

BILL NO. 17-14

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF LEE'S SUMMIT, BY REPEALING, CHAPTER 17, OFFENSES IN ITS ENTIRETY; AND ENACTING IN LIEU THEREOF A NEW CHAPTER 17, OFFENSES, OF LIKE NUMBER AND SUBJECT, OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI TO REVISE THE PROVISIONS IN ACCORDANCE WITH REVISIONS TO THE REVISED CRIMINAL CODE OF MISSOURI.

WHEREAS, the State of Missouri adopted Senate Bill 491 as part of a comprehensive overhaul to the Missouri Criminal Code that was originally enacted in 1977. As part of the revisions certain amendments were made to the state laws pertaining to criminal offenses; and,

WHEREAS, Chapter 17, Offenses, of the Code of Ordinances of the City of Lee's Summit contain ordinance violations that are substantially similar to the state laws pertaining to criminal offenses including but not limited to offenses against public administration, offenses against the person, offenses against property, offenses against public safety, and offenses against public morals; and,

WHEREAS, the City of Lee's Summit desires to amend Chapter 17, Offenses to be in accordance with the revisions of the Revised Criminal Code of Missouri that pertain to similar ordinance violations within the Code of Ordinances for the efficient administration and regulation of the laws within the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 17, Offenses is hereby amended by repealing Chapter 17, Offenses in its entirety and enacting in lieu thereof a new Chapter 17, Offenses of like number and subject matter. Chapter 17, Offenses of the Code of Ordinances for the City of Lee's Summit shall be amended to read as follows:

ARTICLE I. - IN GENERAL

Sec. 17-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affirmative defense shall mean the defense referred to is not submitted to the trier of fact unless supported by evidence and 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 shall mean 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 shall mean:

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- A. The issue referred to is not submitted to the trier of fact unless supported by evidence; and
- B. If the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue.

Confinement shall mean:

- A. 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;
 - 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.
- B. A person is not in confinement if:
 - 1. He is on probation or parole, temporary or otherwise;
 - 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 or lack thereof may be expressed or implied. Assent does not constitute consent if:

- A. It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor;
- B. It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;
- C. It is induced by force, duress or deception.

Criminal negligence shall mean when a person acts in such a way as to fail 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 that a reasonable person would exercise in the situation.

Custody shall mean when one has been arrested but has not been delivered to a place of confinement.

Dangerous instrument shall mean any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

Deadly weapon shall mean any firearm, loaded or unloaded or any weapon from which a shot, readily capable of producing death or serious physical injury may be discharged, or a switchblade knife, dagger, Billy, blackjack or metal knuckles.

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Defendant shall have the burden of injecting the issue shall mean the issue referred to is not submitted to the trier of fact unless supported by evidence, and if the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue.

Felony shall mean any crime if it is so designated or if persons convicted thereof may be sentenced to death or imprisonment for a term which is in excess of one year.

Forcible compulsion shall mean either physical force that overcomes reasonable resistance, or a threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of himself or another person.

Incapacitated shall mean 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.

Inhabitable structure shall include a ship, trailer, sleeping car, airplane or other vehicle or structure:

- A. Where any person lives or carries on business or other calling;
- B. Where people assemble for purposes of business, government, education, religion, entertainment or public transportation; or
- C. Which is used for overnight accommodation of persons;
- D. Any such vehicle or structure is inhabitable regardless of whether a person is actually present. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an inhabitable structure of another.

Knowingly shall mean when a person acts:

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

Law enforcement officer shall mean any public servant having both the power and duty to make arrests for violations of the laws of this State, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States.

Misdemeanor shall mean any crime if it is so designated or if persons convicted thereof may be sentenced to imprisonment for a term of which the maximum is one year or less.

Physical injury shall mean physical pain, illness, or any impairment of physical condition.

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Place of confinement shall mean 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 animal shall mean a dog, horse or other animal used in law enforcement or a correctional facility, or by a Municipal Police Department, Fire Department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, accelerant detection dogs, bomb detection dogs, narcotic detection dogs, search and rescue dogs and tracking animals.

Possess or possessed shall mean having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if he has the object on his person or within easy reach and convenient control. A person has constructive possession if he has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two (2) or more persons share possession of an object, possession is joint.

Property shall mean anything of value, whether real or personal, tangible or intangible, in possession or in action.

Public servant shall mean any person employed in any way by a government or political subdivision of this State who is compensated by the government by reason of his employment. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses.

Purposely shall mean when a person acts, 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.

Recklessly shall mean when a person acts in such a way as to consciously disregard 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 that a reasonable person would exercise in the situation.

Serious emotional injury shall mean an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty.

Serious physical injury shall mean physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

Voluntary act shall mean:

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

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

(Code 1988, § 17-1)

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

State Law reference— Similar definitions, RSMo 556.061.

Sec. 17-2. - Conspiracy.

- A. It shall be unlawful for any person to agree with any other person to engage in conduct which constitutes an offense under this Code, when the purpose of such agreement is to promote or facilitate the commission of the offense.
- B. A person shall be convicted of conspiracy to commit an offense only if an overt act in pursuance of such conspiracy is alleged and provided to have been done by him or by a person with whom he conspired. A person may not 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.
- C. If a person conspires to commit a number of offenses, he may be found guilty of only one conspiracy so long as such multiple offenses are the object of the same agreement.
- D. 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.
- E. For the purpose of any applicable statute of limitations:
 - 1. a conspiracy is a continuing course of conduct which terminates when the offense or offenses which is 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 or her only if he or she advises those with whom he or she has conspired of his or her abandonment or he or she informs the law enforcement authorities of the existence of the conspiracy and of his or her participation in it
- F. It is no defense to a prosecution for conspiring to commit an offense that a person, who knows that a person with whom he or she conspires to commit an offense has conspired with another person or persons to commit the same offense, does not know the identity of such other person or persons.
- G. In determining whether any person is guilty of conspiracy a court or other authority may consider, in addition to all other logically relevant factors, whether the individual charged:
 - 1. Provided materials necessary for the commission of any offense under this chapter, with the knowledge or intent that they be used in the commission of such offense;

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2. Rented or otherwise provided premises to any person with the knowledge or intent that such premises will be used in committing an offense under this chapter; or
3. Placed any newspaper, magazine, handbill or other publication or posted or distributed in any public place any advertisement or solicitation with the knowledge that the purpose of the advertisement or solicitation is to promote activities which would constitute an offense under this chapter.

(Code 1988, § 17-2)

State Law reference— Conspiracy, RSMo 564.014.

Sec. 17-3. - 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; or
 3. Before the commission of the offense he abandoned 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 Subsection B.3 is an affirmative defense.

(Code 1988, § 17-3)

State Law reference— Similar provisions, RSMo 562.041.

Sec. 17-4. - Sale or distribution of tobacco products, alternative nicotine products or vapor products to those under the age of twenty-one; possession by those under the age of eighteen.

- A. *Definitions.* As used in this section the following terms mean:

Alternative nicotine product means any non-combustible product containing nicotine that is intended for human consumption whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Distribute or distribution means to furnish, give, provide, or to attempt to do so, whether gratuitously or for any type of compensation.

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Tobacco product means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco snuff, chewing tobacco, or dipping tobacco but does not include alternative nicotine products, or vapor products.

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

- B. It shall be unlawful for any person to sell or distribute any tobacco products, alternative nicotine products or vapor products to persons under the age of twenty-one (21) or allow such sale or distribution.
- C. It shall be unlawful for any person under the age of twenty-one (21) to purchase any tobacco products, alternative nicotine products or vapor products.
- D. It shall be unlawful for any employee or owner of an establishment where any vending machine is located to permit or allow any person under the age of twenty-one (21) to purchase or otherwise obtain any tobacco products, alternative nicotine products, or vapor products from such vending machine.
- E. It shall be unlawful for any person under the age of eighteen (18) to knowingly possess or use any tobacco products, alternative nicotine products or vapor products.
- F. *Misrepresentation of age prohibited.* No person shall misrepresent his or her age to purchase tobacco products, alternative nicotine products or vapor products.
- G. It shall be prima facie evidence for purposes of this chapter that the substance within a package or container is a tobacco product or electronic smoking device if the product package or container has affixed to it a manufacturer's label which identifies it as such.
- H. *Duty of retailers to post signs.* Every retail dealer in tobacco products, alternative nicotine products or vapor products shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products, alternative nicotine products or vapor products are sold, and on every tobacco vending machine and cigarette rolling machine two (2) signs. One (1) sign shall state the following: "It is a violation of law for cigarettes, other tobacco products, alternative nicotine products, or vapor products to be sold to any person under the age of 21." The second sign shall include the words "under 21" defaced by a red diagonal diameter of a surrounding red circle.
- I. Merchants prohibited from allowing persons under twenty-one (21) years of age the use of cigarette rolling machines. It shall be unlawful for any place of business containing a

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cigarette rolling machine(s) to allow persons under twenty-one (21) years of age to use said machine(s), unless a person is an employee of the place of business utilizing such a machine, and is using the machine in the course of employment or the person is an employee of the division of liquor control of the Department of Public Safety of the State of Missouri or the Lee's Summit, Missouri Police Department and is utilizing for enforcement purposes.

- J. *Age verification.* A person selling tobacco products, alternative nicotine products or vapor products shall verify by means of government issued photographic identification containing the bearer's date of birth, that no person purchasing tobacco products, alternative nicotine products or vapor products is younger than twenty-one (21) years of age. No such verification is required for any prospective purchaser or recipient who looks older than thirty (30) years old. Reasonable reliance on proof of photographic identification shall be a defense to any action for a violation of this section.
- K. This section does not prohibit a person under the age of twenty-one (21) from handling tobacco products, alternative nicotine products or vapor products in the course of lawful employment.
- L. This section does not apply to a person younger than twenty-one (21) years old who purchases or attempts to purchase tobacco products, alternative nicotine products or vapor products while under the direct supervision of the City police department for enforcement purposes.

(Ord. No. 7948, § 1, 8-18-2016)

Editor's note— Ord. No. 7948, § 1, adopted August 18, 2016, repealed the former § 17-4, and enacted a new § 17-4 as set out herein. The former § 17-4 pertained to cigarettes, cigarette wrappers and other tobacco products and derived from the Code of 1988, § 17-4; Ord. No. 6994, adopted November 4, 2010 and Ord. No. 7167, adopted April 5, 2012.

Cross reference— Cigarette taxes, § 28-241 et seq.

Sec. 17-5. - Reserved.

Editor's note— Ord. No. 6250, § 1, adopted Aug. 10, 2006, repealed § 17-5. Former § 17-5 pertained to smoking prohibited in certain places in buildings owned and used by City and derived from Code 1988, § 17-5.

Sec. 17-6. - Reserved.

Editor's note— Ord. No. 6250, § 1, adopted Aug. 10, 2006, repealed § 17-6. Former § 17-6 pertained to smoking restrictions in food service establishments and derived from Ord. No. 5754, § 1, adopted May 13, 2004; Ord. No. 5830, §§ 1, 2, adopted Oct. 21, 2004; and Ord. No. 5936, §§ 1—3, adopted Apr. 21, 2005.

Secs. 17-7—17-25. - Reserved.

Sec. 17-26. - Failing to obey, obstructing, resisting City officials.

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- A. It shall be unlawful for a person to commit the offense of resisting or interfering with arrest if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle, and for the purpose of preventing the officer from effecting the arrest, he:
1. Resists the arrest, stop or detention of himself by using or threatening, in addition to vocal protest, 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, in addition to vocal protest, the use of violence, physical force or physical interference.
- B. This subsection applies to arrests with or without warrants and to arrests, stops or detentions for any crime or ordinance violation. It is no defense to prosecution pursuant to Subsection A. of this section that the law enforcement officer was acting unlawfully in making the arrest, stop or detention. However, nothing in this section shall be construed to bar civil suits for an unlawful arrest, stop or detention.
- C. It shall be unlawful for a person to commit 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. Process includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court or by any duly authorized representative or officer of the City.
- D. It shall be unlawful for any person to willfully and knowingly obstruct, resist, oppose or fail to obey a lawful command of any duly authorized representative or officer of the City executing or attempting to execute and carry into effect any provision of this Code or other ordinance or order adopted by the proper authorities of this City.

(Code 1988, § 17-26)

State Law reference— Resisting or interfering with arrest, RSMo 575.150; interference with legal process, RSMo 575.160.

Sec. 17-27. - Police emergency lines.

- A. The Chief of Police and any other police officer in charge at the scene shall have authority to provide barricades, ropes, signs, or other means of restraint at the scene of any parade, fire, accident, disturbance, crime scene, natural or artificial disaster or emergency, or any gathering of people.
- B. It shall be unlawful for any person other than a law enforcement officer, firefighter or other person having official business at the scene, to cross a duly established police emergency line without the express permission of a police officer at the scene.

(Code 1988, § 17-27)

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Sec. 17-28. - False impersonation.

- A. It shall be unlawful for a person to commit the offense of false impersonation by:
- B. Falsely representing himself to be a public servant with the purpose to induce another to submit to his pretended official authority or to rely upon his pretended official acts, and:
 - 1. Performs an act in that pretended capacity; or
 - 2. Causes another to act in reliance upon such representation.
- C. Falsely representing himself to be a person licensed to practice or engage in any profession for which a license is required by the laws of the State with purpose to induce another to rely upon such representation, and:
 - 1. Performs an act in that pretended capacity; or
 - 2. Causes another to act in reliance upon such representation.

(Code 1988, § 17-28)

State Law reference— False impersonation, RSMo 575.120.

Sec. 17-29. - False reports.

- A. It shall be unlawful for a person to commit the offense of making a false report by knowingly:
 - 1. Giving false information to a law enforcement officer for the purpose of implicating another person in a crime; or
 - 2. Making a false report to a law enforcement officer that a crime has occurred or is about to occur; or
 - 3. Making a false report or causing a false report to be made to a law enforcement officer, a security officer, a fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property to the effect that a fire or other incident calling for an emergency response has occurred.
- B. It is a defense to a prosecution under Subsection 1. of this section that the actor retracted the false statement or report before the law enforcement officer or any other person took substantial action in reliance thereon.
- C. The defendant shall have the burden of injecting the issue of retraction under Subsection B. of this section.

(Code 1988, § 17-29)

Cross reference— Emergency and disaster planning and response, ch. 10; fire prevention and protection, ch. 13; police, ch. 22.

State Law reference— False reports, RSMo 575.080.

Sec. 17-30. - Escape or attempted escape from custody.

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It shall be unlawful for any person to escape from custody or to attempt to escape from custody while being held in custody after arrest for any crime.

(Code 1988, § 17-30)

State Law reference— Similar provisions, RSMo 575.200.

Sec. 17-31. - Escape or attempted escape from confinement.

It shall be unlawful for any person to escape or to attempt to escape from confinement while being held in confinement after arrest for any crime, or while serving a sentence after conviction for any crime.

(Code 1988, § 17-31)

State Law reference— Similar provisions, RSMo 575.210.

Sec. 17-32. - Prisoners damaging jail property.

It shall be unlawful for any person when confined in the City jail to knowingly damage any of the property in and about such jail.

(Code 1988, § 17-32)

Sec. 17-33. - Disturbing a judicial proceeding, meeting of Council or other administrative body.

- A. It shall be unlawful for a person to commit the offense of disturbing a judicial proceeding, with purpose to intimidate a judge, attorney, juror, party or witness and thus to influence a judicial proceeding by disrupting or disturbing a judicial proceeding; by participating in an assembly and calling aloud or shouting or holding or displaying a placard or a sign containing written or printed matter concerning the conduct of the judicial proceeding or the character of the judge, attorney, juror, party or witness engaged in such proceeding; or by calling for or demanding any specified action or determination by such judge, attorney, juror, party or witness in connection with such proceeding.
- B. It further shall be unlawful for a person to commit the offense of disturbing a meeting of the Council, Planning Commission, Board of Adjustment, Parks and Recreation Board or any other administrative body duly constituted by the Council and authorized by ordinance or statute, with the purpose to:
1. Intimidate a party or witness and thus to influence a decision of such body; or
 2. To disrupt or disturb the meeting or proceeding before such body by participating in an assembly and calling aloud, shouting or holding or displaying a placard or a sign containing written or printed matter concerning the conduct of the meeting of such body or the character of the members of such body, party or witness engaged in such meeting; or
 3. By calling aloud for or demanding any specified action or determination by such body or the members thereof in connection with such meeting.

(Code 1988, § 17-33)

State Law reference— Disturbing a judicial proceeding, RSMo 575.250; obstructing government operations, RSMo 576.030.

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Sec. 17-34. - Tampering with a witness.

It shall be unlawful for any person, with purpose to induce a witness or a prospective witness in an official proceeding of the Municipal Court, the Council or any other board, commission or committee of the City, 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, to:

- A. Threaten or cause harm to any person or property; or
- B. Use force, threats or deception; or
- C. Offer, confer or agree to confer any benefit, direct or indirect, upon such witness; or
- D. Convey any of the foregoing to another in furtherance of conspiracy.

(Code 1988, § 17-34)

State Law reference— Similar provisions, RSMo 575.270.

Sec. 17-35. - Tampering with a victim.

It shall be unlawful for any person, with purpose to do so, to prevent or dissuade or attempt to prevent or dissuade any person who has been a victim of any crime or a person who is acting on behalf of any such victim from:

- A. Making any report of such victimization to any peace officer or State, local or Federal law enforcement officer, prosecuting agency or judge;
- B. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof; or
- C. Arresting or causing or seeking the arrest of any person in connection with such victimization.

(Code 1988, § 17-35)

State Law reference— Similar provisions, RSMo 575.270.

Sec. 17-36. - Hindering prosecution.

A person commits the offense of hindering prosecution if for the purpose of preventing the apprehension, prosecution, conviction or punishment of another for conduct constituting a municipal ordinance violation or offense he:

- A. Harbors or conceals such a person; or

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- B. 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
- C. Provides such person with money, transportation, weapon, disguise or other means to aid him in avoiding discovery or apprehension; or
- D. 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.

(Ord. No. 5444, § 1, 11-21-2002)

State Law reference-- Similar provisions, RSMo 575.030.

Sec. 17-37. - Assault on a police animal.

A person commits the offense of assault on a police animal when such person knowingly attempts to kill or disable or knowingly causes or attempts to cause serious physical injury to a police animal when that animal is involved in law enforcement investigation, apprehension, tracking, or search, or the animal is in the custody of or under the control of a law enforcement officer, the Lee's Summit Police Department, the Lee's Summit Fire Department or a rescue unit or agency.

(Ord. No. 5445, § 1, 11-21-2002)

State Law reference-- Similar provisions, RSMo 575.353.

Secs. 17-38—17-55. - Reserved.

Sec. 17-56. - Assault.

- A. It shall be unlawful for a person to commit an assault by:
 - 1. Attempting to cause or recklessly causing physical injury to another person;
 - 2. Causing physical injury to another person through criminal negligence, by means of a deadly weapon;
 - 3. Purposely placing another person in apprehension of immediate physical injury;
 - 4. Recklessly engaging in conduct that creates a substantial risk of death or serious physical injury to another person;
 - 5. Knowingly causing or attempts to cause physical contact with another person knowing the other person will regard the contact as offensive or provocative; or
 - 6. Knowingly causing physical contact with an incapacitated person, as defined in RSMo Section 475.010 as amended, which a reasonable person, who is not incapacitated, would consider offensive or provocative.
- B. Any person violating Subsection A.1., A.2., A.4. or A.6. of this section shall be punished in accordance with the provisions of Section 1-13.A. and any person violating the provisions of Subsection A.3. or A.5. of this section shall be punished in accordance with the provisions of Section 1-13.B.

(Code 1988, § 17-56)

State Law reference— Assault in the fourth degree, RSMo 565.056.

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Sec. 17-57. - Harassment.

- A. It shall be unlawful for any person to engage in communication, or any other act, towards another person by:
1. Communicating in writing, by telephone, by fax machine or facsimile or by other electronic communications device, a threat to commit any felony; or
 2. Making a telephone call, communicating in writing, by fax machine or facsimile or by other electronic communications device, and using coarse language offensive to one of average sensibility and thereby puts such person in reasonable apprehension of offensive physical contact or harm; or
 3. Knowingly frightening, intimidating or causing emotional distress to another person by making a telephone call or other electronic communication anonymously; or
 4. Knowingly communicating with another person who is, or who purports to be, seventeen (17) years of age or younger and in so doing without good cause recklessly frightens, intimidates, or causes emotional distress to such person; or
 5. Knowingly making repeated unwanted communication, without good cause, with the purpose to frighten, intimidate, cause emotional distress, or such communication causes such person to be frightened, intimidated, or emotionally distressed, and such person's response to the communication is one of a person of average sensibilities considering age of such person.
 6. Without good cause engages in any other act with the purpose to frighten, intimidate, cause emotional distress, or such act causes such person to be frightened, intimidated, or emotionally distressed, and such person's response to the act is one of a person of average sensibilities considering age of such person.
- B. It shall be unlawful for any person knowingly to permit any telephone, fax machine or other electronic communications device under his control to be used for any purpose prohibited by this section.
- C. It shall be unlawful for any person to commit acts described in Subsection A. herein if these acts are directed toward or received by a telephone, a telephone answering device, electronic facsimile (fax) equipment or any other electronic communications device.
- D. Any offense committed by use of a telephone, fax machine or any other electronic communications device as set forth in Subsection A., B. and/or C. hereinabove shall be deemed to have been committed at either the place where the telephone call, fax or other communication originated or at the place where the telephone call, fax or other communication was received.
- E. This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violations of federal, state, county, or municipal law.

(Code 1988, § 17-57; Ord. No. 7212, § 1, 8-2-2012)

State Law reference -- Harassment, second degree, RSMo 565.091.

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Sec. 17-58. - Endangering the welfare of a child.

- A. A person commits the offense of endangering the welfare of a child if:
1. He with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen (17) years old; or
 2. He knowingly encourages, aids or causes a child less than seventeen (17) years old to engage in any conduct which causes or tends to cause the child to come under the jurisdiction of the juvenile court as provided in RSMo Section 211.031.1(2)(d) or RSMo Section 211.031.1(3); or
 3. Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen (17) years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the jurisdiction of the juvenile court as provided in RSMo Section 211.031.1(1)(c), RSMo Section 211.031.1(2)(d) or RSMo Section 211.031.1(3); or
 4. He knowingly encourages, aids or causes a child less than seventeen (17) years of age to enter into any room, building or other structure which is a public nuisance as defined in RSMo Section 195.130.
- B. 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 nonmedical remedial treatment recognized and permitted under the laws of this State.
- C. Any person who pleads or is found guilty of violating the provisions of this section shall be punished in accordance with the provisions of Section 1-13.

(Code 1988, § 17-58)

State Law reference-- Endangering the welfare of a child in the second degree, RSMo 568.050

Sec. 17-59. - Domestic assault.

- A. A person commits the crime of domestic assault if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in Section 455.010, RSMo, and:
1. The person attempts to cause or recklessly causes physical injury to such family or household member; or
 2. With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or
 3. The person purposely places such family or household member in apprehension or immediate physical injury by any means; or
 4. The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to such family or household member; or
 5. The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or
 6. The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such

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family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

- B. Any person violating any of the above sections shall be subject to the full range of punishment provided by Section 1-13.A. of the Code.

(Ord. No. 5219, § 1, 10-4-2001)

State Law reference-- Domestic assault in the fourth degree, RSMo 565.076

Sec. 17-60. - Stalking.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section:

Course of conduct shall mean a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included in the meaning of "course of conduct." Such constitutionally protected activity includes picketing or other organized protests.

Harasses shall mean to engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person under the circumstances to be frightened, intimidated or emotionally distressed.

- A. A person who purposely and through his or her course of conduct harasses or follows with the intent of harassing another person commits the offense of stalking.
- B. No person shall be prosecuted through the Municipal Court where it appears possible that a charge of aggravated stalking, or a second or subsequent offense of stalking, as defined in Section 565.225, RSMo, might be sustained, until after the State Prosecuting Attorney has had the opportunity to review the case and consider filing appropriate charges.
- C. Any law enforcement officer may arrest without a warrant, any person he has probable cause to believe has violated the provisions of this section.
- D. This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violation of federal, state, county, or municipal law.

(Ord. No. 5460, § 1, 1-19-2003; Ord. No. 7292, § 1, 2-7-2013)

State Law reference-- Stalking, first degree RSMo 565.225; Stalking, second degree, RSMo 565.227.

Sec. 17-61. - Violation of a full order of protection; foreign full order of protection to be given full faith and credit.

- A. It shall be unlawful for any person to violate the terms or conditions of a full order of protection entered by a court of the State of Missouri or by any other state, tribe,

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territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, which shall be given full faith and credit.

- B. A certified copy of a full order of protection shall be prima facie evidence of the existence and validity of the full order of protection.
- C. Refusal of the person for whose benefit the full order of protection was issued to sign a complaint or to testify shall not be a defense to a violation of a full order of protection.
- D. Any person found guilty of violating a full order of protection under the terms of this section shall be punished in accordance with the provisions of Section 1-13.A of this Code.

(Ord. No. 5745, § 1, 5-6-2004; Ord. No. 7291, § 1, 2-7-2013)

Editor's note— Ord. No. 5745, § 1, adopted May 6, 2004, supplied provisions to be added to the Code as § 17-60. In order to preserve the style of the Code, and at the editor's discretion, these provisions have been included as § 17-61 to read as set out herein.

Secs. 17-62—17-80. - Reserved.

ARTICLE IV. - OFFENSES AGAINST PROPERTY^[4]

Footnotes:

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State Law reference— Robbery, arson, burglary and related offenses, RSMo ch. 569; stealing and related offenses, RSMo ch. 570.

Sec. 17-81. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Coercion shall mean

- A. A threat, however communicated, to:
 - 1. Commit any crime;
 - 2. Inflict physical injury in the future on the person threatened or another;
 - 3. Accuse any person of any crime;
 - 4. Expose any person to hatred, contempt or ridicule;
 - 5. Harm the credit or business repute of any person;
 - 6. Take or withhold action as a public servant, or cause a public servant to take or withhold action;
 - 7. Inflict any other harm which would not benefit the actor.
- B. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of the 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

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property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Credit device shall mean a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

Customer shall mean the person in whose name a utility service is provided.

Debit device shall mean a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients.

Deceit shall mean 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 shall mean to:

- A. Withhold property from the owner permanently;
- B. Restore property only upon payment of reward or other compensation;
- C. Use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

Divert shall mean to change the intended course or path of electricity, water, gas, telephone, cable television or other utility service without the authorization or consent of the utility.

Of another shall refer to property or services of any person, including a church or school, other than the actor, who has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

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

Receiving shall mean acquiring possession, control or title or lending on the security of the property.

Reconnection shall mean the commencement of utility service other than by the utility company, to a customer or other person after service has been discontinued by the utility.

Services shall mean and include transportation, telephone, electricity, gas, water, cable television services or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

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Tamper shall mean to rearrange, damage, injure, destroy, alter, interfere with or otherwise prevent from performing normal or customary functions.

Utility service shall mean the provision of electricity, water, gas, telephone, cable television or other utility service.

(Code 1988, § 17-81)

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

State Law reference— Similar definitions, RSMo 570.010.

Sec. 17-82. - Stealing.

It shall be unlawful for any person to commit the offense of stealing by appropriating property or services of another with the purpose of depriving him thereof, either without his consent or by means of deceit or coercion.

(Code 1988, § 17-82)

State Law reference— Similar provisions, RSMo 570.030.

Sec. 17-83. - Receiving stolen property.

It shall be unlawful for a person to receive, retain or dispose of property of another for the purpose of depriving the owner of a lawful interest therein, knowing that it has been stolen or believing that it has been stolen.

(Code 1988, § 17-83)

State Law reference— Similar provisions, RSMo 570.080.

Sec. 17-84. - Tampering.

It shall be unlawful for any person to commit the offense of tampering by:

- A. Tampering with property of another for the purpose of causing substantial inconvenience to that person or to another; or
- B. Unlawfully riding in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle, without the consent of the owner.

(Code 1988, § 17-84)

State Law reference— Similar provisions, RSMo 569.090.

Sec. 17-85. - Property damage.

It shall be unlawful for any person to commit the offense of property damage by:

- A. Knowingly damaging City property or property of another; or
- B. Damaging City property or other property for the purpose of defrauding an insurer.

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(Code 1988, § 17-85)

State Law reference— Similar provisions, RSMo 569.120.

Sec. 17-86. - Trespass in the first degree.

- A. It shall be unlawful for a person to commit the offense of trespass in the first degree by knowingly entering unlawfully or knowingly remaining unlawfully in a building or inhabitable structure or upon real property.
- B. A person does not commit the offense 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 person; or
 - 2. Posting in a manner reasonably likely to come to the attention of intruders.
- C. Entering unlawfully or remaining unlawfully means entering or remaining in or upon premises where he is not licensed or privileged to be. 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 that was personally communicated to him by the owner of such premises or any 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.
- D. The provisions of this section and of the following section shall not apply to cases involving landlords and tenants.

(Code 1988, § 17-86)

State Law reference— Trespass in the first degree, RSMo 569.140.

Sec. 17-87. - Trespass in the second degree.

- A. It shall be unlawful for any person to commit the offense of trespass in the second degree by entering unlawfully upon real property of another. This is an offense of absolute liability.
- B. Any person who pleads or is found guilty of violating the terms of this section shall be punished as provided in Section 1-13.C. of this Code.

(Code 1988, § 17-87)

State Law reference— Similar provisions, RSMo 569.150.

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Sec. 17-88. - Posting bills without permission.

It shall be unlawful for any person to stick any bill, poster or notice upon any property of the City without the consent of the City, or upon the private property of any person, without the consent of such person.

(Code 1988, § 17-88)

Sec. 17-89. - Littering.

It shall be unlawful for a person to commit the offense of littering by throwing or placing or causing to be thrown or placed any glass, glass bottles, wire, nails, tacks, brush, cans, garbage, trash, refuse, or rubbish of any kind, nature or description on the right-of-way of any public road or State highway; in any of the waters or on the banks of any stream within the City limits; on any land or water owned, operated or leased by the City or State, any board, department, agency, or commission thereof; on any land or water owned, operated or leased by the Federal government; or on private real property owned by another without his consent.

(Code 1988, § 17-89)

Cross reference— Depositing dirt, rock, building material, rubbish on public property, § 26-4.

State Law reference— Littering, RSMo 577.070.

Sec. 17-90. - Polluting water.

It shall be unlawful for any person, organization, corporation or their representatives or agents to put any filth or impurity in any spring, well, cistern or pond in the City.

(Code 1988, § 17-90)

State Law reference— Littering waters, etc., RSMo 577.073.

Sec. 17-91. - Theft of utility service.

- A. It shall be unlawful for any person to commit, authorize, solicit, aid, abet, or attempt any of the following acts:
1. Divert, or cause to be diverted, utility service by any means whatsoever.
 2. Make, or cause to be made, any connection or reconnection with property owned or used by the utility to provide utility service without the authorization or consent of the utility.
 3. 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.
 4. Tamper with any property owned or used by the utility company to provide utility service.
 5. 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 the use, or that the use of receipt, was without the authorization or consent of the utility.

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6. Advertise, manufacture, distribute, sell, use, rent or offer for sale, rental or use any device of any description, or any plan or kit, designed to obtain utility service, in violation of this section.
 7. Obtain utility service by means of false representations, or fraudulent or deceptive actions, designed to avoid the payment of any outstanding lawful charges for any utility service.
 8. 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.
- B. There is a rebuttable presumption that there is a violation of this section if, on the premises controlled by the customer or by the person using or receiving the direct benefit of utility service, there is either, or both of the following:
1. Any instrument, apparatus or device primarily designed to be used to obtain utility service without paying the full lawful charge therefor.
 2. Any utility equipment that has been altered, tampered with or bypassed so as to cause no measurement or inaccurate measurement of utility service.

(Code 1988, § 17-91)

Sec. 17-92. - Alteration or removal of item numbers.

No person shall destroy, remove, cover, conceal, alter or deface the manufacturer's original serial number or other distinguishing owner-applied number or mark; or sell or offer for sale any item which has been so changed; or buy, or receive in any manner an item which has been so changed with the purpose of depriving the owner of a lawful interest therein.

(Code 1988, § 17-92)

State Law reference -- Alteration or removal of items numbers with intent to deprive lawful owner, RSMo 570.085.

Sec. 17-93. - Fraudulent use of a credit device or debit device.

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

1. The device is stolen, fictitious or forged; or
2. The device has been revoked or cancelled; or
3. For any other reason his use of the device is unauthorized; or
4. Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels said charges or payment without just cause. It shall be prima facie evidence of a violation of this section if a person cancels said charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri department of revenue.

(Ord. No. 7506, § 1, 8-7-2014)

State Law reference -- Fraudulent use of a credit device or debit device, RSMo 570.130.

Secs. 17-94—17-110. - Reserved.

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ARTICLE V. - OFFENSES AGAINST PUBLIC ORDER^[5]

Footnotes:

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State Law reference— Offenses against public order, RSMo ch. 574.

Sec. 17-111. - Definitions.

- A. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
1. *Private property* shall mean any place which at the time of the offense is not open to the public. It includes property which is owned publicly or privately.
 2. *Property of another* shall mean any property in which the person does not have a possessory interest.
 3. *Public place* shall mean any place which at the time of the offense is open to the public. It includes property which is owned publicly or privately.
- B. If a building or structure is divided into separately occupied units, such units are separate premises.

(Code 1988, § 17-111)

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

State Law reference— Similar definitions, RSMo 574.030.

Sec. 17-112. - Disturbance of public peace.

- A. It shall be unlawful for any person to commit the offense of disturbance of the public peace by:
1. Unreasonably and knowingly disturbing or alarming another person by:
 - a. Loud noise;
 - b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient;
 - c. Fighting;
 - d. Creating a noxious and offensive odor;
 - e. Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out.
 2. Being in a public place or on private property of another without consent and purposely causing inconvenience to another person 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. Any person who pleads or is found guilty of violating the provisions of this section shall be punished in accordance with the provisions of Section 1-13.B.

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(Code 1988, § 17-112)

State Law reference— Peace disturbance, RSMo 574.010.

Sec. 17-113. - Disturbance of private peace.

It shall be unlawful for any person to commit the offense of disturbance of private peace by being on private property and unreasonably and purposely causing alarm to another person on the same premises by fighting.

(Code 1988, § 17-113)

State Law reference— Similar provisions, RSMo 574.020.

Sec. 17-114. - Unlawful assembly.

A person commits the offense of unlawful assembly if he or she knowingly assembles with six (6) or more other persons and agrees therewith to violate any of the provisions of this chapter, criminal laws of this State or of the United States with force or violence.

(Code 1988, § 17-114)

State Law reference— Similar provisions, RSMo 574.040.

Sec. 17-115. - Picketing.

- A. The term "block" as used in this section shall mean that portion of a street lying between intersections.
- B. Peaceful picketing in the furtherance of a lawful purpose shall be permitted in the City, provided the same is done under the following conditions:
 - 1. Picketing may be conducted only on the sidewalks reserved for pedestrian movement and may not be conducted on the portion of a street used primarily for vehicular traffic.
 - 2. Not more than ten (10) pickets promoting the same objective shall be permitted to use the sidewalks within a designated block in the City at any one (1) time.
 - 3. Such pickets may carry written or printed placards or signs not exceeding two (2) feet in width, and two (2) feet in length promoting the objective for which the picketing is done; provided the words used are not defamatory in nature or would tend to produce violence. The staff on which such placard is carried shall not exceed forty (40) inches in length, must be made of wood, shall not exceed three-quarters of an inch in diameter at any point, and must be blunt at each end.
 - 4. Pickets must march in single file and not abreast and may not march closer together than fifteen (15) feet, except in passing one another.
 - 5. If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten (10) pickets thereon, the Chief of Police or his designated agent shall allot time to each group of pickets for the use of such sidewalk on an equitable basis.

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- C. Picketing done contrary to the provisions of this section shall be unlawful.
- D. It shall be unlawful for any person to physically interfere with such pickets in the use of the sidewalk or to address profane, indecent, abusive, or threatening language to or at such pickets which would tend to provoke such pickets or others to a breach of the peace.
- E. The police officers of the City may, in the event of assemblage of persons in such numbers as to tend to intimidate pickets pursuing their lawful objective through numbers alone or through use of inflammatory words, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself from the place of such assemblage when so directed by the police.
- F. Whenever the free passage of any street or sidewalk in the City shall be obstructed by a crowd, the persons composing such crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer as herein provided.

(Code 1988, § 17-115)

Sec. 17-116. - Sound trucks, similar vehicles.

- A. It shall be unlawful for any person, organization, corporation, or their representatives or agents to park any automobile, truck or other vehicle equipped with a loudspeaker or amplifier and to use the same on or near the streets within the corporate limits of the City except where a specific permit is granted by the Mayor and the Council.
- B. It shall be unlawful for any automobile, truck, or other vehicle equipped with mechanical loudspeaker or amplifier to use the same while driving upon the streets of the City unless the vehicle shall maintain a speed of not less than fifteen (15) miles per hour and shall not exceed the speed limits as posted. Such vehicle shall not be permitted to park on or near the streets of the City while the amplifier or loudspeaker is being used as aforesaid, except in obedience to the traffic regulations of the City.

(Code 1988, § 17-116)

Cross reference— Regulations regarding control of noise and sound, § 17-251 et seq., traffic and motor vehicles generally, ch. 29.

Sec. 17-117. - Open house parties prohibited when alcohol or illegal drugs are possessed or used by minors.

- A. *Definitions.* Unless the provisions explicitly state otherwise, as used in this section, the following terms and phrases shall have the meanings hereinafter designated:
 - 1. *Alcoholic beverage.* Any alcoholic liquor as defined now and hereafter by the Revised Statutes of Missouri. Currently, "alcoholic liquor" is defined by RSMo 311.020.

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2. *Control*. Any form of authority, regulation, responsibility or dominion, including a possessory right.
 3. *Drug*. A controlled substance as defined and described now or hereafter by the Revised Statutes of Missouri. Currently, controlled substances are defined and described by RSMo 195.005—195.425 of the Revised Statutes of Missouri (Chapter 195).
 4. *Minor*. A person not legally permitted by reason of age to possess, consume, or purchase alcoholic liquor as described now or hereafter by the Revised Statutes of Missouri.
 5. *Open house party*. A social gathering at a residence or premises of persons in addition to the owner or those with rights of possession or their immediate family members.
 6. *Residence or premises*. A motel room, hotel room, home, apartment, condominium, or other dwelling unit, including the curtilage of a dwelling unit, or a hall, meeting room, or other place of assembly, whether occupied as a dwelling or specifically for social functions, and whether owned, leased, rented, or used with or without compensation.
- B. *Prohibited activities*. No person who is the owner in possession, a tenant or subtenant, or has temporary charge of any residence or premises, shall allow an open house party to take place at the residence or premises if any alcoholic beverage or drug is possessed or consumed at the residence or premises by any minor where the person knew or reasonably should have known that any alcoholic beverage or drug was in the possession or being consumed by a minor at the residence or premises.
- C. The provisions of this section shall not apply to:
1. The consumption, use or possession of a drug by a minor pursuant to a lawful prescription for each drug.
 2. Religious observance or prescribed medical treatments.
 3. The possession by a minor of alcoholic beverages or lawfully prescribed drugs incidental to the lawful employment of such minor.

(Ord. No. 5899, § 1, 2-17-2005)

Sec. 17-118. - Funeral picketing.

- A. It shall be unlawful for any person to engage in picketing, or other action which is disruptive or undertaken to disrupt or disturb a funeral, within three hundred (300) feet of any church, cemetery, or funeral establishment, as defined by RSMo 333.011, or to block access to any church, cemetery, or funeral establishment, as defined by RSMo 333.011 which disrupts or has the intent to disrupt a funeral, within one (1) hour prior to the commencement of any funeral, and until one (1) hour following the cessation of any funeral.
- B. For purposes of this section, "funeral" means the ceremonies, processions, and memorial services held in connection with the burial or cremation of the dead.
- C. Each day on which a violation occurs shall constitute a separate offense.

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(Ord. No. 6165, § 1, 4-6-2006; Ord. No. 7293, § 1, 2-7-2013)

Editor's note— Ord. No. 6165, § 1, adopted Apr. 6, 2006, supplied provisions to be added to the Code as § 17-117. In order to preserve the style of the Code, at the concurrence of the City, these provisions have been included as § 17-118.

Secs. 17-119—17-140. - Reserved.

ARTICLE VI. - OFFENSES AGAINST PUBLIC SAFETY^[6]

Footnotes:

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State Law reference— Public safety offenses, RSMo ch. 577.

DIVISION 1. - GENERALLY

Sec. 17-141. - Throwing missiles.

It shall be unlawful for any person knowingly or recklessly to throw any stone, brick, ball or other missile so as purposely to place another person in apprehension of immediate physical injury or strike any person or damage any building or other property.

(Code 1988, § 17-141)

Secs. 17-142—17-160. - Reserved.

DIVISION 2. - WEAPONS OFFENSES^[7]

Footnotes:

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State Law reference— Weapons offenses, RSMo ch. 571.

Sec. 17-161. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blackjack shall mean any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use.

Firearm shall mean any weapon that is designed or adapted to expel a projectile by the action of an explosive.

Intoxicated shall mean substantially impaired mental or physical capacity resulting from introduction of any substance into the body.

Knife shall mean any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of

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this division, knife does not include any ordinary pocket knife with no blade more than four (4) inches in length.

Spring gun shall mean any fused, timed or non-manually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

(Code 1988, § 17-161)

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

State Law reference— Similar definitions, RSMo 571.010.

Sec. 17-162. - Unlawful use of weapons; exceptions.

- A. A person commits the offense of unlawful use of weapons, except as otherwise provided by Sections 571.101 to 571.121, RSMo, if he or she knowingly:
1. Carries concealed upon or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use into any area where firearms are restricted under subsection J of this section; or
 2. Sets a spring gun; or
 3. Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in Section 302.010, RSMo, or any building or structure used for the assembling of people; or
 4. Exhibits in the presence of one (1) or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or
 5. Possesses a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense; or
 6. Discharges a firearm within one hundred (100) yards of any occupied schoolhouse, courthouse, or church building; or
 7. Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or
 8. Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof; or
 9. Discharges or shoots a firearm at or from a motor vehicle, as defined in Section 301.010, RSMo, discharges or shoots a firearm at any person, or at

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any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or

10. Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.
- C. Subdivisions A.1, A.8, and A.10 of this section shall not apply to the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this subsection. Subdivisions A.3, A.4, A.6, A.7, and A.9 of this section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this subsection:
1. All State, County and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to Sections 590.030 to 590.050, RSMo, and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection H. of this section, and who carry the identification defined in subsection I. of this section, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 2. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime; or
 3. Members of the armed forces or national guard while performing their official duty; or
 4. Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the State, those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary; or
 5. Any person whose bona fide duty is to execute process, civil or criminal; or
 6. Any Federal probation officer; or
 7. Any State probation or parole officer, including supervisors and members of the Board of Probation and Parole; or
 8. Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the Board of Police Commissioners under [Section] 84.340, RSMo; or

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9. Any coroner, deputy coroner, medical examiner, or assistant medical examiner.
 10. Any municipal or county prosecuting attorney or assistant prosecuting attorney, circuit attorney or assistant circuit attorney; municipal, associate, or circuit judge; or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under subsection B. of Section 571.111, RSMo;
 11. Any member of a fire department or fire protection district who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit under Section 571.111, RSMo, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties; and
 12. Upon the written approval of the governing body of a fire department or fire protection district, any paid fire department or fire protection district member who is employed on a full-time basis and who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.
- C. Subsections A.1, A.5, A.8, and A.10. of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subsection A.1. does not apply to any person nineteen (19) years of age or older or eighteen (18) years of age or older and a member of the United States Armed Forces, or honorably discharged from the United States Armed Forces, transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision A.10 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event or club event.
- D. Subdivisions A.1, A.8, and A.10 of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo, a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.
- E. Subsections A.3, A.4, A.5, A.6, A.7, A.8, A.9, and A.10 shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.

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- F. Notwithstanding any provision of this section to the contrary, this section shall not prohibit any state employee from having a firearm in the employee's vehicle on the state's property provided that the vehicle is locked and the firearm is not visible. This subsection shall only apply to the state as an employer when the state employee's vehicle is on property owned or leased by the state and the state employee is conducting activities within the scope of his or her employment. For the purposes of this subsection, "state employee" means an employee of the executive, legislative, or judicial branch of the government of the State of Missouri.
- G. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.
- H. As used in this section "qualified retired peace officer" means an individual who:
1. Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;
 2. Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
 3. Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen (15) years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
 4. Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;
 5. During the most recent twelve (12) month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;
 6. Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and,
 7. Is not prohibited by federal law from receiving a firearm.
- I. The identification required by subdivision B.1. of this section is:
1. A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one (1) year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or

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2. A photographic identification issued by the agency from which the individual retired from service as a peace officer; and
 3. A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one (1) year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.
- J. A concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo, a valid concealed carry endorsement issued prior to August 28, 2013, or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the state. No concealed carry permit issued pursuant to Sections 571.101 to 571.121, RSMo, valid concealed carry endorsement issued prior to August 28, 2013, or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize any person to carry concealed firearms into:
1. Any police, sheriff, or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
 2. Within twenty-five (25) feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
 3. The facility of any adult or juvenile detention or correctional institution or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or correctional institution or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
 4. Any courthouse solely occupied by the circuit court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug, or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by supreme court rule pursuant to subdivision 6 of this subsection. Nothing in this subdivision shall preclude those persons listed in subdivision (1) of Subsection 2 of Section 571.030, RSMo, while within their jurisdiction and on duty, those

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persons listed in subdivisions (2) and (4) of Subsection 2 of Section 571.030, RSMo, or such other persons who serve in a law enforcement capacity for a court as may be specified by supreme court rule pursuant to subdivision (6) of this subsection, from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subdivision shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

5. Any meeting of the governing body of a unit of local government; or any meeting of the general assembly or a committee of the general assembly, except that nothing in this subdivision shall preclude a member of the body, holding a valid concealed carry endorsement, from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
6. The carrying of a concealed firearm by endorsement holders in that portion of a building owned, leased or controlled by the City is prohibited. Any portion of a building in which the carrying of concealed firearms is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. Any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by the City shall be exempt from any restriction on the carrying or possession of a firearm. Persons violating this article may be denied entrance to the building, ordered to leave the building and if employees of the unit of government, be subjected to disciplinary measures for violation of the provisions of the statute, rule or ordinance. The provisions of this subdivision shall not apply to any other unit of government;
7. Any establishment licensed to dispense intoxicating liquor for consumption on the premises, which portion is primarily devoted to that purpose without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and that receives at least fifty-one (51) percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;
8. Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of

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the airport shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

9. Any place where the carrying of a firearm is prohibited by federal law;
10. Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board, unless the person with the concealed carry endorsement or permit is a teacher or administrator of an elementary or secondary school who has been designated by his or her school district as a school protection officer and is carrying a firearm in a school within that district, in which case no consent is required. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
11. Any portion of a building used as a child care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a concealed carry permit or endorsement;
12. Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
13. Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
14. Any private property whose owner has posted the premises as being off-limits to firearms by means of one (1) or more signs displaying in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than one (1) inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry permit or endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An

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employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

15. Any sports arena or stadium with a seating capacity of five thousand (5,000) or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

16. Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

K. Carrying of a concealed firearm in a location specified in Subdivisions 1 to 16 of Subsection J of this section by any individual who holds concealed carry permit issued pursuant to Sections 571.101 to 571.121, RSMo, or a concealed carry endorsement issued prior to August 28, 2013, shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars (\$100.00) for the first offense. If a second citation for a similar violation occurs within a six (6) month period, such person shall be fined in amount not to exceed two hundred dollars (\$200.00). If a third citation for a similar violation is issued within one (1) year of the first citation such person shall be fined an amount not to exceed five hundred dollars (\$500.00). Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the concealed carry permit, or, if the person is a holder of a concealed carry endorsement issued prior to August 28, 2013, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue.

L. Any person issued a concealed carry endorsement pursuant to Sections 571.101 to 571.121, RSMo, or a concealed carry endorsement issued prior to August 28, 2013, shall carry the concealed carry permit or endorsement at all times the person is carrying a concealed firearm and shall display the concealed carry permit and a state or federal government-issued photo identification or the endorsement or permit upon the request of any peace officer. Failure to comply with this subsection shall not be a criminal offense but the concealed carry endorsement holder may be issued a citation for an amount not to exceed thirty-five dollars (\$35.00).

(Code 1988, § 17-162; Ord. No. 5726, § 1, 4-8-2004; Ord. No. 7599, § 1, 3-5-2015)

State Law reference— Similar provisions, RSMo 571.030.

Sec. 17-163. - Unlawful transfer of weapons.

A. It shall be unlawful for any person to knowingly sell, lease, loan, give away or deliver a blackjack to a person less than eighteen (18) years old without the consent of the child's custodial parent or guardian, or recklessly, as defined in Section 562.016, RSMo, sell,

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lease, loan, give away or deliver any firearm to a person less than eighteen (18) years old without the consent of the child's custodial parent or guardian; provided however, that this does not prohibit the delivery of such weapons to any peace officer or member of the armed forces or National Guard while performing his or her official duty.

- B. It shall be unlawful for any person to recklessly, as defined in Section 562.016, RSMo, sell, lease, loan, give away or deliver a firearm or ammunition for a firearm to a person who is intoxicated.

(Code 1988, § 17-163; Ord. No. 7599, § 2, 3-5-2015)

State Law reference— Similar provisions, RSMo 571.060.

Sec. 17-164. - Discharging firearms or weapons prohibited within City; exemptions.

- A. It shall be unlawful for any person within the limits of the City to shoot or discharge any crossbow, sling, wrist rocket gun, revolver, air rifle, air gun, pellet gun, pistol, or taser, or firearm of any description or any other weapon that is designed or adapted to expel a projectile whether ball or any kind of explosive whatsoever or electrical current.

- B. Subsection A. of this section shall not apply to:

1. Legally qualified sheriffs or police officers, persons whose bona fide duty is to execute process, civil or criminal, or persons participating in training courses or seminars sponsored by accredited educational institutions, or persons coordinating an educational sponsored sporting event by discharging a starter pistol, or members of the armed forces, National Guard, or national recognized veterans associations, while performing their official duty; or
2. Persons participating in a controlled harvest of nuisance white-tail deer under the guidelines of a written permit specifically authorized by the Chief of Police, upon the approval of the Public Safety Advisory Board, and while under the supervision of the permittee. All applications shall be in writing and include the name, address, and signature of the applicant; the name, address, and authorization signature of the occupier of the land; a copy of the depredation permit issued by the Missouri Department of Conservation; and other such information as may be required by the Chief of Police. The City permit conditions shall include, but not be limited to, the number of participants, the type of firearm and ammunition to be used, and harvest boundaries. The Chief of Police, or his designee, may revoke the permit granted at any time, at his discretion, where the discharge of the firearm or weapon under the permit granted, in his opinion, constitutes a nuisance or in any way endangers persons or property; or
3. Persons participating in an activity or business, not including controlled harvests of nuisance white-tail deer as stated in Subsection B.2. of this section, specifically authorized by the Council with conditions which the Council deem appropriate for the health, safety and general welfare of the community. The Council may revoke the permit granted at any time, at its discretion, where the

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discharge of the firearm or weapon under the permit granted, in its opinion, constitutes a nuisance or in any way endangers persons or property;

4. Persons discharging paintball guns, where the discharge of such paintball guns occurs on private property with the permission of the land owner or the tenant who is in lawful possession of the premises, and where all projectiles expelled from such gun are contained upon the private property of the permitted use. No person under eighteen (18) years of age shall discharge a paintball gun on such premises without written permission to engage in the use of a paintball gun by a parent or legal guardian. No paintball gun shall be discharged towards a non-consenting person or domestic pet.

- C. This section shall not be construed to preclude the use of a firearm in the defense of person or property, subject to the provisions of Chapter 563, RSMo.

(Code 1988, § 17-164; Ord. No. 5858, § 1, 12-9-2004; Ord. No. 7599, § 3, 3-5-2015)

State Law reference— Discharge of firearms, RSMo 571.030.

Sec. 17-165. - Discharge of bows and arrows allowed under certain conditions; target practice; deer hunting.

- A. It shall be unlawful for any person within the limits of the City to shoot or discharge any bow and arrow unless that person abides by and complies with the following rules and regulations and either Subsections 17-165.B. and 17-165.C. as applicable.

1. It shall be unlawful for any person in the City limits to shoot or discharge a bow and arrow in a manner that causes the arrow to land on any property other than the property on which the arrow is shot or discharged.
2. It shall be prohibited to use and/or discharge any type of bow and arrow on public property within the City limits unless specifically permitted by the respective political jurisdiction.

- B. The use of a longbow or recurve bow and the discharge of target arrows is permitted within the City limits of Lee's Summit for the purpose of target shooting. Any person who participates in target shooting pursuant to this subsection shall abide by and comply with Section 17-165.A. and the following rules and regulations:

1. It shall be unlawful for any person fifteen (15) years of age or younger to participate in target shooting pursuant to this subsection unless under the supervision of a parent or legal guardian.
2. It shall be unlawful for any person who participates in target shooting pursuant to this subsection to use a compound bow and/or shoot or discharge a broadhead or hunting arrow.
3. It shall be unlawful for any person who participates in target shooting pursuant to this subsection to shoot or discharge an arrow unless the person shooting

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or discharging the arrow is located not closer than one hundred (100) yards from any dwelling.

C. The use of longbow, recurve and/or compound bows, and the discharge of broadhead or other hunting arrows is permitted within the City limits of Lee's Summit for the purpose of pursuing and taking deer during the bow hunting deer season established by and consistent with RSMo 252.002 et seq., and all applicable rules and regulations issued by the Missouri Department of Conservation only on property of eight (8) acres or more, which the hunter owns, or on property of eight (8) acres or more, which is used with the written permission of the property owners. Any person hunting pursuant to this subsection shall also comply with the requirements of Section 17-165.A. and be subject to the following restrictions:

1. It shall be unlawful for any person to hunt within the City limits pursuant to Section 17-165.C. unless the person:
 - a. Has on his person authorization signed by the property owner that he person hunting pursuant to Section 17-165.C. has the owner's written permission to pursue and take deer on the owner's property. Said written permission shall be produced to any authorized law enforcement officials upon request.
 - b. Has on his person a valid tag issued by the Missouri Department of Conservation to pursue and take deer with a bow.
 - c. Has on his person a certificate that he has successfully completed a Missouri Department of Conservation approved hunter safety course as specified by the Missouri Department of Conservation.
 - d. Located not closer than one hundred (100) yards from any dwelling or occupied structure of building, public thoroughfare or person, and is located not closer than three hundred (300) yards from any school building.
 - e. It shall be unlawful for any person fifteen (15) years of age or younger to participate in deer hunting pursuant to this subsection unless under the supervision of a parent or legal guardian who has completed an approved hunter safety course as specified by the Missouri Department of Conservation.
 - f. It shall be unlawful for any person to discharge a broadhead or other hunting arrow in the direction of any dwelling or occupied structure or building, person or animal, except deer.

D. Nothing contained in this section shall apply to persons participating in training courses or seminars sponsored by an accredited educational institution, or persons participating in an activity or business specifically authorized by the Council with conditions which the Council deem appropriate for the health, safety and general welfare of the community.

(Code 1988, § 17-165; Ord. No. 7033, § 1, 5-5-2011)

Secs. 17-166—17-184. - Reserved.

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ARTICLE VII. - OFFENSES AGAINST PUBLIC MORALS^(B)

Footnotes:

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Cross reference— Adult businesses, ch. 3.

State Law reference— Sexual offenses, RSMo ch. 566; pornography and related offenses, RSMo ch. 573.

DIVISION 1. - GENERALLY

Sec. 17-185. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Displays publicly means exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item, the human body, or any part thereof, in such a manner that is or may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others.

Embarrassment means to experience a state of self-conscious distress.

Explicit sexual material means any pictorial or three-dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition.

Genitals means the external organs of the human reproductive system.

Material means anything printed or written, or any picture, drawing, photograph, motion picture film, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication. "Material" includes undeveloped photographs, molds, printing plates and latent representational objects.

(Code 1988, § 17-185)

Sec. 17-186. - Indecent exposure.

It shall be unlawful for any person to commit the offense of indecent exposure by displaying publicly and knowingly his genitals or a female by exposing publicly and knowingly the nipple and areola portion of her breast(s) or by being clothed in such a manner under circumstances in which he knows his conduct will reasonably cause affront or alarm to other persons.

(Code 1988, § 17-186)

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State Law reference— Similar provisions, RSMo 566.093.

Sec. 17-187. - Voyeurism ("peeping Toms").

It shall be unlawful for any person to enter upon the real property of another whereon is located a dwelling house, without the consent of the occupant, and being upon such real property, shall engage in peeping or peering into such dwelling house.

(Code 1988, § 17-187)

Sec. 17-188. - Public display of explicit sexual material.

It shall be unlawful for any person to commit the offense of public display of explicit sexual material by recklessly:

- A. Exposes, places, exhibits, or in any fashion, displays explicit sexual material in any location, whether public or private, and in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision as viewed from a street, highway, public sidewalk, or the property of others, or from any portion of the person's store, the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public; or
- B. Failing to take prompt action to remove such a display from property in his or her possession or control after learning of its existence.
- C. For purposes of this section, each day there is a violation of this section shall constitute a separate offense.

(Code 1988, § 17-188)

State Law reference— Pornography and related offenses, RSMo ch. 573.060

Sec. 17-189. - Public urination and defecation.

- A. It is unlawful for any person to urinate or defecate in public, or on a place which the public is invited or has access, other than when using a toilet, urinal or commode located in a restroom, bathroom or other structure enclosed from public view.
- B. The enforcement provisions shall not apply to the following individuals who may not be able to adequately control the bodily functions that control urination or defecation:
 1. Children five (5) years of age or younger; and
 2. Persons of any age who because of a verified medical condition lack full control of the bodily functions that control urination or defecation.
- C. Any violation of Section 17-189.A., without falling under any exception stated in Section 17-189.B., shall be punishable by a fine of not more than one hundred fifty dollars (\$150.00) or by imprisonment not exceeding thirty (30) days or both such fine and imprisonment.

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(Ord. No. 6682, § 1, 10-2-2008)
Secs. 17-190—17-210. - Reserved.

DIVISION 2. - PROSTITUTION

Sec. 17-211. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. Sexual intercourse, any penetration, however slight, of the female genitalia by the penis;
- B. Deviate sexual intercourse, any sexual act involving the genitals of one (1) person and the mouth, hand, tongue or anus of another person; or any act involving penetration, however slight, of the penis, the female genitalia, or the anus by a finger, instrument, or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;
- C. Sexual contact, any touching, of another person with the genitals or any touching of the genitals or anus of another person or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;
- D. Sexual conduct, sexual intercourse, deviate sexual intercourse, or sexual contact;:
- E. Something of value, any money or property, or any token, object or article exchangeable for money or property.

(Code 1988, § 17-211)

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

State Law reference— Similar definitions, RSMo 567.010.

Sec. 17-212. - Prostitution.

It shall be unlawful for any person to commit the offense of prostitution if he or she engages in or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by any person. (Code 1988, § 17-212)

State Law reference— Similar provisions, RSMo 567.020.1.

Sec. 17-213. - Patronizing prostitution.

A person commits the offense of patronizing prostitution if he or she:

- A. Pursuant to a prior understanding, gives something of value to another person as compensation for having engaged in sexual conduct with any person; or

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- B. Gives or agrees to give something of value to another person with the understanding that such person or another person will engage in sexual conduct with any person; or
- C. Solicits or requests another person to engage in sexual conduct with any person in return for something of value.

State Law reference— Similar provisions, RSMo 567.020.

Sec. 17-214. - Gender of parties no defense.

In any prosecution for prostitution or patronizing prostitution, the gender of the 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 gender;
- 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.

(Code 1988, § 17-214)

State Law reference— Similar provisions, RSMo 567.040.

Sec. 17-215. - Prostitution establishments declared public nuisances.

- A. Any room, building or other structure regularly used for any prostitution activity prohibited by this division is a public nuisance.
- B. The City Attorney may, in addition to all sanctions available under this Code, prosecute a suit in equity to enjoin the nuisance. If the court having jurisdiction finds that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for prostitution activity, it may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one (1) year.
- C. All persons aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance, and they may be enjoined from engaging in any prostitution activity anywhere within the jurisdiction of the court hearing the case.
- D. Appeals shall be allowed from the judgment of the court having jurisdiction over the case as in other civil actions.

(Code 1988, § 17-215)

State Law reference— Similar provisions, RSMo 567.080.

Secs. 17-216—17-235. - Reserved.

ARTICLE VIII. - CONTROLLED SUBSTANCES⁽⁹⁾

Footnotes:

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Cross reference— Possession, sale, etc., of controlled substances by alcoholic beverage licensees prohibited, § 4-23; driving while intoxicated, driving with unlawful blood alcoholic content, § 29-141 et seq.

State Law reference— Drug regulations, RSMo ch. 195.

Sec. 17-236. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administer shall mean the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- A. A practitioner or, in his presence, his authorized agent; or
- B. The patient or research subject at the direction and in the presence of the practitioner.

Close proximity shall mean within five hundred (500) feet on a straight line commencing at the property lines nearest to each other.

Controlled substance shall mean any drug, substance or immediate precursor in Schedules I through V listed in RSMo 195.005 to 195.425.

Deliver or *delivery* shall mean the actual, constructive or attempted transfer from one (1) person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance whether or not there is an agency relationship, and includes a sale.

Dispense shall mean to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery.

Distribute shall mean to deliver other than by administering or dispensing a drug or controlled substance.

Drug shall mean:

- A. Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States or Official National Formulary, or any supplement of any of them; or

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- B. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals; or
- C. Substances, other than food, intended to affect the structure or any function of the body of humans or animals; or
- D. Substances intended for use as a component of any article specified in this definition. It does not include devices or their components, parts or accessories.

Drug paraphernalia.

- A. Drug paraphernalia shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of this article. It includes, but is not limited to:
 - A. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
 - B. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;
 - C. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or imitation controlled substance;
 - D. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;
 - E. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;
 - F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;
 - G. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

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- H. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;
 - I. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;
 - J. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;
 - K. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;
 - L. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature spoons or cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;
 - k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers.
 - n.
- B. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
- 1. Statements by an owner or by anyone in control of the object concerning its use;
 - 2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

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3. The proximity of the object, in time and space, to a direct violation of this article;
4. The proximity of the object to controlled substances or imitation controlled substances;
5. The existence of any residue of controlled substances or imitation controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons who he knows, or reasonably should know, intend to use the object to facilitate a violation of this article; the innocence of an owner, or of anyone in control of the object as to a direct violation of this article, shall not prevent a finding that the object is intended for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

Imitation controlled substance shall mean:

- A. A substance that is not a controlled substance, which by dosage, unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that it is a controlled substance. In determining whether a substance is an imitation controlled substance, the court or other authority concerned should consider, in addition to all other logically relevant factors, the following:
 1. Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or non-legend) sales and was sold in the federal Food and Drug Administration package, with the federal Food and Drug Administration approval labeling information;

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2. Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;
 3. Whether the substance is packaged in a manner normally used for illicit controlled substances;
 4. Prior convictions, if any, of an owner or anyone in control of the object, under State or Federal law related to controlled substances or fraud;
 5. The proximity of the substances to controlled substances;
 6. Whether the consideration tendered in exchange for the non-controlled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell.
- B. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice and research.

License or licensed shall refer to persons required to obtain annual registration as issued by the State Division of Health as provided by RSMo 195.030.

Manufacture shall mean the production, preparation, propagation, compounding, or processing of drug paraphernalia or a controlled substance or an imitation controlled substance either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

- A. By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice; or
- B. By a practitioner or by his authorized agent under his supervision, for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

Marijuana shall mean all parts of all varieties of the plant genus *Cannabis*, in any species or form thereof, including, but not limited to *Cannabis Sativa L.*, *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or

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preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

Minor shall mean any person who has not attained seventeen (17) years of age.

Pharmacist shall mean an individual currently licensed by the State Board to practice the profession of pharmacy in this State.

Place of display shall mean any museum, library, school or other similar public place upon which business is not transacted for a profit.

Possessed or possessing a controlled substance shall mean a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one person alone has possession of a substance possession is sole. If two (2) or more persons share possession of a substance, possession is joint.

Practitioner shall mean a physician, dentist, podiatrist, as defined in RSMo ch. 330, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this State, or a pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this State.

Premises shall mean a business establishment, and the structure of which it is a part, facilities and appurtenances therein and grounds, areas and facilities held out for the use of patrons.

Premises open to minors shall mean any business establishment which sells its wares or merchandise to minors or which permits minors to enter into its place of business.

Prescription shall mean a written order and, in cases of emergency, a telephone order issued by a practitioner in good faith in the course of his professional practice to a pharmacist for a drug for a particular patient which specifies the date of its issue, the name and address of the patient (and, if such drug is prescribed for an animal, the species of such animal), the name and quantity of the drug prescribed, the directions for use of such drug, and the signature of such practitioner.

Production shall include the manufacture, planting, cultivation, growing or harvesting of drug paraphernalia, of a controlled substance or an imitation controlled substance.

School shall mean any public or private elementary, junior high or high school, or any college, junior college or university.

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Warehouseman shall mean a person who, in the usual course of business, stores drugs for others, is lawfully entitled to possess them and who has no control over the disposition of such drugs except for the purpose of such storage.

Wholesaler shall mean a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not a prescription.

(Code 1988, § 17-236)

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

State Law reference— Similar definitions, RSMo 195.010.

Sec. 17-237. - Use or possession for use of drug paraphernalia.

It shall be unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or imitation controlled substance in violation of this article.

(Code 1988, § 17-237)

State Law reference— Similar provisions, RSMo 579.074.

Sec. 17-238. - Delivery, possession, manufacture of drug paraphernalia.

It shall be unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used 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 in violation of this article.

(Code 1988, § 17-238)

State Law reference— Similar provisions, RSMo 579.076.

Sec. 17-239. - Delivery, possession, manufacture of imitation controlled substances.

It shall be unlawful for any person to deliver, possess, possess with intent to deliver, or manufacture with intent to deliver, or cause to be delivered any imitation controlled substance to another person.

(Code 1988, § 17-239)

State Law reference— RSMo 579.078, 579.080.

Sec. 17-240. - Regulation of controlled substances.

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- A. It shall be unlawful for any person to sell, give away, manufacture, use or possess for any purpose whatever any controlled substance except as provided in this section.
- B. Distribution of controlled substances by licensed practitioners is permitted under the following conditions:
 - 1. *Practitioners.* A licensed practitioner shall be permitted to dispense or distribute controlled substances and drugs to a person in the course of his professional practice only. Such licensed practitioner shall not be permitted to possess controlled substances for any other purpose.
 - 2. *Pharmacists.* A licensed pharmacist shall be permitted to dispense or distribute controlled substances and drugs to persons under and in pursuance of written prescriptions issued by any licensed practitioner. Such licensed pharmacist shall not be permitted to possess controlled substances for any other purpose.
 - 3. *Record of distribution.* All instances of professional distribution of controlled substances and drugs as provided for in this section shall be recorded in suitable form and filed and preserved in a manner so as to be readily accessible for inspection by any law enforcement officer of the City.
 - 4. *Renewal prohibited.* No prescription for controlled substances shall be renewed or refilled.
- C. Any person shall be permitted to possess controlled substances distributed or dispensed to him under the provisions of this section, but such possession and use must be in accordance with the prescription and prescribed treatment.
- D. A person who is a licensed manufacturer, warehouseman or wholesaler of controlled substances shall be permitted to possess controlled substances for the purposes of wholesale delivery, compounding, preparation, and manufacture only. Such controlled substances shall only be resold to other persons permitted by this section to resell, or dispense or distribute controlled substances in the course of a licensed manufacturing or wholesale business, a licensed professional practice, or a licensed pharmaceutical business. A licensed manufacturer or wholesaler permitted to possess controlled substances in this subsection may also be a licensed pharmacist and may dispense or distribute narcotic drugs upon written prescription as provided in this section, but shall not consume or permit to be consumed any controlled substances except upon written prescription as provided in this section.
- E. All controlled substances in the possession of any person convicted of a violation of this section, shall be seized by, confiscated by, forfeited to the Chief of Police, who shall make proper disposition thereof.
- F. This section shall not apply to the administering or distributing or dispensing of any medical preparation that contains in one (1) fluid ounce, or if a solid or semisolid preparation in one (1) avoirdupois ounce, not more than one (1) grain of codeine or any of its salts. Provided that the preparation administered or distributed or dispensed shall contain some drug of medicinal qualities in addition to those possessed by the controlled substances alone. Such preparation shall be administered, distributed, or dispensed in good faith and not for the purpose of evading this subsection. However, no person shall administer, dispense or sell, under the exemption of this section, any

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preparation included in this subsection, when he knows, or can by reasonable diligence ascertain, that such administering, dispensing or selling will provide the person to whom or for whose use such preparation is administered, dispensed or sold, within any forty-eight (48) consecutive hours, with more than four (4) grains of codeine or any of its salts.

- G. The provisions of this section restricting the possession and control of controlled substances shall not apply to common carriers or warehousemen engaged in lawfully transporting or storing such controlled substances, nor to any employee of such common carriers or warehousemen within the scope of his employment, nor to public officers or employees in the performance of official duties requiring possession or control of controlled substances, nor to persons aiding such officers or employees in performance of such duties.

(Code 1988, § 17-240)

State Law reference— Provisions pertaining to controlled substances, RSMo 195.050 et seq.

Secs. 17-241—17-250. - Reserved.

ARTICLE IX. - REGULATIONS REGARDING CONTROL OF NOISE AND SOUND

Sec. 17-251. - Short title and scope.

This article may be cited as the "Noise Control Ordinance of the City of Lee's Summit" and shall apply to the control of all noise and sound originating within the City limits of the City.

(Code 1988, § 17-251)

Sec. 17-252. - Definitions.

For the purpose of this article, the following items have the meaning ascribed to them as hereinafter defined, unless where otherwise expressly stated or where the context clearly defines a different meaning. Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the words "shall" or "must" are mandatory; and, the term "used for" includes the meaning "designated for" or "intended for." All terminology used in this article, not defined as follows, shall be in conformance with the American National Standards Institute (ANSI) document; American National Acoustical terminology ANSI S1.1 1960 (R1976) or the latest approved revision thereof.

A-weighted sound level shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dba.

Commercial area shall mean a commercial-zoned district in accordance with the Unified Development Ordinance (UDO).

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Construction shall mean any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition.

Decibel (dB) shall mean a unit for measuring the level of a sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the RMS pressure of the sound measured to the RMS reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter.)

Demolition shall mean any dismantling, intentional destruction or removal of structures, buildings, utilities, public or private right-of-way surfaces or similar property.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma, property damage which demands immediate action, and the immediate repair of necessary public utilities that are of general public interest.

Emergency work shall mean any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or repairing or restoring necessary public utilities.

Equivalent A-weighted sound level (Leq) shall mean the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. For the purposes of this article, a time period of not less than ten (10) minutes, and representative of the noise condition of interest, shall be used, unless otherwise specified.

Gross vehicle weight rating (GVWR) shall mean the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GVWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Impulsive sound shall mean sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

Industrial area shall mean an industrial-zoned district in accordance with the Unified Development Ordinance (UDO).

Motor carrier vehicle engaged in interstate commerce shall mean any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

Motor vehicle shall mean every vehicle which operates on land, other than a motorcycle, which is self-propelled.

Motorboat shall mean any vessel which operates in or on water, propelled by machinery, whether or not such machinery is the principal source of propulsion. Such vessels would include, but are not limited to, boats, barges, amphibious craft, water ski towing devices and hovercraft.

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Motorcycle shall mean every motor vehicle designed to travel on not more than three (3) wheels in contact with the ground.

Muffler or sound dissipative device shall mean a device for abating the sound of escaping gases of an internal combustion engine, or for abating sound transmitted in a duct, chase, pipe or other opening.

Noise shall mean any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise Control Officer (NCO) shall mean the designated representative of the Chief of Police of the City of Lee's Summit, where the responsibility for the City noise control program is established. (See Section 17-253)

Noise disturbance shall mean any sound which:

- A. Endangers or injures the safety or health of humans or animals; or
- B. Annoys or disturbs a reasonable person of normal sensitivities; or
- C. Endangers or injures persons or real property.

Noise sensitive zone shall mean any area designated pursuant to Section 17-253 of this article for the purpose of ensuring exceptional quiet.

Person shall mean any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

Powered model vehicle shall mean any self-propelled airborne, waterborne, or landborne plane, vessel or vehicle which is not designed to carry persons including, but not limited to, any model airplane, boat, car or rocket.

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

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

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

Public right-of-way shall mean any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a government entity.

Public space shall mean any real property, buildings or structures thereon which are owned or controlled by a governmental entity.

Pure tone shall mean any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this article, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the

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sound pressure levels of the two (2) contiguous one-third octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above and by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.

Real property boundary shall mean an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

Recreational aircraft shall mean flying vehicles which have a primary purpose of sport flying, such as motorized hang gliders, ultralight aircraft and hot air balloons.

Residential area shall mean any residential-zoned district in accordance with the Unified Development Ordinance (UDO).

RMS sound pressure shall mean the square root of the time averaged square of the sound pressure, denoted Prms.

Sound shall mean an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium, and is the objective cause of hearing. The description of sound may include any characteristic of such sound, including duration, level and frequency.

Sound level shall mean the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4 1971 (R 1976) or the latest approved revision thereof). If the frequency weighting is not indicated, the A-weighting shall apply. If the meter time response is not indicated, the "slow" response shall apply.

Sound level meter shall mean an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

Sound pressure shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

Sound pressure level shall mean twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals ($20 \times 10^{-6} \text{ N/m}^2$). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

Weekday shall mean any day Monday through Friday which is not a legal holiday as defined by Federal, State or local law.

(Code 1988, § 17-252)

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Sec. 17-253. - Powers/duties of Noise Control Officer (NCO).

The noise control program established by this article shall be administered by the Police Department. In order to implement and enforce this article, the Chief of Police will appoint a Noise Control Officer who shall have, in addition to any other authority vested, the power to:

- A. Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this article may exist. Such inspection may include administration of any necessary tests.
- B. In consonance with Subparagraph A.1. preceding; Subsections 17-259.3. and 4.; other provisions of this article; and the City Prosecutor, investigate and pursue possible violations of this article.
- C. Prepare recommendations, to be approved by the Council, for the designation of noise-sensitive zones which contain noise-sensitive activities. Existing quiet zones shall be considered noise-sensitive zones until otherwise designated. Noise-sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals and nursing homes.

(Code 1988, § 17-253)

Sec. 17-254. - Prohibited acts.

- A. No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance. (Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this article.)
- B. The following acts, and the causing thereof, are declared to be in violation of this article:
 1. *Devices.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound:
 - a. Between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone (except for activities open to the public and for which a permit has been issued by the City).
 - b. In such a manner as to create a noise disturbance at fifty (50) feet (fifteen (15) meters) from such device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on water.

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- c. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier.
 - d. This section shall not apply to spoken language covered under Subparagraph 2. following.
- 2. *Loudspeaker public address system.* Using or operating loudspeakers/public address systems as follows:
 - a. For any noncommercial purpose any loudspeaker, public address system, or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.
 - b. For any commercial purpose any loudspeaker, public address system, or similar device:
 - 1) Such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or
 - 2) Between the hours of 10:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space.
- 3. *Sales.* Offering for sale anything by shouting or outcry within any residential or commercial area of the City (except by permit issued by the City and/or except between the hours of 8:00 a.m. and 7:00 p.m.).
- 4. *Animals and birds.* Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.
- 5. *Loading.* Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
- 6. *Tools or equipment.* Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work:
 - a. Between the hours of 10:00 p.m. and 7:00 a.m. the following day, seven (7) days a week, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued pursuant to Subsection 17-255.1.
 - b. At any other time such that the sound level at or across a real property boundary exceeds sixty-five (65) dba. This subsection shall not apply to construction hand tools (to include power tools) that are mobile in nature and are being used at a field construction site for temporary construction purposes.

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- c. This section shall not apply to the use of domestic power tools subject to Subsection 17-254-16. herein.
7. *Motor vehicle, motorcycle or motorboat.* Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.
8. *Airport and aircraft.* Airport and aircraft operations as provided following:
 - a. The Chief of Police shall consult with the City's Airport Manager to recommend reasonable changes in Airport operations to minimize any noise disturbance which the Airport Manager may have authority to control.
 - b. Nothing in this section shall be construed as to prohibit, restrict, penalize, enjoin, or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations.
9. *Public entertainment.* Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, or amplifies sound in any place of public entertainment at a sound level greater than eighty-five (85) dba as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."
10. *Explosives, firearms or similar devices; except blasting.* The use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, without first obtaining a special variance issued pursuant to Subsection 17-255.1. Except, the regulation of any blasting within the City limits shall be governed by the provisions of the City's Design and Construction Manual, as amended, and shall only occur between the hours of 7:00 a.m. and 6:00 p.m. (Such permit need not be obtained for licensed game-hunting activities on property where such activities are authorized.)
11. *Powered model vehicles.* Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of 10:00 p.m. and 7:00 a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Section 17-256.A. and shall be measured at a distance of twenty-five (25) feet from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by Subsection 17-256.A. and Subsection 17-254-15. herein respectively.

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12. *Stationary nonemergency signal devices.*
 - a. Sounding or permitting the sounding of a signal from any stationary bell, chime, siren, whistle or similar device, intended primarily for nonemergency or non-warning purposes, from any place between the hours of 10:00 p.m. and 7:00 a.m. the following day and for more than three (3) minutes in any hourly period between the hours of 7:00 a.m. and 10:00 p.m.
 - b. Sound sources covered by this provision and not exempted under Subparagraph 12.a. preceding shall be exempted by the Chief of Police using criteria set forth in Section 17-255.

13. *Emergency signaling devices.* The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil emergency alarm, siren, whistle or similar stationary emergency signaling device, except for emergency or warning purposes or for testing, as provided in Subparagraph 13.b. following:
 - a. Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 7:00 a.m. or after 10:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed ten (10) minutes.
 - b. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur except as required for training, for testing after repairs or for proper functioning. Such testing shall not occur before 7:00 a.m. or after 10:00 p.m. The time limit specified in Subparagraph 13.a. above shall not apply to such complete system testing.

14. *Water traffic.* Operating or permitting the operation of any motorboat in any lake, river, stream or other waterway in such a manner as to exceed a sound level of eighty-eight (88) dba at twenty-five (25) feet from the motorboat or the nearest shoreline, whichever distance is less.

15. *Noise sensitive zone.* The creation or causing of the creation of any sound within any noise sensitive zone designated pursuant to Subsection 17-253C.:
 - a. so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or
 - b. containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.

16. *Power tools or devices.* Operating or permitting the operation of any mechanical powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

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17. *Interference with enforcement.* Tampering acts or the causing thereof as follows:
- a. The removal or rendering inoperative by any person, other than for purposes of maintenance, repair or replacement, of any noise control device or element of design or noise label of any product.
 - b. The intentional removing or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the NCO.
 - c. The use of a product which has had a noise control device or element of design or noise label removed or rendered inoperative, with knowledge that such action has occurred.

(Code 1988, § 17-254)

Cross reference— Time for pickups, § 25-119.

Sec. 17-255. - Variances.

- A. The provisions of this article shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work. Variances may be requested as follows:

1. Special variances.
 - a. The Chief of Police shall have the authority, consistent with this section, to grant special variances requested pursuant to Subsections 17-254.6. (Construction) and 17-254.10. (Explosives, firearms and similar devices; except blasting).
 - b. Any person seeking a special variance pursuant to this section shall file an application with the Chief of Police. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate the variance and subject the person holding the variance to those provisions of this article regulating the source of sound or activity for which the special variance was granted.
 - c. Application for extension of time limits specified in special variances or for modification of other substantial conditions, shall be treated in the same manner as applications for initial special variances under Subsection 17-255.1.b. herein.
 - d. The Chief of Police may issue guidelines defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.
2. Variances for time to comply.
 - a. Within sixty (60) days following the effective date of this article, the owner of any commercial or industrial source of sound may apply to the Chief of Police for a variance in time to comply with Section 17-256. The Chief of Police shall have the authority, consistent with this section, to grant a variance in time, not to exceed one hundred eighty (180) days from the effective date of this article.

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- b. Any person seeking a variance to the time required to comply with the Noise Control Ordinance of Lee's Summit shall file an application with the Chief of Police. The application shall contain information to demonstrate that compliance with this article prior to the date requested in the application would constitute an unreasonable hardship or be extremely difficult to accomplish within the allotted time.
- c. Any person applying for a variance to the time required to comply with the Noise Control Ordinance of Lee's Summit and persons contesting variances may be required to submit any information that the Chief of Police may reasonably require. In granting or denying an application, the Chief of Police shall place on public file a copy of the decision and the rationale for denying or granting of the variance.
- d. Variances for time to comply shall be granted to the applicant who addresses all necessary conditions, including a schedule for achieving compliance. The variance for time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding the variance to those provisions of this article for which the variance was granted.
- e. Application for extension of time limits specified in variances for time to comply or for modification of other substantial conditions shall be treated in the same manner as applications for initial variances under Subsection 2.b. herein, except that the Chief of Police must determine that the need for an extension or modification clearly outweighs any adverse impacts of granting the extension or modification.
- f. The Chief of Police may issue guidelines defining the procedures to be followed in applying for a variance for time to comply and the criteria to be considered in deciding whether to grant a variance.

3. Appeals of decisions pursuant to Section 17-255.

- B. Appeals of a decision of the Chief of Police pursuant to Section 17-255 shall be made to the Public Safety Advisory Board. The Public Safety Advisory Board, in review of an appeal of the decision of the Chief of Police as provided for in this article, will be guided by criteria as developed under Subsections 1.d. and 2.f. preceding and their interpretation of this article. Should the appellant desire, the decision of the Public Safety Advisory Board may be further appealed to the Council, whose decision shall be final.

(Code 1988, § 17-255)

Sec. 17-256. - Sound levels by receiving land use.

- A. No person shall operate or cause to be operated on private property any source of sound in such manner as to create a sound level which exceeds the limits set forth for the receiving land use category, as follows, when measured at or within the property boundary of the receiving land use:

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Sound Levels by Receiving Land Use

Receiving land use category	Time	Sound level limit, dba
Residential uses, as defined by the UDO	7:00 a.m.—10:00 p.m.	55
(Residential, public space, open space or agricultural or institutional)	10:00 p.m.—7:00 a.m.	50
Commercial uses, as defined by the UDO	At all times	65
Industrial uses, as defined by the UDO	At all times	70

- B. For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in Subsection A. preceding shall be reduced by five (5) dba.
- C. The provisions of this section shall not apply to the unamplified human voice, interstate railway locomotives and railway cars, and any agricultural activity.

(Code 1988, § 17-256)

Sec. 17-257. - Motor vehicle maximum sound levels.

- A. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound emitted by the motor vehicle or motorcycle exceeds the level, as follows:

Motor Vehicle and Motorcycle Sound Limits (Measured at 25 feet or 7.5 meters) *Sound level in dba*

Vehicle Class	Speed Limit 35 MPH or less	Speed Limit over 35 MPH	Stationary run-up
All motor vehicles of GVWR or GCWR of 10,000 lbs. or more	92	96	94
Any motorcycle	90	94	90
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	84	88	84

- B. Mufflers and sound dissipative devices.
- No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.
 - No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.
- C. No person shall sound a horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as otherwise authorized by law.

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- D. No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (CVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than thirty (30) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within one hundred fifty (150) feet (forty-six (46) meters) of a residential area or designated noise sensitive zone, between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- E. No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in the following table at a distance of twenty-five (25) feet (seven and one-half (7.5) meters) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious craft, campers, dune buggies and recreational aircraft, but not including motorboats:

Recreational Motorized Vehicle Sound Limits (Measured at 25 feet or 7.5 meters)

Vehicle Type	Sound level dba
Motorcycle	94
Any other motor vehicle	88

(Code 1988, § 17-257)

Sec. 17-258. - Immediate threats to health and welfare.

- A. The Chief of Police shall order an immediate halt to any sound which exposes any person, except those excluded pursuant to Subsection B. herein, to continuous sound levels or to impulsive sound levels in excess of those shown in the tables of Subsection E. herein. Within ten (10) days following issuance of such an order, the City Attorney shall apply to the appropriate court for an injunction to replace the order.
- B. No order pursuant to Section 17-258 shall be issued if the only persons exposed to sound levels in excess of those listed in Section E. herein following are exposed as a result of:
1. Trespass;
 2. Invitation upon private property by the person causing or permitting the sound; or
 3. Employment by the person or a contractor of the person causing or permitting the sound. (Employee exposure at the work place is exempted because employee sound exposure levels are regulated under the Occupational Safety and Health Act).
- C. Any person subject to immediate order to halt issued by the Chief of Police shall comply with such order until:

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1. The sound is brought into compliance with the order, as determined by the Chief of Police; and
 2. A judicial order supersedes the order of the Chief of Police.
- D. Any person who violates an order issued pursuant to this section shall, for each day of violation, be punished in accordance with Subsection 1-13.A. of the Code of Ordinances for the City of Lee's Summit.
- E. The tables following list the sound level limits that could pose an immediate threat to public health and welfare, as measured at any point that is normally occupied by a person:

Continuous Sound Levels That Pose an Immediate Threat

Sound Levels Limit Leq.	Duration
90	24 hrs.
93	12 hrs.
96	6 hrs.
99	3 hrs.
102	1.5 hrs.
105	45 mins.
108	22 mins.

Impulsive Sound Levels Which Pose an Immediate Threat

Sound Level (As measured meter time response)	Limit using (dba) "impulse"	Number of repetitions per 24-hour period
145		1
135		10
125		100

(Code 1988, § 17-258)

Sec. 17-259. - Compliance required; violation, penalty.

- A. It is unlawful for any person, corporation, association, partnership or individual to fail to comply with any lawful orders issued pursuant to the provisions of this article.
- B. Persons violating any of the provisions of this article shall be punished in accordance with Subsection 1-13.A. of the Code of Ordinances for the City of Lee's Summit. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
 1. *Manner of enforcement.* Violations of this article shall be prosecuted in the same manner as other violations of the City Code.
 2. *Injunction.* As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal

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sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of law of competent jurisdiction.

3. *Other remedies.* No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article from other law.
4. *Liability.* No officer, agent, Councilmember or employee of the City shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this article.
5. *Separability.* If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Code 1988, § 17-259)

Sec. 17-260. - Municipal operations.

Any activities or operations required by the performance of the public services provided by the City are exempt from the provisions of this article.

(Code 1988, § 17-260)

Secs. 17-261—17-300. - Reserved.

ARTICLE X. - CLEAN INDOOR AIR

Sec. 17-301. - Title.

This article shall be known as the Clean Indoor Air Act of 2006, which shall be shown in the Index to the Code of Ordinances as Clean Indoor Air.
(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-302. - Inclusion in the Code of Ordinances.

It is hereby ordained that the provisions of this article shall become and be made a part of the Code of Ordinances for the City of Lee's Summit, Missouri.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-303. - Definitions.

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The following words and phrases, whenever used in this article, shall be as defined as follows:

Bar means any licensed establishment which serves liquor on the premises for which not more than ten (10) percent of the gross sales receipts of the business are supplied by food purchases, whether for consumption on the premises or elsewhere.

Business means a sole proprietorship, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.

Employee means any person who performs services for an employer, with or without compensation.

Employer means a person, partnership, association, corporation, trust, or other organized group of individuals, including the City or any agency thereof, which utilizes the services of one or more employees.

Enclosed area means all space between a floor and ceiling that is enclosed on all sides by walls or windows (exclusive of doorways).

Health care facility means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of physicians, chiropractors, physical therapists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

Place of employment means an area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a "place of employment" unless it is used as a licensed child care, licensed adult day care, or licensed health care facility.

Private club shall mean a not-for-profit organization incorporated under the laws of the State of Missouri for fraternal or social purposes or for a congressionally chartered veterans' organization, which has a defined membership and restricts admission to members of the club and their guests.

- A. Private club shall not include an establishment that is open to members of the general public upon payment of a nominal fee.
- B. A private club shall not be considered a "public place" except when it is the site of a meeting, event or activity that is open to the public.

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- C. In addition, a "private club" must meet the following requirements:
1. The establishment must have a defined membership. This means:
 - a. It must have a written definition and description of its membership policies, including a description of eligibility for membership, and must administer its membership system consistent with those policies;
 - b. It must structure its memberships so as to provide for membership status to be ongoing for a period of no less than one year, as opposed to onetime, weekly or incidental memberships; and
 - c. It must maintain a written list of current members.
 2. The establishment must charge a fee for membership in an amount intended to defray the ongoing cost of providing services to members (not a "cover charge" intended to pay for a single night or week's entertainment). Continued and ongoing payment of the membership fee must be required in order to maintain membership.
 3. The establishment must restrict admission to its premises to only members and a limited number of invited guests who are accompanied by members. The establishment must not be open to the general public, although infrequent, occasional public functions may be permissible so long as they constitute an insignificant proportion of the establishment's operation and so long as smoking is prohibited during any such public function.
 4. The organization cannot restrict its membership on the basis of race, color, creed, religion or national origin. Any private club's exemption from the smoke-free provisions of this article does not apply when such organization is established to avoid compliance with this article.
 5. The organization is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wage fixed and voted upon each year by the governing body.

Public place means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, casinos, food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a licensed child care, licensed adult day care, or licensed health care facility.

Restaurant means an eating establishment, including but not limited to coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant.

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Retail tobacco store means a retail store used primarily for the sale of smoking materials and smoking accessories in which the sale of other products is incidental and where smoking is permitted within the public place. "Retail tobacco store" does not include a tobacco department of a larger commercial establishment such as a department store, discount store, or bar or retail stores used primarily for the sale of smoking materials where no provisions for smoking within the public place are provided or permitted.

Service line means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

Shopping mall means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco product.

Sports arena means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-304. - Application of this article to City-owned facilities.

All enclosed facilities, including buildings owned or operated by the City shall be subject to the provisions of this article.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-305. - Prohibition of smoking in public places.

Smoking shall be prohibited in all enclosed public places within the City, including but not limited to the following places:

- A. Aquariums, galleries, libraries, and museums.
- B. Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including but not limited to professional offices, banks, laundromats, hotels, and motels.
- C. Bars.
- D. Bingo facilities.
- E. Convention facilities.

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- F. Elevators.
- G. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
- H. Health care facilities.
- I. Licensed child care and adult day care facilities.
- J. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- K. Polling places.
- L. Public transportation facilities, including buses and taxicabs under the authority of the City, and ticketing, boarding, and waiting areas of public transit depots.
- M. Restaurants.
- N. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- O. Retail stores.
- P. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City or a political subdivision of the State when a public meeting is in progress, to the extent the place is subject to the jurisdiction of the City.
- Q. Service lines.
- R. Shopping malls.
- S. Sports arenas, including enclosed places in outdoor arenas.
- T. Pool halls and billiard parlors.
- U. Subdivision homeowners' association facilities.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-306. - Prohibition of smoking in places of employment.

- A. Smoking shall be prohibited in all enclosed facilities within places of employment. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities. Smoking is not prohibited in

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vehicles if occupied exclusively by the driver, or if all passenger(s) are smokers who consent.

- B. Smoking is not prohibited in the place of employment of a sole proprietor with no other employee(s) or in a place of employment of any individual who is the sole employee at a facility to which the public is not invited nor in which the public is permitted, provided such place of employment is located in a freestanding structure occupied solely by the business or:
1. Is completely enclosed on all sides by solid walls extending from the floor to the underside of the floor or roof deck above;
 2. Complies with all applicable fire and building code requirements; and
 3. Has a separate ventilation system whereby the air from such space is immediately exhausted to an outdoor area rather than being recirculated inside, and is negatively pressurized to prevent back streaming of second-hand smoke into adjoining areas located in a freestanding structure.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-307. - Where smoking not regulated.

Notwithstanding any other provision of this article to the contrary, the following areas shall be exempt from the provisions of Sections 17-305 and 17-306:

- A. Private residences, except when used as a licensed child care, licensed adult day care, or licensed health care facility.
- B. Private vehicles.
- C. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty (20) percent of rooms rented to guests in a hotel or motel may be so designated.
- D. Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested to the management thereof in writing to be placed in a room where smoking is permitted.
- E. Outdoor areas of places of employment.
- F. Retail tobacco stores as defined in Section 17-303 of this article in operation prior to the effective date of this article. Any new retail tobacco store or any existing retail tobacco store that relocates to another site may only qualify for this exemption if either (a) it is located in a freestanding structure occupied solely by the business or (b) it (i) is completely enclosed on all sides by solid walls extending from the floor to the underside of the floor or roof deck above; (ii) complies with all applicable fire and building code requirements; and (iii) has a separate ventilation

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system whereby the air from such space is immediately exhausted to an outdoor area rather than being recirculated inside, and is negatively pressurized to prevent back streaming of second-hand smoke into adjoining areas located in a freestanding structure, and (c) it has posted at every entrance signage at a height and location conspicuous to persons entering the establishment, with primary lettering of not less than one inch in height clearly stating:

"WARNING! Secondhand smoke causes coronary heart disease, lung cancer and premature death, according to the Surgeon General of the United States."

Retail tobacco stores as defined in Section 17-303 of this article in operation prior to the effective date of this ordinance shall, however, also be required to post the foregoing-described signage at every entrance at a height and location conspicuous to persons entering the establishment, with primary lettering of not less than one inch in height in order to remain exempt under this section.

- G. Private clubs as defined in Section 17-303 of this article. A private club may only qualify for this exemption if either (a) it is located in a freestanding structure occupied solely by the private club and throughout which entire premises smoking is permitted or (b) it (i) is completely enclosed on all sides by solid walls extending from the floor to the underside of the floor or roof deck above; (ii) complies with all applicable fire and building code requirements; and (iii) has a separate ventilation system whereby the air from such space is immediately exhausted to an outdoor area rather than being recirculated inside, and is negatively pressurized to prevent back streaming of second-hand smoke into adjoining areas located in a freestanding structure, and (c) it has posted at every entrance signage at a height and location conspicuous to persons entering the establishment, with primary lettering of not less than one inch in height clearly stating:

"WARNING! Secondhand smoke causes coronary heart disease, lung cancer and premature death, according to the Surgeon General of the United States."

(Ord. No. 6250, § 1, 8-10-2006; Ord. No. 6251, § 1, 8-10-2006; Ord. No. 6314, §§ 1—3, 12-7-2006)

Sec. 17-308. - Declaration of establishment as nonsmoking.

Notwithstanding any other provision of this article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 17-309 is posted.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-309. - Posting of signs.

- A. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted at every public place and place of employment where smoking is prohibited by this article, by the owner, operator, manager, or other person in control of that place.

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- B. Every public place and place of employment where smoking is prohibited by this article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- C. All ashtrays and other smoking receptacles shall be removed from any area where smoking is prohibited by this article by the owner, operator, manager, or other person having control of the area.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-310. - Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this article, files a complaint or reports a violation of this article.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-311. - Enforcement.

- A. Any person who desires to register a complaint under this article may do so with the City Manager or an authorized designee.
- B. In addition to the remedies provided by the laws of the State of Missouri, and the provisions of this section, the City Manager or an authorized designee or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this article may apply for injunctive relief to enforce the provisions of this article in any court of competent jurisdiction.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-312. - Violations and penalties.

- A. A person who violates this article by smoking in an area where smoking is prohibited by the provisions of this article shall be guilty of a violation of this ordinance, punishable by a fine not exceeding fifty dollars (\$50.00) for each violation.
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this article shall be guilty of a violation of this ordinance, punishable by:
 - 1. A fine not exceeding one hundred dollars (\$100.00) for a first violation.
 - 2. A fine not exceeding two hundred dollars (\$200.00) for a second violation within one (1) year.
 - 3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation within one (1) year.

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- C. In addition to the fines established by this section, violation of this article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of the business license issued to conduct business at the premises pursuant to Section 28-41 of the Lee's Summit Code of Ordinances.
- D. Each day on which a violation of this article occurs shall be considered a separate and distinct violation.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-313. - Public education.

The City Manager or an authorized designee may engage in a continuing program to explain and clarify the purposes and requirements of this article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this article.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-314. - Governmental agency cooperation.

The City Manager or an authorized designee may request other governmental and educational agencies having facilities within the City to establish local operating procedures in cooperation and compliance with this article. This includes urging all Federal, State, City, County and school district agencies to update their existing smoking control regulations to be consistent with this article.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-315. - Other applicable laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-316. - Liberal construction.

This article shall be liberally construed so as to further its purposes.

(Ord. No. 6250, § 1, 8-10-2006)

Sec. 17-317. - Severability.

If any provision, clause, sentence, or paragraph of this article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other

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provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

(Ord. No. 6250, § 1, 8-10-2006)

SECTION 2. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 3. That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 4. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this _____ day of _____, 2017.

Mayor Randall L. Rhoads

ATTEST:

City Clerk *Denise R. Chisum*

APPROVED by the Mayor of said city this _____ day of _____, 2017.

Mayor Randall L. Rhoads

ATTEST:

City Clerk *Denise R. Chisum*

APPROVED AS TO FORM:

Chief Counsel of Public Safety *Beth Murano*