

BILL NO. 17-3

ORDINANCE NO. 2017-3

AN ORDINANCE ADOPTING CHAPTERS 4.0101 - 4.1404 TO THE CODIFICATION FOR THE CITY OF GALENA, MISSOURI; ESTABLISHING THE SAME; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE; AND REPEALING ORDINANCE # 2017-2

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF GALENA, MISSOURI, AS FOLLOWS:

Section 1. That this ordinance incorporating Chapter 4.0100 - 4.1404 - is incorporated by reference and is hereby adopted and enacted as the codification for the City of Galena, Missouri, and shall be treated and considered as a new and original comprehensive codification which shall supersede all other general and permanent ordinances passed by the Board of Aldermen prior to the date of passage of this ordinance, except such as by reference thereto are expressly saved from repeal or continued in force and effect for any purpose.

Section 2. That all provisions of such codification shall be in full force and effective from and after the adoption of this ordinance. That no resolution of the City, not specifically mentioned is hereby repealed.

Section 3. Any and all additions or amendments to such codification, when passed in such form as to indicate the intention of the Board of Aldermen to make the same a part thereof, shall be deemed to be incorporated in such codification so that reference to a specific code, shall be understood and intended to include such additions and amendments.

Section 4. A copy of such codification shall be kept on file in the office of the City Clerk. It shall be the express duty of the City Clerk, or someone authorized by the Clerk,

to insert in their designated places all amendments or ordinances which indicate the intention of the Board of Aldermen to make same a part of such codification all provisions which may from time to time be repealed by the Board of Aldermen. This copy of the Galena Codification shall be available for all persons desiring to examine the same and shall be considered the official Codification for the City of Galena, Missouri.

Section 5. It shall be unlawful for any person, firm or corporation in the City to change or amend by additions or deletions, any part or portion of such codification in any manner whatsoever which will cause the law of the City of Galena to be misrepresented thereby.

Section 6. Any person, firm or corporation violating this ordinance shall be punished by a fine not exceeding five hundred dollars or by imprisonment of up to 90 days, or by both fine and imprisonment; or by the maximum allowed by state law.

Section 7. Ordinance # 2017-2 is hereby repealed. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 8. This ordinance shall become in full force and effect at 12:01 a.m. on September 19, 2017, after its passage.

ATTEST:

Lara Chambers
City Clerk



Mayor, City of Galena

First Reading 9-19-17

Second Reading 9-19-17

Final Passage 9-19-17

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CHAPTER 4 -- OFFENSES

CHAPTER 4.0100 -- OFFENSES AGAINST A PERSON

4.0101 **Assault**

A person commits the offense of assault if said person:

1. Attempts to cause, intentionally causes, or recklessly causes physical injury to another person.
2. With criminal negligence causes physical injury to another person by means of deadly weapon.
3. Purposely places another person in apprehension of immediate physical injury.
4. Recklessly engages in conduct which creates the grave risk of death or serious physical injury to another person.
5. Knowingly causes physical contact with another person knowing that the other person will regard the contact as offensive or provocative.

As used in this Code, "recklessly" means consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation. "Criminal negligence" means failing 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.

4.0102 **Assault of a Law Enforcement Officer**

A person commits the offense of assault of a Law Enforcement Officer if said person:

1. Attempts to cause or recklessly causes physical injury to a Law Enforcement Officer;
2. With criminal negligence causes physical injury to a Law Enforcement Officer by means of a deadly weapon;
3. Purposely places a Law Enforcement Officer in apprehension of immediate physical injury;
4. Recklessly engages in conduct which creates a grave risk of death or serious physical injury to a Law Enforcement Officer; or
5. Knowingly causes or attempts to cause physical contact with a Law Enforcement Officer without the consent of the Law Enforcement Officer.

CHAPTER 4.0200 -- OFFENSES CONCERNING ADMINISTRATION

4.0201 Escape or Attempted Escape From Custody

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

4.0202 Resisting or Interfering With Arrest

1. A person commits the offense of resisting or interfering with arrest if, knowing that a Law Enforcement Officer is making an arrest, for the purpose of preventing the officer from effecting the arrest, he:

a. Resists the arrest of himself by using or threatening the use of violence or physical force or by fleeing from such officer; or

b. Interferes with the arrest of another person by using or threatening the use of violence, physical force or physical interference.

2. This Chapter applies to arrests with or without warrants and to arrests for any crime or ordinance violation.

4.0203 Interference With Legal Process

1. A person commits the offense 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.

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

4.0204 Hindering Prosecution

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

1. Harbors or conceals such person; or

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

3. Provides such person with money, transportation, weapon, disguise, or other means to aid him/her in avoiding discovery or apprehension; or

4. Prevents or obstructs, by means of force, deception, or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person.

4.0205 Perjury

1. A person commits the offense of perjury if, with the purpose to deceive, he/she knowingly testifies falsely to any material fact upon oath or affirmation legally administered in any official proceeding before any court, public body, notary public, or other officer authorized to administer oaths.

2. 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.

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

a. The defendant mistakenly believed that fact to be immaterial; or

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

make the statement.

4. It is a defense to a prosecution under Subsection (A) of this Section that the actor retracted the false statement in the course of an official proceeding in which it was made, provided he/she did so before the falsity of the statement was exposed. Statements made in separate hearings at separate stages of the same proceeding are made in the course of the same proceeding.

5. The defendant shall have the burden of injecting the issue of retraction under Subsection (D) of this Section.

4.0206 False Declarations

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

1. Submits any written false statement, which he/she does not believe to be true; in an application for any pecuniary benefit or other consideration, or on a form bearing notice, authorized by law, that false statements made therein are punishable.

2. Submits or invites reliance on any writing which he/she knows to be forged, altered, or otherwise lacking in authenticity, or in any sample, specimen, map, boundary mark, or other object which he/she knows to be false.

3. The falsity of the statement or the item under Subsection (1) of this Section must be as to a fact which is material to the purpose for which the statement is made or the item submitted.

4.0207 False Reports

A person commits the offense of making a false report if he/she knowingly:

1. Gives false information to a Law Enforcement Officer for the purpose of implicating another person in a crime; or

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.

4.0208 Tampering With Physical Evidence

A person commits the offense of tampering with physical evidence if he/she:

1. Alters, destroys, suppresses or conceals any record, document or thing with the purpose to impair its verity, legibility, or availability in any official proceeding or investigation; or

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

4.0209 False Impersonation

A person commits the offense of false impersonation if he/she:

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

a. Performs an act in that pretended capacity; or

b. Causes another to act in reliance upon his/her pretended official authority.

2. Falsely represents himself/herself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this State with purpose to induce another to rely upon such representation, and

- a. Performs an act in that pretended capacity; or
- b. Causes another to act in reliance upon such representation.

4.0210 **Impersonating an Officer**

- 1. No person shall falsely represent him/herself to be an officer of the United States, the state, county, or any municipality, nor shall, without being duly authorized exercise or attempt to exercise any of the duties, functions or powers of any such officer or member of the police force of the City.
- 2. No person shall represent him/herself or shall act as a private watchman, or security/guard, private detective or private policeman without first having obtained the written permit from the Chief of Police and a merchant' license from the City.

CHAPTER 4.0300 -- OFFENSES CONCERNING PUBLIC SAFETY

4.0301 Vagrancy

A person commits the offense of vagrancy when he/she is:

1. Found loitering or strolling about, or upon any street, alley, or other public way or public place, or at any public gathering or assembly, or in or around any store, shop or business or commercial establishment, or on any private property or place without lawful business, and who upon being ordered to move on about his/her business, fails to do so; or
2. Found to occupy, lodge, or sleep in any vacant or unoccupied barn, garage, shed, shop or other building or structure, or in any automobile, truck, railroad car, or other vehicle, without owning the same or without permission of the owner or person entitled to the possession of the same, or sleeping in any vacant lot during the hours of darkness and not giving a reasonable explanation for his/her behavior; or
3. Found to be begging or going from door to door of private homes or commercial and business establishments, or places himself/herself in or upon any public way or public place to beg or receive alms for his/her own use.
4. Found sleeping during hours of darkness on city property, unless permission has been obtained from City Hall or Chief of Police.

4.0302 Loitering is Defined as:

Remaining idle in essentially one (1) location and shall include the concept of spending time idly, to be dilatory, to linger, to stay, to saunter, to delay, to stand around, and shall include the colloquial expression "Hanging Around".

4.0303 Loitering--Police Order to Disperse

1. It shall be unlawful for any person to loiter, loaf, wander, stand, or remain idle either alone and/or in consort with other in a public place in such a manner so as to:
 - a. Obstruct any public street, public highway, public sidewalk, or any other public place or building, by hindering or impeding or tending to hinder or impede, the free and uninterrupted passage of vehicles, traffic, or pedestrians.
 - b. Commit in or upon any public street, public highway, public sidewalk, or any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk, or any other uninterrupted ingress, egress, and regress therein, thereon and thereto.
2. When any person causes or commits any of the conditions enumerated in Subsection (1) herein, a Police Officer or any Law Enforcement Officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this Section.

4.0304 Public Place is Defined as:

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

4.0305 Smoking Prohibited in the City Hall

No person shall possess lighted smoking materials in any form, including, but not limited to, the possession of lighted cigarettes, cigars, pipes, or other tobacco products in the front office of City Hall; or any rooms in the Community Building or City Hall during meetings and/or hearings open to the public.

4.0306 Prowling After Dark

It is unlawful for any person to prowl or roam about or upon the premises of any private individual, corporation or firm, or of any premises belonging to any state, county, or municipal or municipal body after dark unless:

1. Done with permission of the owner, or
2. The premises at that hour are open for business or open to the public.

CHAPTER 4.0400 -- OFFENSES CONCERNING PUBLIC PEACE

4.0401 Unlawful Assembly

A person commits the offense of unlawful assembly if he knowingly assembles with six (6) or more other persons and agrees with such persons to violate any criminal law or ordinances.

4.0402 Rioting

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

4.0404 Disturbance by Musical Instruments or Electronic Reproduction of Sound

Whosoever shall, in this City, make any noise, by any musical instrument or electronic sound, that can be heard outside of any house or business building, or any person who shall knowingly suffer and permit any such noise in or about such house or business owned or possessed by him/her, or under his/her management or control, so that others are disturbed thereby, shall violate this Code, during the following hours:

- a. Every midnight to 7:00 a.m. on Saturday and Sunday mornings, and on Friday and Monday mornings of federally-recognized holidays; and,
- b. From Sunday nights through Thursdays from 10:00 p.m. to 7:00 a.m. the following morning.

4.0405 Prohibited Weapons

A person commits an offense if he/she knowingly possesses, manufactures, transports, repairs or sells:

1. An explosive weapon.
2. A machine gun.
3. A gas gun (i.e., a gas ejective device).
4. A firearm silencer.
5. A switchblade knife.
6. Knuckle covers made of metal or hard substance (i.e. brass knuckles)

4.0407 Exceptions to Unlawful Use Of Weapon - Permit Exception

For the purpose of pest eradication or for any other proper purpose, any person may make application to the Board of Aldermen, for a permit which shall allow such person to discharge a firearm within said City. The said Board of Aldermen, upon being satisfied that the applicant is a sober and reasonable person who possesses mature judgement, may issue to such applicant, a permit which shall authorize the discharge of a firearm within the limits of said City. All such permits issued hereunder shall be recorded in the office of the City Police, and shall specify the firearm or firearms, to which it pertains, and the type of ammunition permitted to be used therein. No permit shall be valid for more than thirty (30) days from the date of issue thereof.

4.0408 Disorderly Conduct Definitions

The following terms shall have these prescribed meanings in the Disorderly Conduct Ordinance"

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

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

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

RIOT: A public disturbance involving a person knowingly assembled with six (6) or more other persons and agrees with such persons to violate any criminal law or ordinance, and thereafter, while still so assembled, does violate any said laws or ordinances with force or violence.

4.0409 Disorderly Conduct Prohibited

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

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his/her life, injury to his/her limb or health; or
2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged; or
3. Causes, provokes, or engages in any fight, brawl, or riotous conduct so as to endanger the life, limb, health or property of another; or
4. Interferes with another's pursuit of a lawful occupation by acts of violence; or
5. Obstructs, either singularly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the City Police or other lawful authority known to be such; or
6. Resists or obstructs the performance of duties by City Police or any other authorized official of the City, when known to be such an official; or
7. Incites, attempts to incite, or is involved in attempting to incite a riot; or

8. Addresses abusive language or threats to any member of the Police Department, any other authorized official of the City who is engaged in lawful performance of his/her duties, or any other person when such words have a tendency to cause acts of violence. (Words merely expressing or causing displeasure, annoyance, or resentment are not prohibited); or

9. Damages, befouls, or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition.

10. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed, or the traveling public annoyed; or

11. Fails to obey the lawful order to disperse by a Police Officer when known to be such an official, where one (1) or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened; or

12. Uses abusive or obscene language or makes an obscene gesture.

4.0410 Exceptions to Disorderly Conduct

Disorderly Conduct shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or other lawful means of expressing public opinion not in contravention of other laws.

4.0411 Peace Disturbance

A person commits the offense of peace disturbance if:

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

a. Loud noise; or

b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or

c. Threatening to commit a felonious act against any person if such threats are communicated in such a fashion or under such circumstances as would lead a reasonable person to believe that criminal activity may be imminent or that a substantial likelihood of such criminal conduct exists, and such a threat is likely to produce an immediate and violent response from a reasonable recipient; or

d. Fighting; or

e. Creating a noxious and offensive odor; or

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

a. Vehicular or pedestrian traffic; or

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

3. Any person convicted of the offense of Peace Disturbance shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for a term not to exceed ninety (90) days or by both such fine and imprisonment.

4.0412 PRIVATE PEACE DISTURBANCE

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

1. Threatening to commit a crime or offense against any person; or
2. Fighting.

4.0413 PEACE DISTURBANCE DEFINITIONS

For the purposes of Private Peace Disturbance and Peace Disturbance, the following words shall have the meanings set out herein:

1. PRIVATE PROPERTY: Any place which at the time is not open to the public. It includes property which is owned publicly or privately.
2. PROPERTY OF ANOTHER: Any property in which the actor does not have a possessory interest.
3. PUBLIC PLACE: Any place which at the time is open to the public. It includes property which is owned publicly or privately.
4. If a building or structure is divided into separately occupied units, such units are separate premises.

CHAPTER 4.0500 -- OFFENSES CONCERNING PROPERTY

4.0501 Damage to Public Property

It shall be unlawful for any person to injure or damage any sidewalk, curb, gutter, tree lawn, parkway, public place, tree, pole, post, light standard or fixture, sign, property or fire plug on any public street, highway or alley, by driving a vehicle upon, against or over, or by cutting, breaking or otherwise damaging the same.

4.0502 Property Damage

A person commits the offense of property damage if he/she knowingly damages property of another or if he/she damages property for the purpose of defrauding an insurer.

4.0503 Trespass

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

2. A person does not commit the offense of trespass by entering or remaining on real property unless the real property is fenced or otherwise enclosed in a manner designated to exclude intruders or as to which notice against trespass is given by:

- a. Actual communication to the actor; or
- b. Posting in a manner likely to come to the attention of intruders.

4.0504 Stealing

A person commits the offense of stealing if he/she appropriates property or services of another with the purpose to deprive him/her thereof, either without his/her consent or by means of deceit or coercion.

4.0505 Willful Concealment

1. A person commits the offense of willful concealment if he or she willfully conceals unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment with the intent to deprive the owner of the use and/or possession thereof.

2. ***Definitions:***

"**Willful Concealment**" is hereby defined as any wrongful taking of merchandise offered for sale or display by a merchant with the intent to deprive the owner of the use and/or possession thereof.

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

4. Any person willfully concealing unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment, shall be presumed to have so concealed such merchandise with the intention of committing a wrongful taking of such merchandise within the meaning of Section 2 and the finding of such unpurchased merchandise concealed upon the person or among the belongings of such person shall be evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time, of

such person by a merchant, his agent or employee, in order that recovery of such merchandise may be effected, and any such reasonable detention shall not be deemed to be unlawful, nor render such merchant, his agent or employee criminally or civilly liable.

5. Any merchant, his agent or employee, who has reasonable grounds or probable cause to believe that a person has committed a wrongful taking of property, as defined in Section 2, and who has detained such person and investigated such wrongful taking, may contact law enforcement officers and instigate criminal proceedings against such person. Any contact of law enforcement authorities or instigation of a judicial proceeding shall not constitute malicious prosecution, nor shall it render the merchant, his agent or employee criminally or civilly liable to the person so detained or whom against proceedings are instigated.

6. Any person who willfully conceals unpurchased merchandise of any mercantile establishment with intent to deprive the owner, upon conviction, shall pay a fine not to exceed one hundred (100) dollars and court costs.

4.0506 Failure to Return Rented Personal Property

1. A person commits the crime of failing to return leased or rented property if, with the intent to deprive the owner thereof, he purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property. In addition, any person who has leased or rented personal property of another who conceals the property from the owner, or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the crime of failing to return leased or rented property. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

2. It shall be prima facie evidence of the crime of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten days after proper notice following the expiration of the lease or rental agreement, except that if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the crime of failing to return leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, the

lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles. Any law enforcement officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the ten-day period prescribed in this subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section, and that failure to immediately return the property may subject such person to arrest for the violation.

3. This section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable, if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement, or within ten days after proper notice.

4. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.

5. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage, in addition to being in violation of this section.

6. Venue shall lie in the city where the personal property was originally rented or leased.

4.0507 Tampering

A person commits the offense of tampering if he/she:

1. Tamper with the property of another for the purpose of causing substantial inconvenience to that person or to another, or
2. Unlawfully or without consent of the owner rides in or upon another's automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle, or
3. Tamper or makes connection with the property of a utility, or
4. Tamper with the property or facilities of an institution providing health or safety protection, including City property.

4.0508 Tampering With Utility

1. It shall be unlawful for any person to commit, authorize, solicit, aid, abet, or attempt any of the following acts:

- a. Divert, or cause to be diverted, utility service by any means whatsoever.
- c. Make, or cause to be made, any connection or re-connection with property owned or used by the utility to provide utility service without authorization or consent of the utility.
- d. Prevent any utility meter, or other device used in determining the charge for utility service, from accurately performing its measuring function by tampering or by any other means.
- e. Tamper with any property owned by the City or a utility company to provide utility service.
- f. Use or receive the direct benefit of all, or a portion, of the utility service with knowledge of, or reason to believe, that the diversion, tampering, or unauthorized connection existed at the time of use, or that the use or receipt, was without authorization or consent of the utility.
- g. Avoid the lawful charges, in whole or in part, for any utility service, by the use of any fraudulent or deceptive scheme, device, means, or method.

2. In a prosecution under section 4.0508(1), proof that a meter or any other property of a utility has been tampered with, and that the person or persons accused received the use or direct benefit of the utility service, shall be sufficient to support an inference from the trier of fact that there has been a violation of the ordinance by the person or persons who used or received the direct benefit of the utility service.

4.0510 Bad Checks

1. A person commits the offense of passing a bad check when:
 - a. With purpose to defraud, he/she makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee; or
 - b. He/she makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in his/her account and fails to pay the check or sight order within ten (10) days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.
2. As used in subparagraph (b) of subsection (1) of this Section, actual notice in writing means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are subject matter of the prosecution if the summons or warrant contains information of the ten (10) day period which the instrument may be paid and that payment of the instrument within such ten (10) day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.
3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten (10) day period may be aggregated in determining the grade of the offense.

CHAPTER 4.0600 -- OFFENSES CONCERNING MORALS

4.0601 Sexual Misconduct

A person commits the offense of sexual misconduct if he or she:

1. Exposes his/her genitals under circumstances in which (s)he knows that his/her conduct is likely to cause affront or alarm; or
2. Has sexual contact in the presence of a third person or persons under circumstances in which (s)he knows that such conduct is likely to cause affront or alarm; or
3. Solicits or requests another person to engage in sexual conduct under circumstances in which (s)he knows that his/her requests or solicitation is likely to cause affront or alarm.

4.0602 Lewd and Lascivious Behavior

It shall be unlawful for any person to perform any open, gross lewdness or lascivious behavior, or perform any open and notorious act of public indecency, grossly scandalous, or of any disorderly conduct against the public peace or public morals.

4.0603 Endangering the Welfare of a Child

1. A person commits the crime of endangering the welfare of a child if:

- d. He knowingly acts in a manner that creates a substantial risk to the life, body or health of a child less than eighteen years old; or
- e. He knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo.
- f. Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection (1) of section 211.031, RSMo.

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

3. Endangering the welfare of a child is punishable by up to a \$500 fine and/or 90 days in the county jail, or both by fine and confinement.

4.0604 Furnishing Pornographic Materials to Children

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

1. Furnishes any pornographic material to a child under 17 years of age, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is under 17 years of age.
2. Produces, presents, directs or participates in any pornographic performance for children under 17 years of age that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a child is viewing the performance.

4.0605 Public Display of Explicit Sexual Material

A person commits the offense of public display of explicit sexual material if he/she knowingly:

1. Displays publicly explicit sexual material; or
2. Fails to take prompt action to remove such a display from property in his/her possession after learning of its existence.

4.0606 Peeping Toms

It shall be unlawful for any person to be found in the City trespassing upon the premises of another whereon is located a dwelling house during the hours between one (1) hour after sunset and one (1) hour before sunrise, such person being upon such premises and being then and there engaged in peeping or peering into such dwelling house.

4.06010 Prostitution Definitions

PATRONIZING PROSTITUTION: A person patronizing prostitution if:

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

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

SEXUAL CONDUCT: Occurs when there is:

1. *Sexual intercourse.* Any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results; or

2. *Deviate sexual intercourse.* Any sexual act involving genitals of one person and the mouth, hand, tongue or anus of another person; or
3. *Sexual contact.* Any touching, manual or otherwise, of the anus or genitals of one person by another, done for the purpose of arousing or gratifying sexual desire of either party;

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

4.0611 Prostitution

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

4.0612 Patronizing Prostitution

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

4.0613 PROSTITUTION AND PATRONIZING PROSTITUTION - SEX OF PARTIES NO DEFENSE, WHEN

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

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

4.0614 PROSTITUTION HOUSES DEEMED PUBLIC NUISANCES

1. Any room, building or other structure regularly used for sexual conduct for pay as defined in this Chapter or any unlawful prostitution activity prohibited by this Article is a public nuisance.

2. The City Prosecuting Attorney may, in addition to all other sanctions, prosecute a suit in equity to enjoin the nuisance. If the court finds that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for sexual conduct for pay or unlawful prostitution activity, the court may order that the premises shall not be occupied or used for such period as the court may determine, not exceed one (1) year.

CHAPTER 4.0800 -- OFFENSES CONCERNING DRUGS, ALCOHOL AND TOBACCO

4.0801 Marijuana

The possession of a controlled substance is unlawful except as authorized by state law. The range of punishment for a violation of this ordinance shall be as authorized by state law.

4.0802 Possession or Consumption of Alcohol by a Minor

1. No person under the age of twenty-one (21) shall purchase, attempt to purchase, consume or have in his/her possession any intoxicating liquor or beer as defined by State Law.
2. No person under the age of twenty-one (21) years shall represent that he/she has attained the age of twenty-one (21) years in order to purchase, request, obtain, or receive any intoxicating liquor or beer.
3. No person nor his/her employees shall sell, give or supply any intoxicating liquor or beer to any person under the age of twenty-one (21) years.

4.0803 Possession of Drug Paraphernalia

No person shall use or possess drug paraphernalia as defined to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, a controlled substance or imitation controlled substance.

4.0804 Open Beer and Liquor Container

It shall be unlawful for any person to possess any container of beer, or any container of intoxicating malt liquor, wines, or liquor, if said container is open or readily available for consumption when:

1. Any person is found to be upon any City or State maintained street or highway, right-of-way, alleyway, sidewalk, or parking lot; or
2. Any person is found to be upon or within the grounds of any City park, City pool, City community center, City Hall, or any City owned or maintained building or County owned or maintained building; or
3. Any person is found to be in control of or a passenger in a motor vehicle within the City limits; or
4. Any person is found to be upon the private property of any business and a complaint has been filed or a consent to prosecute on private property has been filed by the owner of such private property with the City Prosecutor and the Police Department, signed by the property owner, and stating that this Section is to be enforced on such private property or place of business.
5. An exception to this Section is during city-authorized events that allow open beer and liquor container during specified times and locations as approved by the Board of Alderman.

4.0805 Prohibiting the Sale of or Supplying Tobacco Products to Minors

1. It shall be unlawful for any person to sell or furnish tobacco products to any minor.
2. For the purpose of this section, a minor shall be deemed to be a person under the age of eighteen (18) years.
3. The provisions of this section shall not apply to the sale of tobacco products from a vending machine wherein the machine contains thereon a notice that the sale of tobacco products to persons under the age of eighteen (18) is prohibited.
4. For the purpose of this section the term "vending machine" may mean any mechanical,

electric or electronic, self-service device, which upon the insertion of money, tokens or other forms of payment, will automatically dispense tobacco products,

5. Any person found violating this ordinance shall be fined an amount not to exceed \$500.00.

4.0806 **Prohibiting the Purchasing or Possession Tobacco Products**
by a Minor

1. It shall be unlawful for any persons under the age of eighteen (18) years to purchase, attempt to purchase, possess or attempt to possess any tobacco products.

2. Any person found guilty of violating this ordinance shall be fined an amount not to exceed \$100.00.

CHAPTER 4.0900 -- CURFEW

4.0901 Curfew Violations

1. Except as provided in subsection 3 below, it shall be unlawful for any person under the age of 17 years to be in or upon any sidewalk, street, alley or public place in the City between the hours of 11:00 p.m. on Friday and Saturday and 5:00 a.m. on the day immediately following.
2. Except as provided in subsection 3 below, it shall be unlawful for any person under the age of 16 years to be in or upon any sidewalk, street, alley or public place in the City between the hours of 10:00 p.m. Sunday through Thursday, and 5:00 a.m. of the day immediately following.
3. Subsections 1 and 2 shall not apply when any person regulated herein is:
 - a. Accompanied by an adult having the care and custody of such person.
 - b. Attending or returning home from a function of any school or church.
 - c. Attending or returning home from a lawful entertainment, amusement or commercial activity.
 - d. On an emergency errand or specific business or activity directed by a parent, guardian or other adult having custody or care of such person.
 - e. Engaged in legitimate employment which requires such person's presence at the public places described in subsections 1 and 2 during the prohibited hours.
 - f. On the sidewalk, street or alley directly adjacent to the building in which the person resides.
4. Any person who violates this section, upon conviction may be punished in accordance with subsection one (1) through (5) of this section.
5. Violators will be dealt with by the juvenile being warned and told to return home immediately and the police will attempt to notify the parents.

4.0902 Release of Violators

1. Violators of the curfew may be released in the field by the Officer provided a Field Interview Card is completed and the parent or guardian is contacted and given a copy of Chapter 4.0900 of this Code by the officer.
2. If the parent of the person cannot be contacted, a family member, relative or neighbor may take custody of the juvenile if they are over the age of 18 years. Parent/Guardian shall be notified as soon as possible by the detaining officer to advise the parent/guardian concerning the reason the juvenile was detained.
3. "Notification of Juvenile Taken into Custody and Released" form must be completed for the County Juvenile Office on each violator under the age of 17 years.
4. Written notification will be sent by the City Officer on juveniles if released to anyone other than parents.
5. Curfew enforcement will not take effect until 1/2 hour after the curfew begins.
6. Officers may elect to take a violator to his home and release him even if the parent is not available, if the child is old enough to normally be left alone.

4.0903 Previous Record Violators

If the violator has previously violated this Chapter, and his parent/guardian can not be located, the officer is to contact juvenile authorities for instruction and complete a juvenile violation report and forward to juvenile authorities.

4.0904 Failing to Supervise a Minor

1. A person commits the offense of FAILING TO SUPERVISE A MINOR if: The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under

17 years of age and the child has been found on private property or premises open to the public in violation of any provision of this code.

2. It shall be a defense of failure to supervise a minor if the violation occurred solely on private property of the custodian. It shall be a further affirmative defense that the person:

(a) took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise, and

(b) reported the conduct of the child to the appropriate authorities.

3. In addition to any fine or penalty imposed pursuant to this ordinance, the Court may order the person to pay any restitution to a victim of the minor's conduct. The amount of restitution ordered pursuant to this ordinance shall not exceed \$2,500.00.

4. The first time a person is convicted of an offense described in Section I of this ordinance, the person shall not be required to pay a fine not exceeding \$100.00 if the person successfully participates and completes a parent effectiveness program to the satisfaction of the court.

5. Except as found in paragraph (4) above, the offense described in this ordinance of failure to supervise a minor is punishable by up to a \$500 fine and/or 90 days in the county jail, or both by fine and confinement.

CHAPTER 4.1000 -- LITTER

4.1001 Litter in Public Places

No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in public receptacles or authorized private receptacles.

4.1002 Manner of Depositing Litter

Persons placing litter in public receptacles or in authorized private receptacles shall do so in a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

4.1003 Sweeping Litter into Public Places

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

1. Within the meaning of this Section the word "litter" shall include, without excluding other substances, fallen leaves, cut weeds, grass clippings, branches or twigs that may accumulate on any building, lot or premises.

4.1005 Sidewalks to be Kept Free of Litter

Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. Persons owning or occupying places of business within the City shall keep the front of their business premises free of litter.

4.1006 Littering by Persons in Vehicles

No person, while a driver or a passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon public property.

1. No driver of any vehicle shall allow any passenger in that vehicle to throw or deposit litter upon any street or other public place within the City, or upon private property.

4.1007 Transportation of Litter

No person shall drive or move any truck or other vehicle hauling or transporting litter within or about the City, unless such vehicle is so constructed and the load secured so as prevent any of the contents therein being blown, dropped or deposited upon any street, alley or other public place.

4.1008 Littering on Any Private Premises

No person shall throw or deposit litter on any private property within the City, whether owned by such person, except the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property owned by another.

4.1009 Littering Public Property

No person or persons shall throw or place, or cause to be thrown or placed, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse, or rubbish of any kind, nature, or description on the streets, alleyways or any public property within the City, with the exception, that by public notice such items may be placed in containers on specified days for public cleanup.

CHAPTER 4.1360 – CONCEALED WEAPONS

4.1361 POSSESSION OF CONCEALABLE FIREARM UNLAWFUL FOR CERTAIN PERSONS

A person commits the offense of unlawful possession of a concealable firearm if he/she has any concealable firearm in his/her possession and:

1. He/she has pled guilty to or has been convicted of a dangerous felony, as defined in Section 556.061, RSMo., or of any attempt to commit a dangerous felony, or of a crime under the laws of any State or of the United States which, if committed within this State, would be a dangerous felony, or confined therefor in this State or elsewhere during the five (5) year period immediately preceding the date of such possession; or

2. He/she is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

4.1401 Unauthorized Use of Trash Receptacles

No person shall deposit refuse, garbage, trash, rubbish, debris, of any nature, including without limitation food waste, rejected vegetable matter, paper, clothing, grass, leaves, tin cans, bottles or solid waste of any nature whatsoever into any trash receptacle, dumpster or other trash storage container not owned or leased by said person without the authorization of the owner or lessee thereof.

4.1402 Fire Hydrant, Tampering

No person shall tamper with a fire hydrant or cause a fire hydrant to discharge water, unless said person is a member of a fire department engaged in the duties of his or her office.

4.1403 Open Burning

1. Open Burning: No person shall kindle, set fire to, allow a fire to burn, or burn any trash, garbage, flammable materials, tires, asbestos, or anything which is prohibited by state law, state fire codes or Department of Natural Resources whatsoever within the city limits.

2. Leaves and Tree Cuttings: Leaves, yard rakings, cuttings from trees, and bushes which are dry and freely combustible, may be burned in small open fires; provided, that any such fire shall be attended and guarded by the person starting the fire, and care taken by him/her to prevent the escape of fire from the immediate area thereof, and further, complying with 4.1403(3) of this ordinance.

3. Variance to burning prohibition authorized: The Chief of the Fire Department located within the vicinity of the city limits is given the authority to authorize a variance from the burning restriction as set forth in 4.1403(2) of this

ordinance, at his sole discretion, only after the requesting party has notified the City and received authorization from a city official, such as the Police Chief, or a city official delegated by him, and having considered:

- a. The nature of the burn;
 - b. The type of materials to be burned;
 - c. The supervision to be provided;
 - d. The types of buildings that are in close proximity; and
 - e. The nature of the facilities at which the burning is to be done.
4. Excessive smoke or odor: No fire shall be permitted which produces excessive or noxious odors. Any person maintaining a fire with excessive smoke or noxious odors shall be in violation of the terms of this ordinance.
5. Surrounding area to be kept clean: The area surrounding burner baskets, burner barrels, and open fires shall be kept neat and clean, and free from accumulations of trash, refuse and debris at all times.
6. Hazardous conditions, prohibition: The Fire Chief, or Police Chief may prohibit any and all bonfires and outdoor rubbish fires where atmospheric conditions or local circumstances make such fires hazardous.
7. Bonfires prohibited: All bonfires which are not provided by this ordinance shall be prohibited within the city limits.

4.1404 Skateboards and Scooters

1. Definition: For the purpose of this section the phrase "skateboard, scooter, or other like instruments" shall be deemed to refer to any non-motorized instrument, used to transport person or persons by means of wheels, rollers, etc., propelled solely by the force of its rider.
2. Prohibited in business districts: No person shall use, operate or permit the use or operation of any skateboard or like instrument on any sidewalk, street, parking lot, or other public place in any business district in the city.
3. Yielding right of way: The user of any such skateboard or other like instrument shall give the way to any pedestrian, motor vehicle, bicycle or any other user of the said sidewalk, street, parking lot, etc., and shall not interfere with the proper use of the public way by any other person. Such user shall further obey all traffic laws and ordinances applicable to pedestrians or vehicles at all times.
4. The exceptions to this section is that skateboards are allowed in the city park and on private property if the owner gives permission.