the meaning given in this section:

Deadly force. "Deadly force" means physical force which the actor uses with the purpose of causing or which he knows to create a substantial risk of causing death or serious physical injury.

Dwelling. "Dwelling" means any building or inhabitable structure, though movable or temporary, or a portion thereof, which is for the time being the actor's home or place of lodging.

Premises. "Premises" includes any building, inhabitable structure and any real property.

Private person. "Private person" means any person other than a law enforcement officer.

(Code 1964, § 7.630)

Sec. 16-106.1. - Civil remedies unaffected.

The fact that conduct is justified under this division does not abolish or impair any remedy for such conduct which is available in any civil actions.

(Code 1964, § 7.635)

State law reference—Similar provisions, RSMo. § 563.016.

Sec. 16-107. - Execution of public duty.

(a)

Unless inconsistent with the provisions of this division defining the justifiable use of physical force, or with some other

provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when such conduct is required or authorized by a statutory provision or by a judicial decree. Among the kinds of such provisions and decrees are:

- (1) Laws defining duties and functions of public servants;
- (2) Laws defining duties of private persons to assist public servants in the performance of their functions;
- (3) Laws governing the execution of legal process;
- (4) Laws governing the military services and the conduct of war;
- (5) Judgments and orders of courts.

(b) The defense of justification afforded by paragraph (a) of this section applies:

- (1) When a person reasonably believes his conduct to be required or authorized by the judgment or directions of a competent court or tribunal or in the legal execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process;
- (2) When a person reasonably believes his conduct to be required or authorized to assist a public servant in the performance of his duties, notwithstanding that the public servant exceeded his legal authority.

(c) The defendant shall have the burden of injecting the issue of justification under this section.

(Code 1964, § 7.640)

State law reference—Similar provisions, RSMo. § 563.021.

Sec. 16-108. - Justification generally.

- (a) Unless inconsistent with other provisions of this division defining justifiable use of physical force, or with some provision of law, conduct which would otherwise constitute any crime or murder is justifiable and not criminal when it is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability of avoiding the injury outweighs the desirability of avoiding the injury sought to be prevented by the ordinance defining the crime charged.
- (b) The necessity and justifiability of conduct under paragraph (a) of this section may not rest upon considerations pertaining only to the morality and advisability of the ordinance either in its general application or with respect to its application to a particular class of cases arising thereunder. Whenever evidence relating to the defense of justification under this section is offered, the court shall rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a justification.
- (c) The defense of justification under this section is an affirmative defense.

(Code 1964, § 7.645)

State law reference—Similar provisions, RSMo. § 563.026.

Sec. 16-109. - Use of force in defense of persons.

- (a) A person may, subject to the provisions of paragraph (b) of this section, use physical force upon another person when and to the extent he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful force by such other person, unless:
- (1) The actor was the initial aggressor; except that in such case his use of force is nevertheless justified provided:
 - a. He has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened use of unlawful force; or
 - b. He is a law enforcement officer and as such is an aggressor pursuant to section 563.046, RSMo.; or
 - c. The aggression is justified under some other provision of this division or other provision of law.
 - (2)

Under the circumstances as the actor reasonably believes them to be, the person whom he seeks to protect would not be justified in using such protective force.

- (b) A person may not use deadly force upon another person under the circumstances specified in paragraph (a) of this section unless deadly force is authorized under state or federal law.
- (c) The justification afforded by this section extends to the use of physical restraint as protective force provided that the actor takes all reasonable measures to terminate the restraint as soon as it is reasonable to do so.
- (d) The defendant shall have the burden of injecting the issue of justification under this section.
(Code 1964, § 7.650)

State law reference—Similar provisions, RSMo. § 563.031.

Sec. 16-110. - Use of physical force in defense of premises.

- (a) A person in possession or control of premises or a person who is licensed or privileged to be thereon, may, subject to the provisions of paragraph (b) of this section, use physical force upon another person when and to the extent that he reasonably believes it necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission of the crime of trespass by the other person.
- (b) A person may not use deadly force under circumstances described in paragraph (a) of this section unless the use of deadly force is authorized under state or federal law.
- (c) The defendant shall have the burden of injecting the issue of justification under this section.
(Code 1964, § 7.655)

State law reference—Similar provisions, RSMo. § 563.036.

Sec. 16-111. - Use of physical force in defense of property.

- (a) A person may, subject to the limitations of paragraph (b) of this section, use physical force upon another person when and to the extent that he reasonably believes it necessary to prevent what he reasonably believes to be the commission or attempted commission by such person of stealing, property damage or tampering in any degree.
- (b) A person may not use deadly force under circumstances described in paragraph (a) of this section unless the use of deadly force is authorized under state or federal law.
- (c) The justification afforded by this section extends to the use of physical restraint as protective force provided that the actor takes all reasonable measures to terminate the restraint as soon as it is reasonable to do so.
- (d) The defendant shall have the burden of injecting the issue of justification under this section.
(Code 1964, § 7.660)

State law reference—Similar provisions, RSMo. § 563.041.

Sec. 16-112. - Law enforcement officer's use of force in making an arrest.

- (a) A law enforcement officer need not retreat or desist from efforts to effect the arrest, or from efforts to prevent the escape from custody, of a person he reasonably believes to have committed an offense because of resistance or threatened resistance of the arrestee. In addition to the use of physical force authorized under other sections of this chapter, he is, subject to the provisions of paragraph (b) and (c) of this section, justified in the use of such physical force as he reasonably believes is immediately necessary to effect the arrest or to prevent the escape from custody.
- (b) The use of any physical force in making an arrest is not justified under this section unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful.
- (c) A law enforcement officer in effecting an arrest or in preventing an escape from custody is not justified in using deadly force unless the use of deadly force is authorized under state or federal law.
- (d) The defendant shall have the burden of injecting the issue of justification under this section.
(Code 1964, § 7.665)

State law reference—Similar provisions, RSMo. § 563.046.

Sec. 16-113. - Private person's use of force in making an arrest.

(a)

A private person who has been directed by a person he reasonably believes to be a law enforcement officer to assist such officer to effect an arrest or to prevent escape from custody may, subject to the limitations of paragraph (c) of this section, use physical force when and to the extent that he reasonably believes such to be necessary to carry out such officer's direction unless he knows or believes that the arrest or prospective arrest is not or was not authorized.

(b)

A private person acting on his own account may, subject to the limitations of paragraph (c) of this section, use physical force to effect arrest or prevent escape only when and to the extent such is immediately necessary to effect the arrest, or to prevent escape from custody, of a person whom he reasonably believes to have committed a crime and who in fact has committed such crime.

(c)

A private person in effecting an arrest or in preventing an escape from custody is not justified in using deadly force unless the use of deadly force is authorized under state or federal law.

(d)

The defendant shall have the burden of injecting the issue of justification under this section.

(Code 1964, § 7.670)

State law reference—Similar provisions, RSMo. § 563.051.

Sec. 16-114. - Use of force to prevent escape from confinement.

(a)

Except as provided in section 16-113, a guard or other law enforcement officer may, subject to the provisions of paragraph (b) of this section, use physical force when he reasonably believes such to be immediately necessary to prevent escape from confinement or in transit thereto or therefrom.

(b)

A guard or other law enforcement officer may not use deadly force under circumstances described in paragraph (a) of this section unless the use of deadly force is authorized under state or federal law.

(c)

The defendant shall have the burden of injecting the issue of justification under this section.

(Code 1964, § 7.675)

State law reference—Similar provisions, RSMo. § 563.056.

Sec. 16-115. - Use of force by persons with responsibility for care, discipline or safety of others.

(a)

The use of physical force by an actor upon another person is justifiable when the actor is a parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person or when the actor is a teacher or other person entrusted with the care and supervision of a minor for a special purpose; and

(1)

The actor reasonably believes that the force used is necessary to promote the welfare of a minor or incompetent person, or, if the actor's responsibility for the minor is for special purposes, to further that special purpose or to maintain reasonable discipline in a school, class or other group; and

(2)

The force used is not designed to cause or believed to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain or extreme emotional distress.

(b)

The use of physical force by an actor upon another person is justifiable when the actor is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the actor reasonably believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly force may not be used unless the use of deadly force is authorized by state and federal law.

(c)

The use of physical force by an actor upon another person is justified when the actor is a physician or a person assisting at his direction; and

(1)

The force is used for the purpose of administering a medically acceptable form of treatment which the actor reasonably believes to be adapted to promoting the physical or mental health of the patient; and

(2)

The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of the parent, guardian, or other person legally competent to consent on his behalf, or the treatment

is administered in an emergency when the actor reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

(d)

The use of physical force by an actor upon another person is justifiable when the actor acts under the reasonable belief that:

(1)

Such other person is about to commit suicide or to inflict serious physical injury upon himself; and

(2)

The force used is necessary to thwart such result.

(e)

The defendant shall have the burden of injecting the issue of justification under this section.

(Code 1964, § 7.680)

State law reference—Similar provisions, RSMo. § 563.061.

Secs. 16-116—16-120. - Reserved.

DIVISION 8. - INCHOATE OFFENSES

Sec. 16-121. - Attempt.

(a)

A person is guilty of attempt to commit an offense when, with the purpose of committing the offense, he does any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.

(b)

It is no defense to a prosecution under this section that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c)

Unless otherwise provided, an attempt to commit an offense is a class C misdemeanor if the offense attempted is a misdemeanor of any degree.

(Code 1964, § 7.685)

State law reference—Similar provisions, RSMo. § 564.01.

Sec. 16-122. - Conspiracy.

(a)

A person is guilty of conspiracy with another person or persons to commit an offense if, with the purposes of promoting or facilitating its commission he agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such offense.

(b)

If a person guilty of conspiracy knows that a person with whom he conspires to commit an offense has conspired with another person or persons to commit the same offense, he is guilty of conspiring with such other person or persons to commit such offense, whether or not he knows their identity.

(c)

If a person conspires to commit a number of offenses, he is guilty of only one conspiracy so long as such multiple offenses are the object of the same agreement.

(d)

No person may be convicted of conspiracy to commit an offense unless an overt act in pursuance of such conspiracy is alleged and proved to have been done by him or by a person with whom he conspired.

(e)

(l) No one shall be convicted of conspiracy if, after conspiring to commit the offense, he prevented the accomplishment of the objectives of the conspiracy under circumstances manifesting a renunciation of his criminal purpose.

(2)

The defendant shall have the burden of injecting the issue of renunciation of criminal purpose under subparagraph (e)(1) of this section.

(f)

For the purpose of time limitations on prosecutions:

(1)

Conspiracy is a continuing course of conduct which terminates when the offense or offenses which are its object are committed or the agreement that they be committed is abandoned by the defendant and by those with whom he conspired.

(2)

If an individual abandons the agreement, the conspiracy is terminated as to him only if he advises those with whom he has conspired of his abandonment or he informs the law enforcement authorities of the existence of the conspiracy and of his participation in it.

(g)

A person may not be charged, convicted or sentenced on the basis of the same course of conduct of both the actual commission of an offense and a conspiracy to commit that offense.

(h)

Unless otherwise provided, a conspiracy to commit an offense is a class C misdemeanor if the object of the conspiracy is a misdemeanor of any degree or an infraction.

(Code 1964, § 7.690)

State law reference—Similar provisions, RSMo. § 564.016.

Secs. 16-123—16-130. - Reserved.

DIVISION 9. - OFFENSES AGAINST MORALS*

Cross reference—Gambling devices prohibited in alcoholic beverage establishments, § 4-26.

Sec. 16-132. - Indecent exposure.

(a)

A person commits the crime of indecent exposure if he knowingly exposes his genitals under circumstances in which he knows that his conduct is likely to cause affront or alarm.

(b)

Indecent exposure is a class A misdemeanor.

(Code 1964, § 7.760)

State law reference—Similar provisions, RSMo. § 566.130.

Sec. 16-133. - Unlawful entry into a shower or toilet facility.

(a)

A person commits the offense of unlawful entry into a shower or toilet facility if he knowingly enters a shower, toilet or dressing facility reserved for persons of the opposite sex in any dormitory or rooming house, except:

(1)

A person authorized to clean, repair or maintain the facilities may enter the facilities if he first knocks at the entrance to the facilities and announces his purpose and gives persons in the facility time to exit prior to entering the facility.

(2)

A person of one sex may use the facilities reserved for the other sex if the facility consists of one toilet or one shower or both a toilet and a shower and the facility door is locked against entry by another person.

(3)

A person of one sex may use the facilities reserved for the other sex if the management of the entity providing the facilities has directed the use and taken steps to prevent the use of the facility by persons of both sexes at the same time.

(b)

Unlawful entry into a toilet facility is a class B misdemeanor.

(Ord. No. 13360, § 1, 7-6-92)

Secs. 16-134—16-140. - Reserved.

DIVISION 10. - OFFENSES AGAINST THE PERSON

Sec. 16-141. - Assault.

(a)

A person commits the crime of assault if:

(1)

He attempts to cause or recklessly causes physical injury to another person; or

(2)

With criminal negligence he causes physical injury to another person by means of a deadly weapon; or

(3)

He purposely places another person in apprehension of immediate physical injury; or

(4)

He recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

(5)

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

(b)

Assault is a class A misdemeanor unless committed under subparagraphs (a)(3) or (5) of this section, in which case it is a class C misdemeanor.

(Code 1964, § 7.700)

State law reference—Similar provisions, RSMo. § 565.070.

Sec. 16-142. - Consent as a defense.

(a)

When conduct is charged to constitute an offense because it causes or threatens physical injury, consent to that conduct or to the infliction of the injury is a defense only if:

(1)

The physical injury consented to or threatened by the conduct is not serious physical injury; or

(2)

The conduct and the harm are reasonably foreseeable hazards of:

a.

The victim's occupation or profession; or

b.

Joint participation in a lawful athletic contest or competitive sport.

(3)

The consent establishes a justification for the conduct under division 7 of this article.

(b)

The defendant shall have the burden of injecting the issue of consent.

(Code 1964, § 7.705)

State law reference—Similar provisions, RSMo. § 565.080.

Sec. 16-143. - Harassment.

(a)

A person commits the crime of harassment if for the purpose of frightening or disturbing another person, he:

(1)

Communicates in writing or by telephone a threat to commit any felony as defined by state or federal law; or

(2)

Makes a telephone call or communicates in writing and uses coarse language offensive to one of average sensibility; or

(3)

Makes a telephone call anonymously; or

(4)

Makes repeated telephone calls.

(b)

Harassment is a class A misdemeanor.

(Code 1964, § 7.710)

State law reference—Similar provisions, RSMo. § 565.090.

Sec. 16-144. - Interference with custody.

(a)

A person commits the crime of interference with custody if, knowing that he has no legal right to do so, he takes or entices from lawful custody any person entrusted by order of a court to the custody of another person or institution.

(b)

Interference with custody is a class A misdemeanor.

(Code 1964, § 7.715)

State law reference—Similar provisions, RSMo. § 565.150.

Sec. 16-145. - Harassment of a bicyclist, pedestrian or person in a wheelchair.

(a)

A person commits the offense of harassment of a bicyclist, pedestrian or person in a wheelchair if the person:

- (1) Knowingly throws an object at or in the direction of any person riding a bicycle, walking, running or operating a wheelchair for the purpose of frightening, disturbing or injuring that person; or
- (2) Threatens any person riding a bicycle, walking, running or operating a wheelchair for the purpose of frightening or disturbing that person; or
- (3) Sounds a horn, shouts or otherwise directs sound toward any person riding a bicycle, walking, running or operating a wheelchair for the purpose of frightening or disturbing that person; or
- (4) Knowingly places a person riding a bicycle, walking, running or operating a wheelchair in apprehension of immediate physical injury; or
- (5) Knowingly engages in conduct that creates a risk of death or serious physical injury to a person riding a bicycle, walking, running or operating a wheelchair.

(b)

Harassment of a bicyclist, pedestrian or person in a wheelchair is a class A misdemeanor.

(Ord. No. 20306, § 1, 6-15-09; Ord. No. 20450, § 1, 10-19-09)

Secs. 16-146—16-149. - Reserved.

DIVISION 11. - OFFENSES AGAINST PROPERTY*

Cross reference—Riding in stolen motor vehicles, § 14-9.

Sec. 16-150. - Definitions.

The following words and phrases, as used in sections 16-151 through 16-169, shall have the meanings given in this section.

Enter unlawfully or remain unlawfully. A person "enters unlawfully or remains unlawfully" in or upon premises when he is not licensed or privileged to do so. A person who, regardless of his purpose, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of such premises or by other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public.

Inhabitable structure. "Inhabitable structure" includes a ship, trailer, sleeping car, airplane, or other vehicle or structure:

- (1) Where any person lives or carries on business or other calling; or
- (2) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation; or
- (3) Which is used for overnight accommodation of persons.

Any such vehicle or structure is "inhabitable" regardless of whether a person is actually present.

Inhabitable structure of another. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an "inhabitable structure of another."

Of another. Property is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has possessory or proprietary interest therein, except that, for purposes of sections 16-161 through 16-163, property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

To tamper. "To tamper" means to interfere with something improperly, to meddle with it, displace it, make unwarranted alterations in its existing condition, or to deprive, temporarily, the owner or possessor of that thing.

Utility. "Utility" means an enterprise which provides gas, electric, steam, water, sewage disposal, communication services or cable television service and any common carrier. It may be either publicly or privately owned or operated.

(Code 1964, § 7.765)

Sec. 16-151. - Reckless burning or exploding.

(a)

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

(b)

Reckless burning or exploding is a class A misdemeanor.

(Code 1964, § 7.770)

State law reference—Similar provisions, RSMo. § 569.060.

Sec. 16-152. - Negligent burning or exploding.

(a)

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

(b)

Negligent burning or exploding is a class B misdemeanor.

(Code 1964, § 7.775)

State law reference—Similar provisions, RSMo. § 569.065.

Sec. 16-153. - Property damage in the first degree.

(a)

A person commits the crime of property damage in the first degree if:

(1)

He knowingly damages property of another to an extent exceeding five hundred dollars (\$500.00); or

(2)

He damages property to an extent exceeding five hundred dollars (\$500.00) for the purpose of defrauding an insurer.

(b)

Property damage in the first degree is a class A misdemeanor.

(Code 1964, § 7.780)

State law reference—Similar provisions, RSMo. § 569.110.

Sec. 16-154. - Property damage in the second degree.

(a)

A person commits the crime of property damage in the second degree if:

(1)

He knowingly damages property of another; or

(2)

He damages property for the purpose of defrauding an insurer.

(b)

Property damage in the second degree is a class B misdemeanor.

(Code 1964, § 7.785)

State law reference—Similar provisions, RSMo. § 569.120.

Sec. 16-155. - Claim of right.

(a)

A person does not commit an offense of damaging, tampering with, operating, riding in or upon, or making connection with property of another if he does so under a claim of right and has reasonable grounds to believe he has such right.

(b)

The defendant shall have the burden of injecting the issue of claim of right; provided, however, that this defense shall not be available to a tenant in any prosecution involving property damage to a premises leased or rented by that tenant from another.

(Code 1964, § 7.790)

State law reference—Similar provisions, RSMo. § 569.130.

Sec. 16-156. - Trespass in the first degree.

(a)

A person commits the crime of trespass in the first degree if he knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.

(b)

A person does not commit the crime of trespass in the first degree 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.

(c)

Trespass in the first degree is a class B misdemeanor.

(Code 1964, § 7.795)

State law reference—Similar provisions, RSMo. § 569.130.

Sec. 16-157. - Trespass in the second degree.

(a)

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

(b)

Trespass in the second degree is an infraction.

(Code 1964, § 7.800)

State law reference—Similar provisions, RSMo. § 569.150.

Sec. 16-158. - Tampering.

(a)

A person commits the crime of tampering if he:

(1)

Tampers with property of another for the purpose of causing substantial inconvenience to that person or to another; or

(2)

Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle.

(b)

Tampering is a class A misdemeanor.

(Code 1964, § 7.805)

State law reference—Similar provisions, RSMo. § 569.090.

Sec. 16-159. - Tampering with a utility.

(a)

A person commits the crime of tampering with a utility if he:

(1)

Tampers or makes connection with property of a utility; or

(2)

Knowingly shall accept or receive the use or benefit of gas, electric current, steam, water, sewage disposal, communication service or cable television service:

a.

When such gas, electric current, steam, water, sewage disposal, communication service or cable television service should pass through a meter but has been directed therefrom; or

b.

When such gas, electric current, steam, water, sewage disposal, communication service or cable television service shall have been obtained by diversion of same without authorization from the utility producing or providing such service.

(b)

For the purposes of this section, the presence on a meter or other property of a utility of any wire, pipe or other device whatsoever which affects the diversion of gas, electric current, steam, water, sewage disposal, communication service or cable television service without the proper measurement or registration of such service, or which shall have been installed or attached without the authorization of the utility providing such service shall be prima facie evidence of knowledge thereof on the part of the person who has custody or control of the building or portion of building to which the use or benefit of such service shall have been diverted and shall further be prima facie evidence of the intent of such person to accept or receive the use of such service.

(c)

Tampering with a utility is a class A misdemeanor.
(Code 1964, § 7.810)

State law reference—Similar provisions, RSMo. § 569.090.

Sec. 16-160. - Peeping toms.

Whoever shall be found in the city trespassing upon the premises of another whereon is located a dwelling house during the hours between one hour after sunset and one hour before sunrise, such person being upon such premises and being then and there engaged in peeping or peering into such dwelling house, or being upon such premises with the intention of peeping or peering into such dwelling house, shall be deemed guilty of a class A misdemeanor.

(Code 1964, § 7.815)

Sec. 16-161. - Uninvited solicitation by peddlers, etc.

(a)

The practice of being in and upon posted private residential property in the city, by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, not having been requested or invited so to do by the owner or owners, occupant or occupants of such private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or for the purpose of disposing of or peddling or hawking the same, is hereby declared to be a nuisance, is declared unlawful, and is hereby prohibited.

(b)

The posting in a conspicuous place of a notice stating "No Soliciting, " or similar language upon the premises of a private residence, shall be prima facie evidence that the solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise have not been requested or invited to be in and upon private residential property.

(c)

This section shall not apply to the solicitation of orders for sale of goods, wares and merchandise for charitable purposes.

(d)

Any person convicted of perpetrating a nuisance, as described in this section, shall be punished as provided in section 1-8 of this Code.

(Code 1964, § 7.1105)

Sec. 16-162. - Reserved.

Editor's note—

Ord. No. 15929, § 1, adopted March 15, 1999 repealed § 16-162, which pertained to handbills and derived from Code 1964, § 7.1110.

Sec. 16-163. - Posting bills, painting signs, etc., prohibited; exception.

(a)

It shall be unlawful for any person to post or cause to be posted any bill, or paint, write or print, or cause to be painted, written or printed, any sign or device on any sidewalk, street, bridge, viaduct, pole, tree, post or on any wall, building or structure, or other property of another, unless in the case of private property, the prior consent of the owner thereof has been secured. For the purposes of this section, the presence of any bill, sign, device, painting, or printing in a location prohibited by this section which contains or includes the name of a business or corporation or the name by which a business or corporation is doing business, shall be prima facie evidence that both the business or corporation and its manager(s), officer(s) and director(s) had knowledge thereof and had posted, painted, written, or printed such bill, sign, device, painting or printing in such location or caused the same to be posted, painted, written or printed in such location. Further for the purposes of this section, the presence of any bill, sign, device, painting or printing in a location prohibited by this section which shall contain or include the name of any person shall be prima facie evidence that such person had knowledge thereof and had posted, painted, written or printed such bill, sign, device, printing or painting in such location or caused the same to be posted, painted, written or printed in such location.

(b)

The director of public works is hereby authorized to issue permits allowing the placing of house numbers on curbs on public streets and other public rights-of-way and to promulgate rules and regulations governing the size, style, location and materials to be used in such numbering which will assure that such numbering is easily legible and uniform throughout the city. The director of public works is authorized to issue permits under such conditions and to such persons as the director deems competent and responsible to see that the rules and regulations promulgated hereunder are carried out. The provisions of paragraph (a) of this section shall not apply to the placing of street numbers on curbs which conform to the rules and regulations promulgated hereunder and for which a permit has been issued.

(Code 1964, §§ 7.1115, 7.1120)

Cross reference—Signs generally, Ch. 23.

Sec. 16-164. - Serial numbers on articles.

(a)

Removing, covering, altering or defacing. No person shall destroy, remove, cover, conceal, alter, deface or cause to be destroyed, removed, covered, concealed, altered or defaced, the manufacturer's original number, or serial number or other distinguishing number or mark, on any firearm, tape player, phonograph, radio or television receiver, combination thereof, radio device or accessory, outboard motor, piano, power tool or other article which bears a manufacturer's original number, or serial number or other distinguishing number or mark, for any reason whatsoever.

(b)

Sale of article after removal, etc. No person shall sell, offer for sale, pawn or use as security for a loan, any firearm, tape player, phonograph, radio or television receiver or combination thereof, radio device or accessory, outboard motor, piano, power tool or other article which bears a manufacturer's original number, or serial number or other distinguishing number or mark, from which the manufacturer's original number, or serial number or other distinguishing number or mark, has been removed, or which has been destroyed, covered, concealed, altered or defaced.

(c)

Purchase or possession of article after removal, etc. No person shall buy, receive as security for a loan or in pawn, or in any manner receive or have in his possession any article mentioned in paragraphs (a) and (b) of this section, on which the manufacturer's original number, mark, serial number or other distinguishing number or mark has been destroyed, removed, covered, concealed, altered or defaced, and possession of any such articles shall be prima facie evidence of violation hereof.

(d)

Articles in possession prior to enactment of section. Notwithstanding any other provision of this section to the contrary, any person who has in their possession on May 16, 1977, an article described in paragraphs (a) and (b) of this section shall not be in violation of the provisions of this section and in addition such individuals may sell or offer for sale such articles in their possession, provided they registered the article with the chief of police by June 15, 1977. The chief of police is hereby authorized to establish procedures for the registration of such articles.

(e)

Penalty. Any violation of this section is a class B misdemeanor.

(Code 1964, § 7.1175)

Sec. 16-165. - Sale of merchandise; information on ownership required.

(a)

It shall be unlawful for any person to sell or offer for sale any item, object or merchandise unless such person has available on request the name, address and telephone number of the owner of such item, object or merchandise.

(b)

This section shall not apply to sales made without private profit for a public, charitable, educational, literary, fraternal, civic or religious purpose and when the person or organization conducting such sale holds a special permit for such sale issued by the city business license administrator under section 13-20 of this Code.

(Code 1964, § 7.1180)

Secs. 16-166—16-169. - Reserved.

DIVISION 11.5. - STEALING

Sec. 16-170. - Definitions.

As used in sections 16-171 through 16-173, the following terms shall have the meaning given in this section.

Appropriate means to take, obtain, use, transfer, conceal or retain possession of.

Coercion. Coercion means a threat, however communicated:

(1)

To commit any crime; or

(2)

To inflict physical injury in the future on the person threatened or another; or

(3)

To accuse any person of any crime; or

(4)

To expose any person to hatred, contempt or ridicule; or

(5)

To harm the credit or business repute of any person; or

(6)

To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(7)

To inflict any other harm which would not benefit the actor.

A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of

such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Deceit. "Deceit" means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

Deprive. "Deprive" means:

(1)

To withhold property from the owner permanently; or

(2)

To restore property only upon payment of reward or other compensation; or

(3)

To use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

Of another. Property is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has possessory or proprietary interest therein, except that, for purposes of sections 16-161 through 16-163, property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

Property. "Property" means anything of value whether real or personal, tangible or intangible, in possession or in action, and shall include, but not be limited to, the evidence of a debt actually executed but not delivered or issued as a valid instrument.

Receiving. "Receiving" means acquiring possession, control of title or lending on the security of the property.

Services. "Services" includes transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

(Code 1964, § 7.820)

Sec. 16-171. - Stealing.

A person commits the crime of stealing if he appropriates property or services of another with the purpose to deprive him thereof, either without his consent or by means of deceit or coercion. Stealing is a class A misdemeanor.

(Code 1964, § 7.825)

State law reference—Similar provisions, RSMo. § 570.030.

Sec. 16-172. - Lost property.

(a)

A person who appropriates lost property shall not be deemed to have stolen that property within the meaning of section 16-171 unless such property is found under circumstances which gave the finder knowledge of or means of inquiry as to the true owner.

(b)

The defendant shall have the burden of injecting the issue of lost property.

(Code 1964, § 7.830)

State law reference—Similar provisions, RSMo. § 570.060.

Sec. 16-173. - Claim of right.

(a)

A person does not commit an offense under section 16-171 if, at the time of the appropriation, he:

(1)

Acted in the honest belief that he had the right to do so; or

(2)

Acted in the honest belief that the owner, if present, would have consented to the appropriation.

(b)

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

(Code 1964, § 7.835)

State law reference—Similar provisions, RSMo. § 570.070.

DIVISION 12. - OFFENSES AGAINST PUBLIC ORDER`

Cross reference—Disorderly persons at fires, § 9-2; false fire alarms, § 9-3.

Sec. 16-176. - Definitions.

The following terms, as used in this division shall have the meaning given in this section:

Intimidate. "Intimidate" means to knowingly act or speak in such a manner as to cause a reasonable person to fear for his immediate personal safety.

Panhandling. "Panhandling" means any solicitation made in person requesting an immediate donation of money or other thing of value from another person. "Panhandling" also means any solicitation for the purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation. Panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.

Private property. "Private property" means any place which at the time is not open to the public. It includes property which is owned publicly or privately.

Property of another. "Property of another" means any property in which the actor does not have a possessory interest.

Public place. "Public place" means any place which at the time is open to the public. It includes property which is owned publicly or privately.

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

(Code 1964, § 7.850; Ord. No. 14565, § 1, 7-17-95; Ord. No. 17923, § 2, 12-1-03)

Sec. 16-176.1. - Peace disturbance—Generally.

(a)

A person commits the crime of peace disturbance if:

(1)

He unreasonably and knowingly disturbs or alarms another person or persons by:

a.

Loud noise; or

b.

Offensive and indecent language which is likely to produce an immediate violent response from a reasonable recipient; or

c.

Threatening to commit a crime against any person; or

d.

Fighting; or

e.

Creating a noxious and offensive odor.

(2)

He 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.

(b)

Peace disturbance is a class B misdemeanor.

(Code 1964, § 7.840; Ord. No. 10324, § 1, 10-1-84)

Sec. 16-177. - Private peace disturbance.

(a)

A person commits the crime of private peace disturbance if he 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 against any person; or

(2)

Fighting.

(b)

Private peace disturbance is a class C misdemeanor.

(Code 1964, § 7.845)

State law reference—Similar provisions, RSMo. § 574.020.

Sec. 16-178. - Unlawful assembly.

(a)

A person commits the crime of unlawful assembly if he knowingly assembles with six (6) or more other persons and agrees with such persons to violate any of the criminal laws of this city, this state or of the United States with force or violence.

(b)

Unlawful assembly is a class B misdemeanor.

(Code 1964, § 7.855)

State law reference—Similar provisions, RSMo. § 574.040.

Sec. 16-179. - Rioting.

(a)

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

(b)

Rioting is a class A misdemeanor.

(Code 1964, § 7.860)

State law reference—Similar provisions, RSMo. § 574.050.

Sec. 16-180. - Refusal to disperse.

(a)

A person commits the crime of refusal to disperse if, being present at the scene of an unlawful assembly, or at the scene of a riot, he 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.

(b)

Refusal to disperse is a class C misdemeanor.

(Code 1964, § 7.865)

State law reference—Similar provisions, RSMo. § 574.060.

Sec. 16-181. - Keeping disorderly premises.

A person commits the crime of keeping a disorderly premises if he shall permit, allow or encourage any peace disturbance, as defined in sections 16-176 and 16-177, to occur or continue on premises owned or controlled by him. Keeping disorderly premises is a class A misdemeanor.

(Code 1964, § 7.870)

Sec. 16-182. - Impeding the use of streets, sidewalks or alleys.

It shall be unlawful for any person to impede, obstruct or interfere with the free use of any street, sidewalk, alley or public way by another:

(1)

By coasting, roller skating, ice skating, skateboarding, flying kites, playing baseball, football, soccer or any other game or sport on or in any street, sidewalk, alley or public way; or

(2)

By sitting, standing, lying, or any other conduct with the intent to impede, obstruct or interfere with such free use of any street, sidewalk, alley or public way.

(Code 1964, § 7.1100)

Sec. 16-183. - Disorderly intoxication; consumption of liquor in certain public places.

It shall be unlawful for any person to enter any schoolhouse or church house within the city in which there is an assemblage

of people, met for a lawful purpose, or any courthouse within the city, 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 the city and any person or persons so doing shall be guilty of a misdemeanor.

(Code 1964, § 7.1145)

Cross reference—Alcoholic beverages generally, Ch. 4.

State law reference—Authority, RSMo. § 67.310.

Sec. 16-184. - Nuisance in places open to public view.

Any person who commits a nuisance upon any place open to public view within the corporate limits of the city by emptying, discharging or evacuating ordure or urine thereon shall be deemed guilty of a misdemeanor.

(Code 1964, § 7.1150)

Sec. 16-185. - Possession of open container of alcoholic beverage or consumption of alcoholic beverage in certain public places.

- (a) It shall be unlawful for any person to possess any alcoholic beverage on any street, sidewalk or city parking facility unless such alcoholic beverage is in the original container and the seal is unbroken.
- (b) It shall be unlawful for any person to consume any alcoholic beverage on any street, sidewalk or city parking facility.
- (c) The definition of "alcoholic beverages" contained in Chapter 4 shall apply to this section.
- (d) This section shall not apply to possession or consumption of any alcoholic beverage in a licensed motor vehicle.
- (e) This section shall not apply to the possession or consumption of alcoholic beverages served by an establishment licensed under section 4-48 of this Code provided that the restrictions of that section are observed.
- (f) The city council may temporarily exclude any street from the provisions of this section in connection with the temporary closing of the street for a special event.
- (g) A violation of this section is a class B misdemeanor.
- (h) In prosecutions under this section, there is a rebuttable presumption that a container marked or labeled as containing an alcoholic beverage actually contains the described alcoholic beverage. This rebuttable presumption applies only in cases where a sample of the contents of the container has been preserved and is available to the defendant for testing.

(Ord. No. 14048, § 1, 5-2-94; Ord. No. 17600, § 2, 2-17-03; Ord. No. 18460, § 2, 3-21-05)

Sec. 16-186. - Unlawful panhandling.

- (a) It shall be unlawful to panhandle on any day after sunset or before sunrise.
- (b) It shall be unlawful to panhandle on residential or private property after having been asked to leave or refrain from panhandling by the owner or other person lawfully in charge of the property or lawfully in possession of the property.
- (c) It shall be unlawful to panhandle when either the panhandler or the person being solicited is located in any of the following places:
 - (1) Within twenty (20) feet of a public toilet;
 - (2) Within twenty (20) feet of an automated teller machine;
 - (3) On any city bus or within twenty (20) feet of any bus station or bus stop;
 - (4) Within ten (10) feet of an entrance to a building;
 - (5) Within twenty (20) feet of an entrance to a bank, savings and loan or other financial institution; or
 - (6)

Within twenty (20) feet of a pay telephone.

(d)

It shall be unlawful to panhandle when the person solicited is waiting in any line, is seated at an outdoor dining facility or is in a motor vehicle.

(e)

It shall be unlawful to panhandle in an aggressive manner, including taking any of the following actions:

(1)

Continuing to solicit from a person after the person has given a negative response to the solicitation;

(2)

Touching the solicited person without the solicited person's consent;

(3)

Blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

(4)

Using violent or threatening gestures toward a person solicited;

(5)

Closely following behind, ahead or alongside a person who walks away from the panhandler after being solicited;

(6)

Using profane or abusive language which is likely to provoke an immediate violent reaction from the person being solicited;

(7)

Panhandling in a group of two (2) or more persons; or

(8)

Panhandling with the intent to intimidate another person into giving money or other thing of value.

(f)

Panhandling in violation of any of the provisions of this section is a class B misdemeanor.

(Ord. No. 14565 § 1, 7-17-95; Ord. No. 17923, § 2, 12-1-03)

Secs. 16-187—16-190. - Reserved.

Editor's note—

Ord. No. 17923, § 2, adopted Dec. 1, 2003, repealed former § 16-187 of the Code, which pertained to aggressive peddling and derived from Ord. No. 14565, § 1, adopted July 17, 1995.

DIVISION 13. - OFFENSES AGAINST THE ADMINISTRATION OF JUSTICE

Cross reference—Disorderly persons at fires, § 9-2.

Sec. 16-191. - Definitions.

The following terms as used in sections 16-191.1 through 16-214, shall have the meaning given in this section.

Affidavit means any written statement which is authorized or required by law to be made under oath, and which is sworn to before a person authorized to administer oaths.

Government. "Government" means any branch or agency of the government of this state or of any political subdivision thereof.

Judicial proceeding. "Judicial proceeding" means any official proceeding in court, or any proceeding authorized by or held under the supervision of a court.

Juror. "Juror" means a grand or petit juror, including a person who has been drawn or summoned to attend as a prospective juror.

Jury. "Jury" means a grand or petit jury, including any panel which has been drawn or summoned to attend as prospective jurors.

Official proceeding means any cause, matter, or proceeding where the laws of this state require that evidence considered therein be under oath or affirmation.

Public record. "Public record" means any document which a public servant is required by law to keep.

Testimony. "Testimony" means any oral statement under oath or affirmation.

(Code 1964, § 7.875)

Sec. 16-191.1. - Hindering prosecution.

(a)

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

(1)

Harbors or conceals such person; or

(2)

Warns such person of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring another into compliance with the law; or

(3)

Provides such person with money, transportation, weapon, disguise or other means to aid him 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.

(b)

Hindering prosecution is a class A misdemeanor.

(Code 1964, § 7.880)

State law reference—Similar provisions, RSMo. § 575.030.

Sec. 16-192. - False affidavit.

(a)

A person commits the crime of making a false affidavit if, with purpose to mislead any person, he, in any affidavit, swears falsely to a fact which is material to the purpose for which such affidavit is made.

(b)

For the purposes of paragraph (a) of this section, the following shall apply:

(1)

A fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect, or did substantially affect, the course or outcome of the cause, matter or proceeding.

(2)

Knowledge of the materiality of the statement is not an element of this crime, and it is no defense that:

a.

The defendant mistakenly believed the fact to be immaterial; or

b.

The defendant was not competent, for reasons other than mental disability or immaturity, to make the statement.

(c)

It is a defense to a prosecution under paragraph (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 paragraph (b) of this section.

(e)

Making a false affidavit is a class A misdemeanor if done for the purpose of misleading a public servant in the performance of his duty; otherwise making a false affidavit is a class C misdemeanor.

(Code 1964, § 7.885)

State law reference—Similar provisions, RSMo. § 575.050.

Sec. 16-193. - False declarations.

(a)

A person commits the crime of making a false declaration if, with the purpose to mislead a public servant in the performance of his duty, he:

(1)

Submits any written false statement, which he does not believe to be true:

a.

In an application for any pecuniary benefit or other consideration; or

b.

On a form bearing notice, authorized by law, that false statements made therein are punishable; or

(2)

Submits or invites reliance on:

a.

Any writing which he knows to be forged, altered or otherwise lacking in authenticity; or

b.

Any sample, specimen, map, boundary mark, or other object which he knows to be false.

(b)

The falsity of the statement or the item under paragraph (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 paragraphs (b)(1) and (2) of section 16-192 shall apply to prosecutions under paragraph (a) of this section.

(c)

It is a defense to a prosecution under paragraph (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 paragraph (c) of this section.

(e)

Making a false declaration is a class B misdemeanor.

(Code 1964, § 7.890)

State law reference—Similar provisions, RSMo. § 575.060.

Sec. 16-194. - Proof of falsity of statements.

No person shall be convicted of a violation of sections 16-191, 16-192 or 16-193 based upon the making of a false statement except upon proof of the falsity of the statement by:

(a)

The direct evidence of two (2) witnesses; or

(b)

The direct evidence of one witness together with strongly corroborating circumstances; or

(c)

Demonstrative evidence which conclusively proves the falsity of the statement; or

(d)

A directly contradictory statement by the defendant under oath together with

(1)

The direct evidence of one witness; or

(2)

Strongly corroborating circumstances; or

(e)

A judicial admission by the defendant that he made the statement knowing it was false. An admission, which is not a judicial admission, by the defendant that he made the statement knowing it was false may constitute strongly corroborating circumstances.

(Code 1964, § 7.895)

State law reference—Similar provisions, RSMo. § 575.070.

Sec. 16-195. - False reports.

(a)

A person commits the crime of making a false report if he knowingly:

(1)

Gives false information to a law enforcement officer for the purpose of implicating another person in a crime; or

(2)

Makes a false report to a law enforcement officer that a crime 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 paragraph (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 paragraph (b) of this section.

(d)

Making a false report is a class B misdemeanor.

(Code 1964, § 7.900)

State law reference—Similar provisions, RSMo. § 575.080.

Sec. 16-196. - False bomb report.

(a)

A person commits the crime of making a false bomb report if he knowingly makes a false report or causes a false report to be made to any person that a bomb or other explosive has been placed in any public or private place or vehicle.

(b)

Making a false bomb report is a class A misdemeanor.

(Code 1964, § 7.905)

State law reference—Similar provisions, RSMo. § 575.090.

Sec. 16-197. - Tampering with physical evidence.

(a)

A person commits the crime of tampering with physical evidence if he:

(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

(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.

(b)

Tampering with physical evidence is a class A misdemeanor.

(Code 1964, § 7.910)

State law reference—Similar provisions, RSMo. § 575.100.

Sec. 16-198. - Tampering with a public record.

(a)

A person commits the crime of tampering with a public record if with the purpose to impair the verity, legibility or availability of a public record:

(1)

He knowingly makes a false entry in or falsely alters any public record; or

(2)

Knowing he lacks authority to do so, he destroys, suppresses or conceals any public record.

(b)

Tampering with a public record is a class A misdemeanor.

(Code 1964, § 7.915)

State law reference—Similar provisions, RSMo. § 575.110.

Sec. 16-199. - False impersonation.

(a)

A person commits the crime of false impersonation if he:

(1)

Falsely represents himself to be a public servant with purpose to induce another to submit to his pretended official authority or to rely upon his pretended official acts, and

a.

Performs an act in that pretended capacity; or

- b. Causes another to act in reliance upon his pretended official authority; or
- (2) Falsely represents himself 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.

(b) False impersonation is a class B misdemeanor unless the person represents himself to be a law enforcement officer, in which case false impersonation is a class A misdemeanor.

(Code 1964, § 7.920)

State law reference—Similar provisions, RSMo. § 575.120.

Sec. 16-200. - Impersonating officers.

Any person who shall wear in public any badge, star or uniform imitating a police officer; or any person who shall use the word "police" on any uniform, badge, identification patch, identification card, vehicle, or as a part of any name under which such person is doing business shall be deemed guilty of a class B misdemeanor.

(Code 1964, § 7.921)

Sec. 16-201. - Simulating legal process.

- (a) A person commits the crime of simulating legal process if, with purpose to mislead the recipient and cause him to take action in reliance thereon, he delivers or causes to be delivered:
 - (1) A request for the payment of money on behalf of any creditor that in form and substance simulates any legal process issued by any court of this state; or
 - (2) Any purported summons, subpoena or other legal process knowing that the process was not issued or authorized by any court.
- (b) This section shall not apply to a subpoena properly issued by a notary public.
- (c) Simulating legal process is a class B misdemeanor.

(Code 1964, § 7.925)

State law reference—Similar provisions, RSMo. § 575.130.

Sec. 16-202. - Resisting or interfering with arrest.

- (a) A person commits the crime 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 paragraph (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.
- (d) Resisting or interfering with arrest is a class A misdemeanor.

(Code 1964, § 7.930; Ord. No. 17104, § 1, 11-19-01)

State law reference—Similar provisions, RSMo. § 575.150.

Sec. 16-202.1. - Interference with police dog or police horse.

(a)

A person commits the crime of interference with a police dog or police horse if:

(1)

Knowing the dog or horse is under the control of a police officer, the person obstructs, interferes with or prevents by any means or method the dog or horse from carrying out the commands of the police officer; or

(2)

Knowing a police officer is in charge of a police dog or police horse, the person obstructs, interferes with or prevents by any means or method the police officer from maintaining control of the dog or horse.

(b)

Interference with a police dog or police horse is a class B misdemeanor.

(Ord. No. 14512, § 2, 6-5-95; Ord. No. 19072, § 1, 6-5-06)

Sec. 16-202.2. - Abuse of a police dog or police horse.

(a)

A person commits the crime of abuse of a police dog or police horse if the person knowingly kills, assaults, beats, strikes, kicks, mutilates, injures, disables, arouses, angers or excites any police dog or police horse.

(b)

Abuse of a police dog or police horse is a class A misdemeanor.

(Ord. No. 14512, § 2, 6-5-95; Ord. No. 19072, § 1, 6-5-06)

Sec. 16-203. - Interference with legal process.

(a)

Process includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court.

(b)

A person commits the crime of interference with legal process if, knowing any person is authorized by law to serve process, for the purpose of preventing such person from effecting the service of any process, he interferes with or obstructs such person.

(c)

Interference with legal process is a class B misdemeanor.

(Code 1964, § 7.935)

State law reference—Similar provisions, RSMo. § 575.160.

Sec. 16-204. - Refusing to make an employee available for service of process.

(a)

Any employer, or any agent who is in charge of a business establishment, commits the crime of refusing to make an employee available for service of process if he knowingly refuses to assist any officer authorized by law to serve process who calls at such business establishment during the working hours of an employee for the purpose of serving process on such employee, by failing or refusing to make such employee available for service of process.

(b)

Refusing to make an employee available for service of process is a class C misdemeanor.

(Code 1964, § 7.940)

State law reference—Similar provisions, RSMo. § 575.170.

Sec. 16-205. - Failure to execute an arrest warrant.

(a)

A law enforcement officer commits the crime of failure to execute an arrest warrant if, with the purpose of allowing any person charged with or convicted of a crime to escape, he fails to execute any arrest warrant, capias, or other lawful process ordering apprehension or confinement of such person, which he is authorized and required by law to execute.

(b)

Failure to execute an arrest warrant is a class A misdemeanor.

(Code 1964, § 7.945)

State law reference—Similar provisions, RSMo. § 575.180.

Sec. 16-206. - Refusal to identify as a witness.

(a)

A person commits the crime of refusal to identify as a witness if, knowing he 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 official duties, he refuses to report or gives a false report of his name and present address to such officer.

(b)

Refusal to identify as a witness is a class C misdemeanor.

(Code 1964, § 7.950)

State law reference—Similar provisions, RSMo. § 575.190.

Sec. 16-207. - Escape from custody.

(a)

A person commits the crime of escape from custody if, while being held in custody after arrest for any crime, he escapes from custody.

(b)

Escape from custody is a class A misdemeanor.

(Code 1964, § 7.955)

State law reference—Similar provisions, RSMo. § 575.200.

Sec. 16-208. - Interfering with a prisoner or aiding escape of a prisoner.

(a)

A person commits the crime of interfering with a prisoner or aiding escape of a prisoner if he:

(1)

Introduces into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of facilitating the escape of any prisoner confined therein, or of facilitating the commission of any other crime; or

(2)

Assists or attempts to assist any prisoner who is being held in custody or confinement for the purpose of effecting the prisoner's escape from custody or confinement; or

(3)

Gives away or sells, or attempts to give away or sell, to any person confined in any city jail or in custody of any peace officer in the city anything whatsoever without the consent of the person in charge of such jail or person having such custody.

(b)

Interfering with a prisoner or aiding escape of a prisoner is a class A misdemeanor.

(Code 1964, § 7.960)

State law reference—Similar provisions, RSMo. § 575.230.

Sec. 16-209. - Disturbing a judicial proceeding.

(a)

A person commits the crime 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 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.

(b)

Disturbing a judicial proceeding is a class A misdemeanor.

(Code 1964, § 7.965)

State law reference—Similar provisions, RSMo. § 575.250.

Sec. 16-210. - Tampering with a witness.

(a)

A person commits the crime 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 or avoid subpoena or other legal process, or to withhold evidence, information or documents, or to testify falsely, he:

(1)

Threatens or causes harm to any person or property; or

(2)

Uses force, threats or deception; or

(3)

Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness.

(b)

Tampering with a witness is a class A misdemeanor.

(Code 1964, § 7.970)

State law reference—Similar provisions, RSMo. § 575.270.

Sec. 16-211. - Improper communication.

(a)

A person commits the crime of improper communication if he 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.

(b)

Improper communication is a class B misdemeanor.

(Code 1964, § 7.975)

State law reference—Similar provisions, RSMo. § 575.290.

Sec. 16-212. - Misconduct by a juror.

(a)

A person commits the crime of misconduct by a juror if, being a juror, he knowingly:

(1)

Promises or agrees, prior to the submission of a cause to the jury for deliberation, to vote for or agree to a verdict for or against any party in a judicial proceeding; or

(2)

Receives any paper, evidence or information from anyone in relation to any judicial proceeding for the trial of which he has been or may be sworn, without the authority, if the court or officer before whom such proceeding is pending, and does not immediately disclose the same to such court or officer.

(b)

Misconduct by a juror is a class A misdemeanor.

(Code 1964, § 7.980)

State law reference—Similar provisions, RSMo. § 575.300.

Sec. 16-213. - Misconduct in selection or summoning a juror.

(a)

A public servant authorized by law to select or summon any juror commits the crime of misconduct in selecting or summoning a juror if he knowingly acts unfairly, improperly or not impartially in selecting or summoning any person or persons to be a member or members of a jury.

(b)

Misconduct in selecting or summoning a juror is a class B misdemeanor.

(Code 1964, § 7.985)

State law reference—Similar provisions, RSMo. § 575.310.

Sec. 16-214. - Misconduct in administration of justice.

(a)

A public servant, in his public capacity or under color of his office or employment, commits the crime of misconduct in administration of justice if:

(1)

He is charged with the custody of any person accused or convicted of any crime or municipal ordinance violation and he coerces, threatens, abuses or strikes such person for the purpose of securing a confession from him;

(2)

He knowingly seizes or levies upon any property or dispossesses anyone of any lands or tenements without due and legal process, or other lawful authority;

(3)

He is a judge and knowingly accepts a plea of guilty from any person charged with a violation of a statute or ordinance at any place other than at the place provided by law for holding court by such judge;

(4)

He is a jailer or keeper of a county jail and knowingly refuses to receive, in the jail under his charge, any person lawfully committed to such jail on any criminal charge or criminal conviction by any court of this state, or on any warrant and commitment or capias on any criminal charge issued by any court of this state;

(5)

He is a law enforcement officer and violates the provisions of Section 544.170 RSMo., by knowingly:

a.

Refusing to release any person in custody who is entitled to such release; or

b.

Refusing to permit a person in custody to see and consult with counsel or other persons; or

c.

Transferring any person in custody to the custody or control of another, or to another place, for the purposes of avoiding the provisions of that section; or

d.

Preferring against any person in custody a false charge for the purpose of avoiding the provisions of that section.

(b)

Misconduct in the administration of justice is a class A misdemeanor.

(Code 1964, § 7.990)

State law reference—Similar provisions, RSMo. § 575.320.

Sec. 16-215. - Failure to comply with a subpoena.

(a)

A person commits the offense of failure to comply with a subpoena if, after being duly served with a subpoena issued by the municipal court, he fails to appear at the time and in the manner directed in the subpoena or to do any other act required by the subpoena.

(b)

Failure to comply with a subpoena is a Class B misdemeanor.

(Ord. No. 11556, § 1, 7-20-87)

Sec. 16-216. - Failure to appear in municipal court.

(a)

A person commits the offense of failure to appear in municipal court if:

(1)

He has been issued a summons for a violation of any ordinance of the City of Columbia and fails to appear before the judge of the municipal court at the time and on the date on which he was summoned, or at the time and on the date to which the case was continued.

(2)

He has been released upon recognizance of bond and fails to appear before the judge of the municipal court at the time and on the date on which he was summoned or at the time and on the date to which the case was continued.

(b)

Nothing in this section shall prevent the exercise by the municipal court of its power to punish for contempt.

(e)

Failure to appear in municipal court is a Class B misdemeanor.

(Ord. No. 11556, § 1, 7-20-87)

Secs. 16-217—16-220. - Reserved.

DIVISION 14. - OFFENSES AFFECTING GOVERNMENT

Cross reference—Disorderly persons at fires, § 9-2; false fire alarms, § 9-3.

Sec. 16-221. - Obstructing government operations.

(a)

A person commits the crime of obstructing government operations if he 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.

(b)

Obstructing governmental operations is a class B misdemeanor.

(Code 1964, § 7.995)

State law reference—Similar provisions, RSMo. § 576.030.

Sec. 16-222. - Official misconduct.

(a)

A public servant, in his public capacity or under color of his office or employment, commits the crime of official misconduct if:

(1)

He knowingly discriminates against any employee or any applicant for employment on account of race, creed, color, sex or national origin, provided such employee or applicant possesses adequate training and educational qualifications;

(2)

He knowingly demands or receives any fee or reward for the execution of any official act or the performance of a duty imposed by law or by the terms of his employment, that is not due, or that is more than is due, or before it is due;

(3)

He knowingly collects taxes when none are due, or exacts or demands more than is due;

(4)

He is the city or county treasurer, city or county clerk, or other municipal or county officer, or judge of a municipal or county court, and knowingly orders the payment of any money or draws any warrant, or pays over any money for any purpose other than the specific purpose for which the same was assessed, levied and collected, unless it is or shall have become impossible to use such money for that specific purpose;

(5)

He is an officer or employee of any court and knowingly charges, collects or receives less fee for his services than is provided by law;

(6)

He is an officer or employee of any court and knowingly, directly or indirectly, buys, purchases or trades for any fee taxed or to be taxed as costs in any court of this state, or any county warrant, at less than par value which may be by law due or to become due to any person by or through any such court;

(7)

He is a county officer, deputy or employee and knowingly traffics for or purchases at less than the par value or speculates in any court warrant issued by order of the county court of his county, or in any claim or demand held against such county.

(b)

Official misconduct is a class A misdemeanor.

(Code 1964, § 7.1000)

State law reference—Similar provisions, RSMo. § 576.040.

Sec. 16-223. - Misuse of official information.

(a)

A public servant commits the crime of misuse of official information if, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he knowingly:

(1)

Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by such information or official action; or

(2)

Speculates or wagers on the basis of such information or official action; or

(3)

Aids, advises or encourages another to do any of the foregoing with purpose of conferring a pecuniary benefit on any person.

(b)

Misuse of official information is a class A misdemeanor.

(Code 1964, § 7.1005)

State law reference—Similar provisions, RSMo. § 575.050.

Sec. 16-224. - Deceiving a law enforcement officer.

(a)

A person commits the offense of deceiving a law enforcement officer if he shall knowingly deceive a law enforcement officer for the following purposes:

(1)

To prevent discovery of any offense or crime which has been or is being committed by any person; or

(2)

To prevent or hinder investigation, apprehension, prosecution, conviction or punishment of any person for conduct

constituting an offense under the ordinances of the city or the laws of the state.

(b)

It is a defense to a prosecution under this section that the actor retracted the false information or removed the deception but this defense shall not apply if the retraction or removal was made after:

(1)

The falsity of the information or the deception was exposed; or

(2)

Any law enforcement officer took substantial action in reliance on the false information or deception.

(c)

The defendant shall have the burden of injecting the issue of retraction or removal under paragraph (b) of this section.

(d)

Deceiving a law enforcement officer is a class A misdemeanor.

(Code 1964, § 7.1010)

Sec. 16-225. - False identification.

Any person who possesses:

(a)

A reproduced, modified or altered motor vehicle driver's license from any state, jurisdiction or licensing authority;

(b)

A reproduced, modified, or altered, non-driver's identification card or any other modified or altered identification card originally issued by any governmental or educational institution or authority;

(c)

Any identification document of another person which indicates that person is twenty-one (21) years of age or older when the possessor is under twenty-one (21) years of age; or

(d)

Any identification card or document which appears on its face to be issued by a legitimate governmental or educational issuing authority which indicates the possessor is twenty-one (21) years of age or older when the possessor is under twenty-one (21) years of age;

is guilty of a class A misdemeanor.

(Ord. No. 17605, § 1, 3-3-03; Ord. No. 17985, § 1, 2-2-04)

Secs. 16-226—16-230. - Reserved.

DIVISION 15. - OFFENSES AGAINST PUBLIC SAFETY*

Cross reference—Disorderly persons at fires, § 9-2; false fire alarms, § 9-3.

Sec. 16-231. - Littering.

(a)

A person commits the crime of littering if he 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; any solid or liquid chemical waste or residue, any flammable or explosive liquid; any water or wastes having toxic, poisonous, caustic or corrosive properties; or any waters, wastes or materials or substances which either singly or by interaction with other wastes is capable of creating public nuisance or hazard to humans or wildlife; 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 city, or 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 consent.

(b)

Littering is a class A misdemeanor.

(Code 1964, § 7.1015; Ord. No. 14915, § 1, 8-5-96)

Cross reference—Refuse collection, § 22-156 et seq.

State law reference—Similar provisions, RSMo. § 577.070.

Sec. 16-232. - Abandoning motor vehicle.

(a)

A person commits the crime of abandoning a motor vehicle if he 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 consent.

(b)

Abandoning a motor vehicle is a class A misdemeanor.

(Code 1964, § 7.1020)

Cross reference—Motor vehicles and traffic, Ch. 14.

State law reference—Similar provisions, RSMo. § 577.080.

Sec. 16-233. - Abandonment of airtight or semi-airtight containers.

(a)

A person commits the crime of abandonment of airtight icebox if he abandons, discards, or knowingly permits to remain on his premises under his 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.

(b)

Paragraph (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 paragraph (b) of this section.

(d)

Abandonment of an airtight icebox is a class B misdemeanor.

(Code 1964, § 7.1025)

State law reference—Similar provisions, RSMo. § 577.100.

Sec. 16-234. - Fireworks and firearms.

(a)

Discharging. Every person who shall fire or discharge any gun, pistol, revolver or any other firearm or air rifle, or shall use, burn, explode or set off any firecracker, torpedo, bomb, rocket, pinwheel, fire balloon, Roman candles or any other firecracker or fireworks within the city shall be deemed guilty of a misdemeanor, except as provided in paragraph (b) of this section.

(b)

Exceptions to provisions of paragraph (a):

(1)

Gun clubs, sheet shoots, target ranges. The provisions of paragraph (a) of this section shall not apply to the firing of firearms within the bounds of gun clubs, skeet shoots or target ranges in the manner specified, and as authorized by the board of adjustment, after public hearing and in accordance with provisions of chapter 29 of this Code.

(2)

Permits for special shooting events and fireworks displays. The city manager is hereby authorized to issue permits for special one day shooting events or fireworks displays to be held at such places as, in the opinion of the city manager, shall provide maximum safety for all persons concerned, and under direct supervision and control of such persons as the provisions of paragraph (a) of this section shall not apply to such authorized events for which such permits have been issued.

(3)

Hunting. The provisions of paragraph (a) of this section pertaining to the discharge of firearms shall not apply to any person discharging a shotgun, primitive firearm or BB gun while lawfully hunting on a privately owned tract of land twenty (20) acres or larger that was annexed into the city after February 21, 2005, subject to the following prohibitions:

a.

It shall be unlawful for any person to discharge a firearm in such a manner that the projectile travels along or across any street, building or playground.

b.

It shall be unlawful for any person to discharge a firearm at or in the direction of any visible person, domestic animal, vehicle, building or playground within reasonable range of the firearm at an angle that might allow the projectile to strike near any of these objects or areas.

c.

It shall be unlawful to discharge a firearm within three hundred (300) feet of any building or playground off the premises where the person is shooting.

(c)

Sale of fireworks prohibited. Except as provided in subsection (d), every person who shall sell or expose for sale any fireworks, firecrackers, torpedoes, bombs, rockets, pinwheels, fire balloons, Roman candles, toy cannons or any other fireworks of a like kind within the city shall be deemed guilty of a misdemeanor; provided, however, that this section shall not be construed to prohibit the sale of fireworks in wholesale lots by any person holding a wholesale license to do business

within the city for use or sale outside the limits of the city, or for use within the city limits by competent persons under a permit issued by the city manager.

(d)

Notwithstanding any other provisions of this Code, any property annexed into the city which was lawfully used for the commercial sale of fireworks at any time during the year immediately preceding annexation may be used for the commercial sale of fireworks for up to seven (7) years after annexation.

(Code 1964, §§ 7.1125—7.1135; Ord. No. 15211, § 2, 4-21-97; Ord. No. 18429, § 1, 2-21-05)

Cross reference—Licenses, permits and miscellaneous business regulations, Ch. 13.

Sec. 16-235. - Barbed wire fences.

No person shall construct, or cause or permit to be constructed, any fence composed in whole or in part of barbed wire, along the line of any street, alley or sidewalk within the city; and whoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor.

(Code 1964, § 7.1160)

Sec. 16-236. - Fences charged with electricity prohibited.

No person shall construct, or cause or permit to be constructed, any fence charged with electricity at any place within the limits of the city, and whoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor.

(Code 1964, § 7.1165)

Sec. 16-237. - Smoking prohibited in city buses; penalty for violation of section.

It shall be unlawful for any person to smoke on any motor bus owned or leased by the city. Violation of this section shall be deemed an infraction and punishable by a fine of not more than one hundred dollars (\$100.00).

(Code 1964, § 7.1190)

Sec. 16-238. - Use of protective helmets.

(a)

No person fifteen (15) years of age or younger shall wear, ride or use any roller skates, inline skates, roller blades, skateboards, or scooter, as these things are commonly defined, within the city limits without properly wearing an approved skate or bicycle helmet securely fastened by chin or neck strap.

(b)

An approved skate or bicycle helmet is headgear which meets or exceeds the impact standard for protective helmets set by the U.S. Consumer Products Safety Commission federal safety standards.

(c)

No parent, custodian, or legal guardian of a person fifteen (15) years of age or younger shall allow that person to wear, ride or use any roller skates, in-line skates, roller blades, skateboards, scooter or tricycle within the city limits as set out in this ordinance without wearing an approved skate or bicycle helmet. This is an offense of absolute liability.

(d)

Violation of this section is an infraction punishable by a fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

(Ord. No. 17642, § 2, 4-7-03)

Secs. 16-239—16-245. - Reserved.

DIVISION 16. - WEAPONS OFFENSES

Sec. 16-246. - Brandishing a weapon.

(a)

A person commits the offense of brandishing a weapon when the person exhibits any deadly or dangerous weapon in a rude, angry or threatening manner to any person in the city or goes into any courthouse, church, school or any other public meeting carrying a deadly or dangerous weapon.

(b)

For the purposes of this section, the term "deadly or dangerous weapon" means any weapon other than a firearm, from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a knife, dagger, billy, blackjack or metal knuckles.

(c)

The provisions of this section shall not apply to police officers and other officers or persons whose duty it is to execute process or warrants or to make arrests.

(d)

The crime of brandishing a weapon is a class A misdemeanor.

(Code 1964, § 7.1170; Ord. No. 18042, § 1, 4-19-04)

Sec. 16-247. - Firearms in city buildings.

(a)

No person who has been issued a concealed carry endorsement by the Missouri director of revenue under Section 571.094 RSMo or who has been issued a valid permit or endorsement to carry concealed firearms, issued by another state or political subdivision of another state, shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm readily capable of lethal use in any building or portion of a building owned, leased or controlled by the city.

(b)

Signs shall be posted at each entrance of a building entirely owned, leased or controlled by the city stating that carrying of firearms is prohibited. Where the city owns, leases or controls only a portion of a building, signs shall be posted at each entrance to those portions of the building owned, leased or controlled by the city stating that carrying of firearms is prohibited.

(c)

This section shall not apply to buildings used for public housing by private persons, highways or rest areas, firing ranges, or private dwellings owned, leased or controlled by the city.

(d)

Any person violating this section may be denied entrance to the building or ordered to leave the building. Any city employee violating this section may be disciplined under the provisions of Chapter 19. No other penalty shall be imposed for a violation of this section.

(e)

No person who has been issued a certificate of qualification which allows the person to carry a concealed firearm before the director of revenue begins issuing concealed carry endorsements in July, 2004, shall, by authority of that certificate, be allowed to carry a concealed firearm or to openly carry a firearm readily capable of lethal use in any building or portion of a building owned, leased or controlled by the city.

(Ord. No. 18042, § 1, 4-19-04)

Sec. 16-248. - Reserved.

DIVISIONS 17—22. - RESERVED

Secs. 16-249—16-252. - Reserved.

DIVISION 23. - MISCELLANEOUS OFFENSES

Sec. 16-253. - Possession of thirty-five grams or less of marijuana, or five grams or less of hashish.

It shall be unlawful for any person to possess thirty-five (35) grams or less of marijuana or cannabis in any species or form thereof, including but not limited to cannabis sativa L., or five (5) grams or less of hashish. Any person found guilty of violating the provisions of this section shall be deemed guilty of a Class A misdemeanor.

(Ord. No. 10637, § 1(7.1141), 7-1-85)

Editor's note—

Section 1 of Ord. No. 10637, adopted July 1, 1985, amended the 1964 Code by the addition of § 7.1141, which has been included herein at the discretion of the editor as § 16-253.

Sec. 16-254. - Drugs, nostrums and medicines.

(a)

Any person who shall distribute any drugs, nostrums, medicines or samples containing any such things, anywhere in the city, whether licensed or not, except by actual delivery thereof to some person over the age of sixteen (16) years, or any person who shall distribute or deposit any such things in or near any school or other place where children might obtain them, shall upon conviction, be deemed guilty of a Class A misdemeanor.

(b)

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

(1)

Drugs and medicines shall mean substances or preparations prescribed by duly licensed physicians intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

(2)

Nostrums shall mean substances or preparations usually of secret composition and recommended by the preparer for use as a drug or medicine, but without scientific proof of their effectiveness.

Editor's note—

Section 1 of Ord. No. 10651, adopted July 15, 1985, reenacted § 7.1140 of the 1964 Code, which provisions have been included herein at the discretion of the editor as § 16-254.

Sec. 16-255. - Possession of drug paraphernalia.

(a)

It shall be unlawful for any person to possess drug paraphernalia. Any person found guilty of violating the provisions of this section shall be deemed guilty of a class A misdemeanor.

(b)

For purposes of this section, "drug paraphernalia" means any object which has been used for or is intended for use in inhaling, injecting, ingesting or otherwise introducing into the human body a controlled substance as defined by the statutes of the State of Missouri. In determining whether an object is drug paraphernalia, a court should consider, in addition to other logically relevant factors, the proximity of the object to a controlled substance and the existence of any residue of a controlled substance found on or in the object.

(Ord. No. 14658, § 1, 10-2-95)

Sec. 16-255.1. - Medical marijuana.

(a)

The purpose of this section is to ensure that patients, for whom marijuana has been recommended by a physician, suffer no punishment or penalty for obtaining, possessing, and/or using medicinal marijuana and/or paraphernalia used to consume medicinal marijuana.

(b)

Seriously ill adults who obtain and use marijuana and/or marijuana paraphernalia for medicinal purposes pursuant to the recommendation of a physician shall not be subject to arrest, prosecution, punishment or sanction. Physicians who recommend marijuana for their patients shall not be subject to arrest, prosecution, punishment or sanction. If an adult obtains a physician's recommendation for marijuana use after an arrest, such charges shall be dismissed. If this provision is held invalid, then a maximum fine of fifty dollars (\$50.00) may be imposed. There shall be a strong presumption that the appropriate disposition is to defer prosecution or to suspend imposition of sentence. All such matters shall only be referred to the municipal prosecuting attorney, and no other prosecuting attorney, and the municipal prosecuting attorney shall not refer the matter to any other prosecutor, agency, or office, unless the adult is also charged with a felony offense arising from the same set of facts and circumstances. The term "seriously ill adults" shall include patients who suffer from side-effects of the treatment of cancer, HIV/AIDS or symptoms of multiple sclerosis, glaucoma, arthritis, migraine headaches, chronic severe pain, or any other serious condition for which marijuana provides relief and for which a duly-licensed physician has recommended such use.

(c)

The provisions of this section are severable. If any provision of this section is declared invalid, that invalidity shall not affect other provisions of the section which can be given effect without the invalid provision.

(d)

Any city ordinance or regulation that is inconsistent with this section shall be null and void.

(Ord. No. 18187, § 1, 8-2-04)

Editor's note—

Ord. No. 18187, passed by city council on Aug. 2, 2004, called for election; said ordinance was passed by the voters on Nov. 2, 2004.

Sec. 16-255.2. - Policies for enforcing marijuana offenses.

(a)

The purpose of this section is to ensure that adults as defined by state criminal statutes, other than those excluded herein, are not arrested and suffer only a fine and/or community service or counseling and no other punishment or penalty, for the possession of a misdemeanor amount of marijuana and/or marijuana paraphernalia. This section shall be liberally construed for the accomplishment of these purposes.

(b)

When any law enforcement officer suspects any adult as defined by state criminal statutes, other than those excluded herein, of possession of a misdemeanor amount of marijuana and/or possession of marijuana paraphernalia, that person shall not be required to post bond, suffer arrest, be taken into custody for any purpose nor detained for any reason other than the issuance of a summons, suffer incarceration, suffer loss of driver's license, or any other punishment or penalty other than the issuance of a summons and, if found guilty, a fine of up to two hundred fifty dollars (\$250.00). There shall be a strong presumption that the proper disposition of any such case is to suspend the imposition of sentence and/or require community service work and/or drug counseling and education. All such matters shall only be referred to the municipal prosecuting attorney, and no other prosecuting attorney, and the municipal prosecuting attorney shall not refer the matter to any other prosecutor, agency, or office, unless provisions of subsection (c) are applicable.

(c)

Subsection (b) shall not apply to persons:

(1)

Who have been found guilty of a felony within the preceding ten (10) years; or

(2)

Who have been found guilty in a state court of a Class A misdemeanor, other than misdemeanor marijuana possession or misdemeanor possession of marijuana paraphernalia, within the preceding five (5) years; or

(3)

Who have been found guilty in a state or municipal court of misdemeanor marijuana possession on two or more prior occasions within the preceding five (5) years; or

(4)

Who are arrested on suspicion of any felony or misdemeanor offense chargeable only under state law, arising from the same set of facts and circumstances as the alleged marijuana offense.

(d)

The provisions of this section are severable. If any provision of this section is declared invalid, that invalidity shall not affect other provisions of the section which can be given effect without the invalid provision.

(e)

Any city ordinance or regulation that is inconsistent with this section shall be null and void and is hereby repealed effective immediately.

(f)

The message of this section is that people should not use marijuana, but should also not lose opportunities for education and employment because of such use. The limited resources of law enforcement should be directed primarily toward crimes of violence or property loss. The enforcement of laws against marijuana shall be among the lower priorities of law enforcement.

(Ord. No. 18188, § 1, 8-2-04; Ord. No. 18916, § 1, 2-20-06)

Editor's note—

Ord. No. 18188, passed by city council on Aug. 2, 2004, called for election; said ordinance was passed by the voters on Nov. 2, 2004.

ARTICLE III. - NOISE

Cross reference—Barking, annoying dogs prohibited, § 5-56.

DIVISION 1. - GENERALLY

Sec. 16-256. - Loud noises prohibited.

(a)

It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. This subsection shall not apply to sounds from any radio, phonograph, tape player, compact disc player, musical instrument or any similar device for producing or amplifying sound. This subsection shall not apply to shouting, singing, whistling or verbal utterances.

(b)

The acts described in this division, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.

(Code 1964, § 7.265; Ord. No. 20630, § 1, 5-17-10)

Sec. 16-257. - Horns and signaling devices.

The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creating by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; 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 operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up, is hereby declared unlawful.

(Code 1964, § 7.270)

Cross reference—Motor vehicles and traffic, Ch. 14.

Sec. 16-258. - Radios, phonographs, etc. outside the downtown area.

(a)

It shall be unlawful to play or permit to be played any radio, phonograph, tape player, compact disc player, musical instrument or any similar device for producing or amplifying sound in a manner that disturbs the peace, quiet or comfort of

the neighboring inhabitants.

- (b) Playing or permitting to be played any device described in subsection (a) between 11:00 p.m. and 7:00 a.m. so that it is plainly audible at a distance of fifty (50) feet from the building, structure or outdoor area in which the device is located shall be prima facie evidence of a violation of this section.
- (c) Playing or permitting to be played any device described in subsection (a) between 7:00 a.m. and 11:00 p.m. so that it is plainly audible at a distance of one hundred (100) feet from the building, structure or outdoor area in which the device is located shall be prima facie evidence of a violation of this section.
- (d) Except as allowed in division 2 of this article, it shall be unlawful for the operator of any vehicle to play or permit to be played any sound producing or sound amplifying device in or on the vehicle so that it is plainly audible at a distance of fifty (50) feet from the vehicle.
- (e) This section shall not apply to the downtown area as defined in section 16-258.1.
(Code 1964, § 7.275; Ord. No. 12912 § 1, 3-18-91; Ord. No. 16182, § 1, 9-20-99; Ord. No. 20630, § 1, 5-17-10)

Sec. 16-258.1. - Radios, phonographs, etc. in the downtown area.

- (a) As used in this section, "Downtown area" means the area included within the following boundaries:
Beginning at the intersection of Providence Road and Ash Street; thence east along the centerline of Ash Street to the centerline of Tenth Street; thence north along the centerline of Tenth Street to the centerline of Park Avenue; thence east along the centerline of Park Avenue to the southwest corner of Lot 3 of Harbison's Addition and COLT Railroad Administrative Plat; thence clockwise around the boundary of Lot 3 of Harbison's Addition and COLT Railroad Administrative Plat to a point opposite the centerline of Orr Street; thence south along the centerline of Orr Street to the centerline of Ash Street; thence east along the centerline of Ash Street to the centerline of College Avenue; thence south along the centerline of College Avenue to the centerline of Locust Street; thence west along the centerline of Locust Street to the centerline of Hitt Street; thence south along the centerline of Hitt Street to the centerline of Elm Street; thence west along the centerline of Elm Street to the centerline of Watson Place; thence south along the centerline of Watson Place to an east-west alley; thence west along the centerline of the alley to the centerline of Ninth Street; thence north along the centerline of Ninth Street to the centerline of Elm Street; thence west along the centerline of Elm Street to the centerline of Providence Road; thence north along the centerline of Providence Road to the point of beginning.
- (b) It shall be unlawful to play or permit to be played, in the downtown area, any radio, phonograph, tape player, compact disc player, musical instrument or any similar device for producing or amplifying sound in a manner that either:
 - (1) Unreasonably disturbs the peace, quiet or comfort of any person in or outside the downtown area, or
 - (2) Is plainly audible at the following distances from the building, structure or outdoor area where the device is located at the following times:
 - 300 feet Sunday through Wednesday from 7:00 a.m. to 10:00 p.m.
 - 150 feet Sunday through Wednesday from 10:00 p.m. to 1:30 a.m.
 - 300 feet Thursday through Saturday from 7:00 a.m. to 11:00 p.m.
 - 150 feet Thursday through Saturday from 11:00 p.m. to 1:30 a.m.
 - 50 feet every day from 1:30 a.m. to 7:00 a.m.
- (c) Sounds escaping from the opening of exterior doors for entry and exit shall not constitute a violation of this section. This subsection shall not apply to sounds escaping from a door that has been propped open.
- (d) Subsection (b) shall not apply to any sounds generated in connection with an event or activity for which the city council has authorized a street closure.
- (e) Subsection (b) shall not apply to any sounds generated in compliance with a noise permit issued by the city manager. The city manager is authorized to issue noise permits for special occasions such as University of Missouri home football games and outdoor festivals.
- (f) Except as allowed in division 2 of this article, it shall be unlawful for the operator of any vehicle to play or permit to be played any sound producing or sound amplifying device in or on the vehicle so that it is plainly audible at a distance of fifty (50) feet from the vehicle from 7:00 a.m. to 10:00 p.m. and five (5) feet from the vehicle from 10:00 p.m. to 7:00 a.m.
- (g) It shall be unlawful to play or permit to be played, outdoors in the downtown area, any radio, phonograph, tape player, compact disc player, musical instrument or any similar device for producing or amplifying sound, before 7:00 a.m. on any day or after 10:00 p.m. Sunday through Wednesday or after 11:00 p.m. Thursday through Saturday.

(Ord. No. 20630, § 1, 5-17-10)

Sec. 16-259. - Shouting, etc.

(a)

It shall be unlawful to shout, sing, whistle or make any verbal utterance or noise at a volume that disturbs the peace, quiet or comfort of the neighboring inhabitants.

(b)

Shouting, singing, whistling or making other verbal utterances or noises between 11:00 p.m. and 7:00 a.m. that is plainly audible at a distance of fifty (50) feet from the building, structure or outdoor area in which the person is located shall be prima facie evidence of a violation of this section.

(Code 1964, § 7.280; Ord. No. 18941, § 1, 3-6-06)

Sec. 16-260. - Animals and birds.

The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity is hereby declared unlawful.

(Code 1964, § 7.285)

Cross reference—Animals and fowl, Ch. 5.

Sec. 16-261. - Blowing whistles.

The blowing of any locomotive whistle or whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper city authorities, is hereby declared unlawful.

(Code 1964, § 7.290)

Sec. 16-262. - Mufflers required.

The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is hereby declared unlawful.

(Code 1964, § 7.295)

Cross reference—Motor vehicles and traffic, Ch. 14.

Sec. 16-263. - Motors out of repair; loads.

The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling, or other noise, is hereby declared unlawful.

(Code 1964, § 7.300)

Sec. 16-264. - Loading and unloading.

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 is hereby declared unlawful.

(Code 1964, § 7.305)

Sec. 16-265. - Construction, repair and demolition of buildings, streets and utilities.

(a)

Buildings. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by demolishing, constructing, altering or repairing any building or structure other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays.

(b)

Streets. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by excavating, grading, paving, constructing, altering or repairing any public or private street, drive or parking lot other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays. Nothing in this article shall prevent work on any public street, including utility installation, removal or repair, when the director of public works has determined that the work is necessary in order to minimize traffic disruption.

(c)

Utilities. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by installing, removing or repairing any utility other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays. Nothing in this article shall prevent work on any utility in order to maintain or restore utility service.

(d)

Site preparation. It shall be unlawful to interfere with or disturb the peace and quiet of neighboring inhabitants by operating any earthmoving, excavating, paving or tree cutting equipment other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, and between 9:00 a.m. and 5:00 p.m. on Saturdays.

(e)

Permits. Upon application, the director of public works may grant a permit to any person extending the hours of work set forth in subparagraphs (a) through (d) for an identified project. The permit shall state the nature, location and extended hours of the work to be done. The permit may be granted for a period of time not to exceed three (3) days and may be renewed for periods not to exceed three (3) days on an emergency basis only as determined by the director of public works. A permit authorized by this subsection shall be granted only if the director of public works first determines that the public health and safety will not be impaired by the permitted work and that significant loss or inconvenience would result to any party if the permit were not granted.

(Ord. No. 12622, § 1, 6-4-90; Ord. No. 13202, § 1, 12-16-91)

Editor's note—

Section 1 of Ord. No. 12622, adopted June 4, 1990, repealed former § 16-265 and enacted new provisions in lieu thereof to read as herein set out. The repealed provisions pertained to erection, repair and demolition of buildings and derived from Code 1964, § 7.310.

Cross reference—Buildings and building regulations, Ch. 6.

Sec. 16-266. - In vicinity of schools, hospitals, churches, etc.

The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same is in use; or, adjacent to any hospital; which unreasonably interferes with the working of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street, is hereby declared unlawful.

(Code 1964, § 7.315)

Sec. 16-267. - Hawkers and peddlers.

The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is hereby declared unlawful.

(Code 1964, § 7.320)

Cross reference—Licenses, permits and miscellaneous business regulations, Ch. 13.

Sec. 16-268. - Noise at sales.

The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale, is hereby declared unlawful.

(Code 1964, § 7.325)

Sec. 16-269. - Transportation of iron, steel, etc.

The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places, is hereby declared unlawful.

(Code 1964, § 7.330)

Sec. 16-270. - Motorbuses.

The causing, permitting or continuing of any excessive, unnecessary and avoidable noise in the operation of a motorbus or coach is hereby declared unlawful.

(Code 1964, § 7.335)

Sec. 16-271. - Pile drivers, derricks, etc.

The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise, is hereby declared unlawful.

(Code 1964, § 7.340)

Sec. 16-271.1. - Quarries, blasting, etc.

- (a) The operation between the hours of 10:00 p.m. and 7:00 a.m. of any equipment which is used in the mining or quarrying of any rock, mineral or ore, or any equipment to prepare, finish, or wash any rock, mineral, or ore is hereby declared to be a public nuisance and is unlawful.
- (b) Blasting in conjunction with any quarrying or mining operation between the hours of 5:00 p.m. and 8:00 a.m. is hereby declared to be a public nuisance and is unlawful.
- (c) Violation of this section shall be punished as a Class C misdemeanor.
(Ord. No. 10690, § 1(7.343), 9-3-85)

Editor's note—

Section 1 of Ord. No. 10690, adopted Sept. 3, 1985, amended the Code 1964 by the addition of § 7.343, which at the discretion of the editor has been included herein as § 16-271.1.

Sec. 16-272. - Blowers, power fans, etc.

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, is hereby declared unlawful.

(Code 1964, § 7.345)

Sec. 16-273. - Engine brakes.

- (a) It shall be unlawful for any person operating a motor vehicle to use an engine brake.
- (b) An "engine brake" is a device that retards the forward motion of a motor vehicle by the use of the compression of the engine of the motor vehicle.
- (c) This section shall not apply to public safety vehicles.
(Ord. No. 19721, § 1, 11-5-07)

Sec. 16-274. - Penalty.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be punished by a fine of not less than seventy-five dollars (\$75.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment for not exceeding three (3) months, or by both such fine and imprisonment.

(Code 1964, § 7.350; Ord. No. 12912 § 1, 3-18-91; Ord. No. 17052, § 1, 10-1-01)

Sec. 16-275. - University of Missouri homecoming.*

Editor's note—

Ord. No. 13486 § 1, adopted October 19, 1992, repealed former § 16-275, relative to the Boone County Fair and enacted in lieu thereof a new § 16-275 to read as herein set out. The provisions of former § 16-275 derived from Ord. No. 13044 § 1, enacted on July 15, 1991.

The provisions of Division 1 of this article shall not apply to any construction noise emanating from the area bounded by Providence Road, Kentucky Boulevard, Maryland Avenue and Turner Avenue between the hours of 9:00 a.m. and 12:00 midnight on the Wednesday, Thursday or Friday before the annual University of Missouri homecoming weekend.

(Ord. No. 13486, §§ 1-2, 10-19-92)

Sec. 16-276. - School marching bands,

The provisions of division 1 of this article shall not apply to any junior or senior high school marching band practicing on school grounds between the hours of 6:30 a.m. and 8:30 p.m. during the academic school year.

(Ord. No. 14975, § 1, 9-3-96; Ord. No. 20495, § 1, 12-7-09)

Sec. 16-277—16-280. - Reserved.

DIVISION 2. - SOUND-AMPLIFYING EQUIPMENT AND TRUCKS*

Cross reference—Motor vehicles and traffic, Ch. 14.

Sec. 16-281. - Definitions.

As used in this division, the following terms shall have the meaning indicated in this section:

Sound amplifying equipment: Any machine or device for the amplification of the human voice, music or any other sound amplifying equipment, including a megaphone, amplifier, "walkie-talkie, " amplifiers on fronts of business buildings or other sound device. "Sound amplifying equipment, " shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic purposes.

Sound truck or other conveyances: Any vehicle, whether motorized or not, and any airplane, balloon, dirigible or any other type of aircraft, having mounted therein, thereon or attached thereto, any sound amplifying equipment.

(Code 1964, § 7.355)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 16-282. - Commercial advertising prohibited.

No person shall operate, or cause to be operated, any sound amplifying equipment or sound truck or other conveyance for commercial sound advertising purposes on any street or on any public or private alley in the city or in the air over the city, with sound amplifying equipment in operation; and no person shall operate, or cause to be operated, any sound amplifying equipment on any public square, public street or public playground for commercial advertising purposes in the city.

(Code 1964, § 7.360)

Cross reference—License, permits and miscellaneous business regulations, Ch. 13.

Sec. 16-283. - Noncommercial use—Registration statement required.

Before any person shall use, or cause to be used, sound amplifying equipment, a sound truck or other conveyance with its sound amplifying equipment in operation for noncommercial purposes on any street in the city, or in the air above the city, and before any person shall use, or cause to be used, any sound amplifying equipment in any public park or public playground in the city, he shall file a registration statement with the chief of police or other member of the police department authorized by the chief to accept such registration.

(Code 1964, § 7.365)

Sec. 16-284. - Same—Form and contents of registration statement.

The registration statement required by section 16-283 shall be in writing, shall be filed in duplicate and shall state the following information: (a) Name and home address of the applicant.

- (b) Address and place of business of applicant.
- (c) Type, license number and motor number of the sound truck or other conveyance to be used by applicant.
- (d) Name and address of person who owns the sound truck or sound amplifying equipment.
- (e) Name and address of person having direct charge of the sound truck and sound amplifying equipment.
- (f) Name and address of all persons who will use or operate the sound truck or sound amplifying equipment.
- (g) The purpose for which the sound truck or sound amplifying equipment will be used.
- (h) A general statement as to the section of the city, in or over which the sound truck or other conveyance will be used or the public parks or public playgrounds at which the sound amplifying equipment will be used.
- (i) The proposed hours of operation of the sound truck or sound amplifying equipment.
- (j) The number of days of proposed operation of the sound truck or sound amplifying equipment.
- (k) A general description of the sound amplifying equipment which is to be used.
- (l)

The maximum sound-producing power of the sound amplifying equipment, or otherwise, stating the following:

- (1) The wattage to be used.
- (2) The volume in decibels of the sound which will be produced.
- (3) The approximate maximum distance for which sound will be thrown from the sound truck or sound amplifying equipment.

(Code 1964, § 7.370)

Sec. 16-285. - Same—Amendments to registration statement.

All persons using, or causing to be used, sound trucks or sound amplifying equipment for noncommercial purposes shall amend any registration statement filed pursuant to section 16-283 of this chapter within forty-eight (48) hours after any change in the information furnished in such statement.

(Code 1964, § 7.375)

Sec. 16-286. - Signed copy of registration statement; identification.

The chief of police or other authorized member of the police department shall return to each applicant under section 16-283 of this chapter one copy of such registration statement duly signed by the chief of police or other authorized member of the police department and such copy shall be in the possession of any person operating the sound truck or sound amplifying equipment at all times while the sound equipment is in operation. Such copy shall be promptly displayed and shown to any police officer of the city upon request.

(Code 1964, § 7.380)

Sec. 16-287. - Regulations for use—On streets.

The noncommercial use of sound amplifying equipment or sound trucks on any of the permitted streets in the city, with sound amplifying equipment in operation, shall be subject to the following regulations:

- (1) The only sounds permitted shall be music or human speech.
- (2) Operations shall be permitted between the hours of 9:30 a.m. and 11:00 p.m. each day.
- (3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least five (5) miles per hour, except when such truck is stopped or impeded by traffic. Where stopped by traffic, the sound amplifying equipment shall not be operated for longer than one minute at each stop.
- (4) Sound shall not be issued within one hundred (100) yards of hospitals, schools or churches.
- (5) No sound truck with its amplifying device in operation shall be operated on any street or on any public or private alley within the fire limits of the city.
- (6) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
- (7) The volume of sound shall be controlled so that it will not be audible for a distance in excess of two hundred (200) feet from the sound truck, and so that such volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility; provided, however, that, the limitation of audibility to a distance not in excess of two hundred (200) feet shall not apply to sound issued from aircraft.
- (8) No sound amplifying equipment shall be operated having in excess of fifteen (15) watts of power in the last stage of amplification.

(Code 1964, § 7.385)

Sec. 16-288. - Same—In public parks and playgrounds.

The regulations provided in section 16-287 of this chapter insofar as applicable, shall apply to any noncommercial use of any sound amplifying equipment in any public park or public playground within the corporate limits of the city; provided, however, that operations shall be authorized on all days including Sundays and legal holidays; except that no such sound amplifying equipment shall be used on any public playground in connection with any public school building on days on which such public building is being used for school purposes; and provided, further, that, the volume of sound from such sound amplification equipment when used on public parks and public playgrounds shall be controlled so that it will not be audible for a distance in excess of three hundred (300) feet from the sound amplifying equipment.

Secs. 16-289—16-300. - Reserved.

ARTICLE IV. - NUISANCES

DIVISION 1. - NUISANCE PARTIES

Sec. 16-301. - Definitions.

The following definitions apply to this division:

Nuisance party is a social gathering of ten (10) or more people on residential property that results in any of the following occurring at the site of the gathering, on neighboring property or on an adjacent public street:

- (1) Unlawful sale, furnishing, possession or consumption of alcoholic beverages;
- (2) Violation of any of the provisions of article III of this chapter (noise);
- (3) Fighting;
- (4) Property damage;
- (5) Littering;
- (6) Outdoor urination or defecation in a place open to public view;
- (7) The standing or parking of vehicles in a manner that obstructs the free flow of traffic;
- (8) Conduct that threatens injury to persons or damage to property;
- (9) Unlawful use or possession of marijuana or any drug or controlled substance;
- (10) Trespassing;
- (11) Indecent exposure;
- (12) Setting off fireworks; or
- (13) Discharging firearms.

"*Permit*" means to give permission to; or to allow by silent consent, by not prohibiting, or by failing to exercise control.

(Ord. No. 19287, § 1, 11-6-06; Ord. No. 20496, § 1, 12-7-09)

Sec. 16-302. - Nuisance parties prohibited.

It shall be unlawful for any person having the right to possession of any residential premises, whether individually or jointly with others, to cause or permit a social gathering on the premises to become a nuisance party.

(Ord. No. 19287, § 1, 11-6-06)

Sec. 16-303. - Police order to disperse.

Columbia police officers are authorized to order those attending a nuisance party to disperse. It shall be unlawful for any person not domiciled at the site of the nuisance party to fail or refuse to leave the premises immediately after being told to leave by a Columbia police officer.

(Ord. No. 19287, § 1, 11-6-06)

Sec. 16-304. - Nuisance parties—Residential rental properties; certificate of compliance sanctions.

(a)

Intent of section. This section shall set forth administrative procedures and standards for revoking a residential landlord's certificate of compliance under the Rental Unit Conservation Law (section 22-181 et seq. of this Code) when multiple

nuisance parties have occurred on residential rental property. The city seeks the cooperation of residential landlords in eliminating nuisance parties held by their tenants. The sanction of revoking a certificate of compliance is intended as a last resort after other attempts to eliminate the problem have failed. This section also establishes the offense of failure to prevent a nuisance party.

(b)

Initial nuisance party. Within ten (10) days after the initial nuisance party that serves as a basis for a certificate of compliance sanction, the police department shall send the property owner and tenants of the unit hosting the gathering, by certified mail, a notice of nuisance party ordinance violation. The notice shall set forth the date, place and nature of the violation and urge the property owner and tenants to take action to prevent future nuisance parties on the property. If notice cannot be given to a party by certified mail, notice shall be given by first class mail and by posting a copy of the notice in a conspicuous place on the dwelling.

(c)

Subsequent nuisance party; compliance meeting. If a subsequent nuisance party occurs at the same unit within a twelve-month period, the police department shall send the property owner and tenants, by certified mail, another notice of nuisance party violation within ten (10) days of the party. If notice cannot be given to a party by certified mail, notice shall be given by first class mail and by posting a copy of the notice in a conspicuous place on the dwelling. The notice shall set forth the date, place and nature of the violation and shall schedule a nuisance party ordinance compliance meeting. The compliance meeting shall be attended by a police department representative, by the property owner or the owner's agent and by the tenants responsible for the nuisance party. The purpose of the compliance meeting is to reach agreement on corrective action necessary to avoid future nuisance parties on the property. Possible corrective actions include, but are not limited to:

(1)

An agreement by tenants to impose limits on social gatherings such as restrictions on the number of guests, time, music, consumption of alcoholic beverages, etc.

(2)

An agreement by the property owner not to renew the lease or to initiate an eviction action if further nuisance parties are held on the property.

If agreement is reached, a police department representative shall reduce the corrective action to writing and shall provide a copy to the property owner and tenants.

(d)

Owner's failure to prevent a third nuisance party. It shall be unlawful for the owner of any residential rental property to fail to prevent a nuisance party within twelve (12) months of a nuisance party that triggered a compliance meeting under subsection (c). An owner of residential rental property shall not be prosecuted for a violation of this subsection unless:

(1)

At least one person was charged with a violation of section 16-302 or section 16-303 or an offense that caused a social gathering to become a nuisance party in connection with a nuisance party at the residential unit which triggered a notice under section 16-304(b); and

(2)

At least one person was charged with a violation of section 16-302 or section 16-303 or an offense that caused a social gathering to become a nuisance party in connection with a nuisance party at the residential unit which triggered a compliance meeting under section 16-304(c).

(e)

Revocation of certificate of compliance. A certificate of compliance may be revoked if the notices of nuisance party ordinance violations under subsections (b) and (c) have been sent and:

(1)

The property owner refused or failed to attend a compliance meeting;

(2)

The property owner refused or failed to comply with any corrective action agreed to at the compliance meeting;

(3)

Another nuisance party occurred at the same unit within twelve (12) months of the nuisance party that triggered the compliance meeting and the owner of the property failed to appear in response to a summons issued for a violation of subsection (d); or

(4)

Two nuisance parties, each resulting in at least one person being charged with a violation of section 16-302 or section 16-303 or an offense that caused the social gathering to become a nuisance party, occurred at the same unit within eighteen (18) months of the nuisance party that triggered the compliance meeting.

When the police have sufficient evidence to support the revocation of a certificate of compliance, the police chief shall submit the matter to the city manager.

(f)

Initiation of revocation proceedings. If the city manager determines that a revocation of the certificate of compliance for a building or unit may be justified, the city manager may institute a contested case for that purpose in accordance with RSMo ch. 536. The property owner and affected tenants shall be necessary parties to the case. The city manager or the manager's designee shall serve as hearing officer at the hearing held on the proposed revocation of the certificate of compliance.

(g)

Findings required for revocation; other considerations. The hearing officer may revoke the certificate of compliance for the

unit in violation of this division if the officer finds that:

- (1) The initial and subsequent nuisance parties occurred at the unit;
- (2) The proper notices of nuisance party ordinance violations were sent; and
- (3)

a. The property owner failed or refused to attend a compliance meeting;

b. The property owner failed or refused to comply with any corrective action agreed to at the compliance meeting; or

c. Another nuisance party occurred at the same unit within twelve (12) months of the nuisance party that triggered the compliance meeting and the owner of the property failed to appear in response to a summons issued for a violation of subsection (d); or

d. Two (2) nuisance parties, each resulting in at least one person being charged with a violation of section 16-302 or section 16-303 or an offense that caused the social gathering to become a nuisance party, occurred at the same unit within eighteen (18) months of the nuisance party that triggered the compliance meeting.

In determining whether the certificate of compliance should be revoked, the hearing officer shall consider:

- (1) The level of cooperation of the parties in attempting to avoid nuisance parties;
- (2) The level of disturbance associated with the nuisance parties;
- (3) The impact of the nuisance parties on neighbors and other victims;
- (4) The degree to which the landlord and tenants have taken reasonable steps to avoid future nuisance parties; and
- (5) The history of nuisance party ordinance violations on owner's property.

(h) *Affirmative defense.* It shall be an affirmative defense to a charge of violating subsection (d) and to a certificate of compliance revocation proceeding that the property owner has evicted or is diligently attempting to evict all tenants and occupants of the property who were responsible for the nuisance parties.

(i) *Time sanctions in effect.* The order revoking a certificate of compliance shall state the period of time that must elapse between the effective date of the revocation and the time when a new certificate may be issued for the property. This period shall not exceed one year.

(j) *Appeal.* The property owner or any affected tenant may appeal an adverse decision of the hearing officer to the Circuit Court of Boone County in accordance with RSMo ch. 536.

(k) *Effect of property conveyance.* If title to property subject to an order revoking the certificate of compliance is conveyed in an arms-length transaction, as determined by the city manager or the manager's designee, the new owner may apply for a certificate of compliance after the new owner has met with a representative of the police department and agreed to take corrective action satisfactory to the chief of police to avoid future nuisance parties.

In determining whether the conveyance was an arms-length transaction, the city manager or the manager's designee shall consider:

- (1) Whether the property was conveyed for less than fair market value;
- (2) Whether the property was conveyed to an entity controlled by a person conveying the property; and
- (3) Whether the property was conveyed to a relative of a person conveying the property.

(Ord. No. 19287, § 1, 11-6-06)

Sec. 16-305. - Penalty.

Any person who violates section 16-302, section 16-303, or section 16-304(d) shall, upon conviction, be punished for a first offense by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, a person shall be punished by a fine of not less than one thousand dollars (\$1,000.00), nor more than four thousand dollars

(\$4,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment.

(Ord. No. 19287, § 1, 11-6-06)

Secs. 16-306—16-315. - Reserved.

DIVISION 2. - CHRONIC NUISANCE PROPERTY

Sec. 16-316. - Legislative findings.

The city council makes the following legislative findings:

- (1) Chronic unlawful activity on property adversely affects the peace and safety of neighboring residents and diminishes the quality of life in the neighborhood.
- (2) Prosecution of unlawful activity on property is not always an effective way to preserve a desirable quality of life in the neighborhood.
- (3) It is in the public interest for property owners to be vigilant in preventing unlawful activity from occurring on their property.
- (4) It is in the public interest to make property owners responsible for the use of their property by tenants, occupants and visitors.
- (5) The purpose of this article is to maintain a desirable quality of life in Columbia by holding property owners responsible for the use of their property.

(Ord. No. 19288, § 1, 11-6-06)

Sec. 16-317. - Definitions and rules of construction.

The following definitions and rules of construction apply to this division:

Chief of police and *chief* include any designee of the chief of police.

Chronic nuisance property means residential property on which or within two hundred (200) feet of which any person associated with the property has engaged in three (3) or more nuisance activities during any four-month period.

Nuisance activity means any of the following unlawful conduct:

- (1) Harassment under RSMo § 565.090 or section 16-143 of this Code;
- (2) Assault under RSMo § 565.050 through RSMo § 565.070 or section 16-141 of this Code;
- (3) Any sexual offense under RSMo ch. 566;
- (4) Any prostitution related offense under RSMo ch. 567;
- (5) Any violation of the liquor control law, RSMo ch. 311 or the alcoholic beverages ordinance, chapter 4 of this Code;
- (6) Trespass under RSMo § 569.140 or section 16-156 of this Code;
- (7) Any stealing or related offense under RSMo ch. 570 or section 16-171 of this Code;
- (8) Any arson or related offense under RSMo §§ 569.040 through 569.065 or section 16-151 or 16-152 of this Code;
- (9) Any violation of the "Comprehensive Drug Control Act of 1989" in RSMo ch. 195 or sections 16-253 through 16-255 of this Code;
- (10) Gambling under RSMo ch. 572;
- (11) Discharge of a firearm under section 16-234 of this Code;
- (12)

- Possession of an open container of alcoholic beverage under section 16-185 of this Code;
- (13) Indecent exposure under section 16-132 of this Code;
- (14) Peace disturbance by fighting under section 16-176.1 of this Code;
- (15) Unlawful use of weapons and armed criminal action under RSMo ch. 571 and brandishing a weapon under section 16-246 of this Code;
- (16) Any noise violation under section 16-258 or section 16-259 of this Code;

Person associated with the property means any person who is lawfully present on the property including any owner, tenant, occupant, guest or invitee.

Property means any lot or other unit of real property.

Property owner means a person having a fee interest in real property.

Property owner's agent means a person authorized by the property owner to manage the property.

Residential property means any property containing a single-family structure, a duplex, an apartment building, a manufactured or mobile home, a boarding house, a group home, a fraternity or sorority house, or a mixed use structure that includes a residential living unit.

(Ord. No. 19288, § 1, 11-6-06)

Sec. 16-318. - Police chief determination of chronic nuisance property.

- (a) Before any property is determined to be a chronic nuisance property, the chief of police must notify the property owner in writing that at least two (2) nuisance activities have occurred on or within two hundred (200) feet of the property and that the property is in danger of becoming a chronic nuisance property. The notice shall identify the property and describe the alleged nuisance activities in detail including the dates on which the alleged nuisance activities occurred. The notice shall instruct the property owner to respond to the notice by either disputing the allegations of nuisance activities or proposing a plan to abate the nuisance activities. The notice shall be served on the property owner by first class and certified mail or by personal service in the same manner as legal process is served under any Missouri statute or court rule.
- (b) The chief of police shall meet with any property owner who requests a meeting to dispute an allegation of nuisance activity or to discuss a plan to abate the nuisance activities. The property owner shall be notified of the position of the chief of police on all disputed allegations of nuisance activity within thirty (30) days after the meeting.
- (c) If, after a property owner has received notice under subsection (a), the chief of police determines that an additional nuisance activity has occurred on or within two hundred (200) feet of the property causing the property to become a chronic nuisance property, the chief of police shall give the property owner written notice of the determination. The notice shall identify the property and describe in detail the alleged nuisance activities that cause a property to be a chronic nuisance property. The notice shall be served on the property owner by first class and certified mail or by personal service in the same manner as legal process is served under any Missouri statute or court rule. A notice mailed by first class mail shall be presumed received three (3) days after it is mailed. The property owner shall have ten (10) days after receipt of the notice to arrange a meeting with the chief of police to dispute the determination of chronic nuisance property or persuade the chief of police to defer submitting the matter to the city manager for abatement or to the city prosecutor for prosecution.
- (d) The chief of police shall meet with any property owner who requests a meeting to dispute or discuss the determination of chronic nuisance property.
- (e) If, after the property owner has been given the opportunity to meet with the chief of police, the chief still believes that the property is a chronic nuisance property, the chief may submit a report on the matter to the city manager for abatement under section 16-319 or to the city prosecutor for prosecution under section 16-321. The chief of police may defer referring a chronic nuisance property to the city manager or the prosecutor if the property owner has presented an abatement plan satisfactory to the chief of police and has made good faith efforts to implement the plan.
- (f) Copies of the notices required under subsections (a) and (c) shall be sent to any active neighborhood association and any active neighborhood watch group for the neighborhood or watch area in which the property is located.
- (g) The provisions of this section pertaining to property owners apply equally to property owners' agents.

(Ord. No. 19288, § 1, 11-6-06)

Sec. 16-319. - Administrative process for abating chronic nuisance property.

- (a) If, after reviewing the police chief's chronic nuisance property report, the city manager determines that the proper procedures have been followed and that there is reason to believe that the property may be a chronic nuisance property, the city manager may authorize the city counselor to initiate an administrative action to abate the nuisance. The administrative action shall follow the contested case provisions of RSMo ch. 536. The owners of the property and any tenants shall be necessary parties to the action. The city manager or the manager's designee shall serve as hearing officer.
- (b) If, after considering all evidence, the hearing officer determines that the property is a chronic nuisance property and that the procedures of section 16-318 were followed, the hearing officer may order appropriate abatement. Abatement may include closure of the property for up to one year, physically securing the property, suspension of utility services during the period of closure and revocation of a certificate of compliance for rental property. If there is more than one residential unit on the property, the hearing officer shall close only the unit or units whose occupants, guests or invitees have engaged in the nuisance activities. The hearing officer shall consider the following factors in determining whether to close a chronic nuisance property:
- (1) The level of cooperation of the property owner and occupants in attempting to prevent nuisance activities;
 - (2) The nature and extent of the nuisance activities;
 - (3) The impact of the nuisance activities on neighbors and others; and
 - (4) Any actions taken to avoid further nuisance activities connected with the property.
- (c) If an abatement order is not complied with, the hearing officer may authorize the abatement of the chronic nuisance property by city employees or by persons under contract with the city. No person shall enter private property to enforce an abatement order unless the person in possession of the property has consented to the entry or unless the municipal judge has issued a warrant for the entry. The chief of police shall certify the cost of abatement under this subsection to the city clerk. The cost shall include administrative costs as well as the actual cost of abating the nuisance. The city clerk shall cause a special tax bill against the property to be prepared in the amount of the abatement cost. The tax bill from the date of its issuance shall be a lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity. No clerical error or informality in the tax bill or in the proceedings leading up to the issuance of the tax bill shall be a defense in an action to collect the tax bill. Tax bills issued under this section, if not paid when due, shall bear interest at the rate of nine (9) percent per year. The cost of abatement shall also constitute a personal obligation of any person who failed to comply with the order of the hearing officer.

(Ord. No. 19288, § 1, 11-6-06)

Sec. 16-320. - Effect of property conveyance.

- (a) When title to property is conveyed, any nuisance activity that occurred before the conveyance may not be used to establish the property as a chronic nuisance property unless the reason for the conveyance was to avoid a determination that the property was a chronic nuisance property.
- (b) There is a rebuttable presumption that a reason for the conveyance of property was to avoid a determination that the property was a chronic nuisance property if:
- (1) The property was conveyed for less than fair market value;
 - (2) The property was conveyed to an entity controlled by a person conveying the property;
 - (3) The property was conveyed to a relative of a person conveying the property.

(Ord. 19288, § 1, 11-6-06)

Sec. 16-321. - Chronic nuisance property prohibited.

- (a) It shall be unlawful for a property owner or a property owner's agent to cause, permit or allow the property to become a chronic nuisance property.
- (b) The procedures set forth in section 16-318 must be followed before any property owner or property owner's agent is prosecuted for a violation of this section. No person shall be both prosecuted under this section and made a party to an administrative action under section 16-319 based on the same facts.

(Ord. No. 19288, § 1, 11-6-06)

Sec. 16-322. - Other unlawful acts.

It shall be unlawful for any person to:

- (1)
Fail to obey an abatement order issued under this division;
- (2)
Interfere with any police officer, agent or employee of the city who is enforcing an abatement order issued under this division; or
- (3)
Occupy or use or allow another to occupy or use property that has been closed by an abatement order issued under this division.

(Ord. No. 19288, § 1, 11-6-06)

Sec. 16-323. - Defenses.

- (a)
In any prosecution or abatement action under this division, it shall be an affirmative defense that the property owner has evicted or is diligently attempting to evict all tenants and occupants of the property that committed each alleged nuisance activity that caused the property to become a chronic nuisance property.
- (b)
In any prosecution or abatement action under this division, it shall be an affirmative defense that the property owner has diligently pursued reasonable means to avoid a recurrence of violations similar to the alleged nuisance activities that caused the property to become a chronic nuisance property.

(Ord. No. 19288, § 1, 11-6-06)

Sec. 16-324. - Penalty.

- (a)
Any person who violates section 16-321 shall, upon conviction, be punished for a first offense by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, a person shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than four thousand dollars (\$4,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment.
- (b)
Any person who violates section 16-322 shall, upon conviction, be punished by a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding three (3) months or by both such fine and imprisonment.

(Ord. No. 19288, § 1, 11-6-06)