

## Chapter 75 - Miscellaneous Offenses

### Subchapter A - Definitions

75.100. Definitions. As used in this Chapter, all phrases or words defined in Chapter 560 through 589 of the state statutes shall have the same meaning herein.

### Subchapter B - Alcohol And Drug Related Offenses

75.200. Consumption of alcoholic beverages on public property or in public view.

1. No person shall consume alcoholic beverages of any kind or possess open containers of alcoholic beverages while upon public property or in public view, public property being all city parks, city buildings, streets, alleys, thoroughfares, and business parking areas, whether owned publicly or privately, within the city limits, subject to the exceptions set forth in Subsection 2 of this Section.

2. It shall be unlawful for any person in this State to enter any schoolhouse or church house in which there is an assemblage of people, met for a lawful purpose, or City Hall, in a drunken or intoxicated and disorderly condition, or to drink or offer to drink any intoxicating liquors in the presence of such assembly of people, without the benefit of said facility having first received permission in proper form to serve alcoholic beverages, or in City Hall and any person or persons so doing shall be guilty of a ordinance violation.

3. Providing for exception. Notwithstanding the provisions of this Section, any group of persons or organizations desirous of providing or serving or allowing the consumption of alcoholic beverages at a picnic, barbecue, reunion, or other organized activity may do so if permission to do so is obtained from the city clerk no later than the day prior to said activity, provided that no alcoholic beverage may be consumed at any such place or places between the hours of 1:00 a.m. and 10:00 a.m. on any given day.

75.210. Minor in possession of alcohol.

1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating or non-intoxicating liquor as defined in Sections 312.010 and 311.020 RSMo, or who is visibly intoxicated as defined in section 577.001, RSMo, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor.

2. No person under the age of 21 years shall represent that he has attained the age of 21 years in order to purchase, request, obtain, or receive any intoxicating beverage or non-intoxicating beer.

3. No person under the age of 21 years shall sell or assist in the sale or dispensation of intoxicating beverage or non-intoxicating beer, except as permitted by state statute and Chapter 50 of the Holts Summit City Code.

4. A manufacturer-sealed container describing that there is intoxicating or non-intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating or non-intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating or non-intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating or non-intoxicating liquor therein contains intoxicating or non-intoxicating liquor.

75.220. Possession of marijuana. A person commits the offense of possession of marijuana if he possesses or has under his control 35 grams or less of marijuana, as that substance is defined under state law, except when such possession is authorized by sections 195.005 to 195.425 RSMo.

75.230. Unlawful use of drug paraphernalia.

1. “Drug paraphernalia” means 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, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of Section 75.240 (1 and 2)

2. 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:

A. Statements by an owner or by anyone in control of the object concerning its use;

B. 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;

C. The proximity of the object, in time and space, to a direct violation of sections of this Ordinance;

D. The proximity of the object to controlled substances or imitation controlled substances;

E. The existence of any residue of controlled substances or imitation controlled substances on the object;

F. 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 should reasonably know, intend to use the object to facilitate a violation of any section of this Ordinance; the innocence of an owner, or of anyone in control of the object, as to direct violation of any section of this ordinance shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

- G. Instruction, oral or written, provided with the object concerning its use;
- H. Descriptive materials accompanying the object which explain or depict its use;
- I. National or local advertising concerning its use;
- J. The manner in which the object is displayed for sale;
- K. 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;
- L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- M. The existence and scope of legitimate uses for the object in the community;
- N. Expert testimony concerning its use.

3. It is unlawful for any person to use, or to possess with intent to use, or sell, or possess with intent to sell, 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 an imitation controlled substance in violation of Sections 75.240 (1 and 2) of this Chapter, as amended.

4. Penalty. A person who violates this section is guilty of a Municipal Violation, and is subject to a fine of not more than \$500.00 and/or a jail sentence of not more than 90 (ninety) days. **Ord #2182 (12-12-11)**

75.240. Use, sale or delivery of imitation controlled substances. It shall be unlawful for any person to use, sell, or deliver any imitation controlled substance to another person.

1. “Imitation Controlled Substances” means 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 the substance is a controlled substance. In determining whether the substance is an “imitation controlled substance” the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

A. 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 approved package, with the Federal Food and Drug Administration approved labeling information.

B. 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;

C. Whether the substance is packaged in a manner normally used for illicit controlled substances;

D. Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances of fraud;

E. The proximity of the substances to controlled substances;

F. 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.

An imitation controlled substance does not include a non-controlled substance that was initially introduced in commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate. Furthermore, 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 or research.

2. Penalty. A person who violates this section is guilty of a Municipal Violation and is subject to a fine of not more than \$500.00 and/or a jail sentence of not more than ninety (90) days.

75.2502 Sale, possession or consumption of illegal substances.

1. Definitions.

(a). "Person": an individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business;

(b). "Mind-altering substances": any substance whether described as tobacco, herbs, incense, spice, salts, bath salts or any other description or blend thereof to include those substances listed in RsMO 195, regardless of whether the substance is marketed for the purpose of being smoked or for human consumption, which if smoked burned, inhaled or taken orally causes intoxication, euphoria, or any other mind-altering effect. For purposes of this Section, "mind- altering substances" shall not include medication for

which the possessing party holds a valid prescription, or beer, wine, or intoxicating liquor as defined in Chapter 50 of this Code.

1. Sale of mind-altering substances.

(a) It shall be unlawful for any person to knowingly sell, offer to sell, gift, or publicly display for sale any mind-altering substances.

(b) If the person was issued a written warning of violation of this section in regard to the same or substantially similar product within the period of time 6 months prior to the current violation, such written warning shall constitute prima facie evidence of knowledge of the nature of the substance as a mind-altering substance.

2. Consumption or Possession of mind-altering substances. It is unlawful for any person to knowingly possess or consume any mind-altering substances.

3. Administrative Search Warrant. Any Holts Summit Police Officer or the City Prosecutor may make application under the provisions of Section 72.125 of this code for an Administrative Search Warrant in regard to violations of Section 75.250.

4. A person who violates this section is guilty of a Municipal Violation and is subject to a fine of not more than \$500.00 and/or a jail sentence of not more than ninety (90) days. **ORD #2182 (12/12/11)**

### **Subchapter C - Offenses Affecting Government**

75.300. Official Misconduct.

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

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

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

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

75.310. Misuse of Official Information.

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

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

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

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

2. Misuse of official information is a municipal violation.

**Subchapter D - Offenses Against the Administration of Justice**

75.400. Abuse of police animals.

1. A person commits the crime 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, department of corrections officer, municipal police department, fire department or a rescue unit or agency.

2. Assault on a police animal is a municipal violation.

75.410. Concealing an offense.

1. A person commits the crime of concealing an offense if:

A. He confers or agrees to confer any pecuniary benefit or other consideration to any person in consideration of that person's concealing of any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof; or

B. He accepts or agrees to accept any pecuniary benefit or other consideration in consideration of his concealing any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof.

75.420. Escape or attempted escape from custody.

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

75.430. False Affidavit.

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

2. It is a defense to a prosecution under subsection 1 of this section that the actor retracted the false statement by affidavit or testimony but this defense shall not apply if the retraction was made after:

- A. The falsity of the statement was exposed; or
- B. Any person took substantial action in reliance on the statement.

3. The defendant shall have the burden of injecting the issue of retraction under subsection 2 of this section.

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

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

- A. The defendant mistakenly believed the fact to be immaterial; or
- B. The defendant was not competent, for reasons other than mental disability or immaturity, to make the statement.

75.440. False declarations.

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

- A. Submits any written false statement, which he does not believe to be true.

(1) In an application for any pecuniary benefit or other consideration; or

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

B. Submits or invites reliance on

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

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

2. The falsity of the statement or the item under subsection 1 of this section must be as to a fact which is material to the purposes for which the statement is made or the item submitted.

3. It is a defense to a prosecution under subsection 1 of this section that the actor retracted the false statement or item but this defense shall not apply if the retraction was made after:

A. The falsity of the statement or item was exposed; or

B. The public servant took substantial action in reliance on the statement or item.

4. The defendant shall have the burden of injecting the issue of retraction under subsection 3 of this section.

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

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

A. The defendant mistakenly believed the fact to be immaterial; or

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

75.450. False impersonation.

1. A person commits the crime of false impersonation if he:

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

(1) Performs an act in that pretended capacity; or

(2) Causes another to act in reliance upon his pretended official authority; or

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

(1) Performs an act in that pretended capacity; or

(2) Causes another to act in reliance upon such representation.

75.460. False reports.

1. A person commits the offense of making a false report if he knowingly:

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

B. Makes a false report to a law enforcement officer that a crime has occurred or is about to occur; or

C. Makes false report or causes a false report to be made to a law enforcement officer, security officer, fire department, or other organization, official, or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred.

2. 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.

3. The defendant shall have the burden of injecting the issue of retraction under subsection 2 of this Section.

75.470. Hindering prosecution.

1. A person commits the crime of hindering prosecution if for the purpose of preventing the apprehension, prosecution, conviction or punishment of another for conduct constituting a violation of City Ordinance, if he:

- A. Harbors or conceals such person; or
- 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. Prevent 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.

75.480. Interference with legal process.

- 1. A person commits the crime of interference with legal process if, knowing any person is authorized by law to serve process, for the purpose of preventing such person from effecting the service of any process, he interferes with or obstructs such person.
- 2. "Process" includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court.

75.490. Disturbing a Judicial Proceeding. A person commits the crime of disturbing a judicial proceeding if, with purpose to intimidate a judge, attorney, juror, party or witness, and thereby to influence a judicial proceeding, he disrupts or disturbs a judicial proceeding by participating in an assembly and calling aloud, shouting, or holding or displaying a placard or sign containing written or printed matter, concerning the conduct of the judicial proceeding, or the character of a judge, attorney, juror, party or witness engaged in such proceeding, or calling for or demanding any specified action or determination by such judge, attorney, juror, party or witness in connection with such proceeding. Disturbing a judicial proceeding is a municipal violation.

75.500. Obstructing government operations.

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

75.510. Obedience to police and fire department officials. No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

75.520. Prohibiting failure to appear in municipal court.

1. No person shall fail to appear in Municipal Court when lawfully summoned to appear, nor fail to appear on any date and time set by the court for which the person had received proper notice. Failure to appear shall be punishable by a fine of not less than \$25.00, nor more than \$500.00, or up to ninety days in jail, or both.

2. For the purpose of this section, proper notice shall be:

A. Written notice to appear mailed to the defendant at least ten (10) days prior to the hearing. Service shall be considered complete upon receipt, or

B. A summons signed by the defendant setting forth the date of the appearance, or

C. Personal service of notice to appear by a law enforcement officer or city official or employee designated by the Court to do so, or

D. Signature of the Defendant on a payment agreement, or other document prepared by the Court, setting out the date that appearance is required for payment on fines, or installments thereof, or

E. Notice to the Defendant in open court and in the presence of the Defendant.

3. The charge of failure to appear shall be issued by the Prosecutor and shall be filed according to the procedures for filing all other municipal violations.

75.530. Refusal to identify as a witness.

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

75.540. Resisting or interfering with arrest.

1. A person commits the offense of resisting or interfering with arrest if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

A. Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

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

2. This Section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any ordinance violation.

3. It is no defense to a prosecution under Subsection 1 of this Section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing in this Section shall be construed to bar civil suits for unlawful arrest.

75.550. Tampering with physical evidence.

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

A. Alters, destroys, suppresses or conceals any record, document or thing with purpose to impair its verity, legibility or availability in any official proceeding or investigation into a violation of city ordinance; or

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

75.560. Tampering with a witness - tampering with a victim.

1. A person commits the crime of “tampering with a witness” if, with purpose to induce a witness or a prospective witness in an official proceeding to disobey a subpoena or other legal process, or to absent himself or avoid subpoena or other legal process, or to withhold evidence, information or document, or to testify falsely, he:

A. Threatens or causes harm to any person or property; or

B. Uses force, threats or deception; or

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

D. Conveys any of the foregoing to another in furtherance of a conspiracy.

2. A person commits the crime of “victim tampering” if, with purpose to do so, he prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any ordinance violation 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 or prosecuting agency or to any judge;
- B. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof;
- C. Arresting or causing or seeking the arrest of any person in connection with such victimization.

### **Subchapter E -- Offenses Against the Family**

#### 75.600. Endangering the Welfare of a Child in the Second Degree.

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

A. 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 years old; or

B. He knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

C. Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031. RSMo; or

D. He knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo.

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

#### 75.610. Unlawful Transactions With a Child.

1. A person commits the crime of unlawful transactions with a child if:

A. Being a pawnbroker, junk dealer, dealer in secondhand goods, or any employee of such person, he with criminal negligence buys or receives any personal property other than agricultural products from an unemancipated minor, unless the child's custodial parent or guardian has consented in writing to the transaction; or

B. He knowingly permits a minor child to enter or remain in a place where illegal activity in controlled substances, as defined in Chapter 195, RSMo, is maintained or conducted; or

C. He with criminal negligence sells blasting caps, bulk gunpowder, or explosives to a child under the age of seventeen, or fireworks as defined in Section 320.110, RSMo, to a child under the age of fourteen, unless the child's custodial parent or guardian has consented in writing to the transaction. Criminal negligence as to the age of the child is not an element of this crime.

2. Unlawful transactions with a child is a municipal violation.

### **Subchapter F - Offenses Against the Person**

#### 75.700. Assault in the third degree.

1. A person commits the crime of assault in the third degree if:

A. The person attempts to cause or recklessly causes physical injury to another person; or

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

C. The person purposely places another person in apprehension of immediate physical injury; or

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

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

#### 75.710. Assault of a law enforcement officer in the third degree, penalty.

1. The person commits the crime of assault of a law enforcement officer in the third degree if:

A. The person attempts to cause or recklessly causes physical injury to a law enforcement officer;

B. With criminal negligence the person causes physical injury to a law enforcement officer by means of a deadly weapon;

C. The person purposely places a law enforcement officer in apprehension of immediate physical injury;

D. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to a law enforcement officer; or

E. The person knowingly causes or attempts to cause physical contact with a law enforcement officer without the consent of the law enforcement officer.

75.720. Domestic Assault in the Third Degree. A person commits the crime of domestic assault in the third degree 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 455.020, 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 of immediate physical injury by any means; or

4. The person recklessly engages in conduct which creates a grave 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 family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

75.730. False Imprisonment.

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

2. A person does not commit false imprisonment if the person restrained is a child under the age of seventeen and:

A. A parent, guardian or other person responsible for the general supervision of the child's welfare has consented to the restraint; or

B. The actor is a relative of the child; and

(1) the actor's sole purpose is to assume control of the child; and

(2) the child is not taken out of the state of Missouri.

C. For the purpose of this Section, "relative" means a parent or stepparent, ancestor, sibling, uncle or aunt, including an adoptive relative of the same degree through marriage or adoption.

D. The defendant shall have the burden of injecting the issue of a defense under this Section.

75.740. Elder Abuse in the Third Degree.

1. A person commits the crime of elder abuse in the third degree if he:

A. Knowingly causes or attempts to cause physical contact with any person sixty years of age or older or an eligible adult as defined in Section 660.250, RSMo, knowing the other person will regard the contact as harmful or provocative; or

B. Purposely engages in conduct involving more than one incident that causes grave emotional distress to a person sixty years of age or older or an eligible adult, as defined in Section 660.250, RSMo. The course of conduct shall be such as would cause a reasonable person age sixty years of age or older or an eligible adult, as defined in Section 660.250, RSMo, to suffer substantial emotional distress; or

C. Purposely or knowing places a person sixty years of age or older or an eligible adult, as defined in Section 660.250, RSMo, in apprehension of immediate physical injury; or

D. Intentionally fails to provide care, goods or services to a person sixty years of age or older or an eligible adult, as defined in Section 660.250, RSMo. The cause of the conduct shall be such as would cause a reasonable person age sixty or older or an eligible adult, as defined in Section 660.250, RSMo, to suffer physical or emotional distress; or

E. Knowingly acts or knowingly fails to act in a manner which results in a grave risk to the life, body or health of a person sixty years of age or older or an eligible adult, as defined in Section 660.250, RSMo.

2. Elder abuse in the third degree is a municipal violation.

75.750. Harassment.

1. A person commits the crime of harassment if he or she:

A. Knowingly communicates a threat to commit any felony to another person and in so doing, frightens, intimidates, or causes emotional distress to such other person; or

B. When communicating with another person, knowingly uses coarse language offensive to one of average sensibility and thereby puts such person in reasonable apprehension of offensive physical contact or harm; or

C. Knowingly frightens, intimidates, or causes emotional distress to another person by anonymously making a telephone call or any electronic communication; or

D. Knowingly communicates with another person who is, or who purports to be, seventeen years of age or younger and in so doing and without good cause recklessly frightens, intimidates, or causes emotional distress to such other person; or

E. Knowingly makes repeated unwanted communication to another person; or

F. Without good cause engages in any other act with the purpose to frighten, intimidate, or cause emotional distress to another person, cause 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 the age of such person.

2. This Section shall not apply to:

A. Activities of federal, state, county or municipal law enforcement officers conducting investigations of violations of federal, state, county or municipal law.

B. A person who is twenty-one years of age or older against a person seventeen years of age or younger, in which case the crime will be referred to the Callaway County Prosecutor's Office. (Ord# 1897 9-22-08)

75.755. Harassment Definitions

1. Definitions. For the purpose of this Section, the following words and terms as used herein are defined to mean the following:

A. Course of Conduct. 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 within the meaning of "course of conduct". Such constitutionally protected activity includes picketing or other organized protests.

B. Credible Threat. A threat communicated with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety, or the safety of his or family, or household member or domestic animals or livestock as defined in Section 276.606, RSMo, kept at such person's residence or on such person's property. The threat must be against the life of, or a threat to cause physical injury to, or the kidnapping of, the person, the person's family, or the person's household member or domestic animals or livestock as defined in Section 276.606, RSMo, kept at such person's residence or on such person's property.

C. Harass. 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.

2. A person commits the crime of stalking if he or she purposely, through his or her course of conduct, harasses or follows with the intent of harassing another person.

3. Stalking violations shall be referred to the Callaway County Prosecutor if any of the following are an included part of the violation:

A. The person makes a credible threat; or

B. At least one of the acts constituting the course of conduct is in violation of an order of protection and the person has received actual notice of such order; or

C. At least one of the actions constituting the course of conduct is in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal; or

D. At any time during the course of conduct, the other person is seventeen years of age or younger and the person harassing the other person is twenty-one years of age or older; or

E. He or she has previously pleaded guilty to or been found guilty of domestic assault, violation of an order of protection, or any other crime where the other person was the victim.

F. The person has previously pleaded guilty to or been found guilty of a violation of this Section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this Section.

4. Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this Section.

5. 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# 1897 9-22-08)

75.760. Invasion of Privacy.

1. A person commits the crime of invasion of privacy if he knowingly views, photographs or films another person, without that person's knowledge and consent, while the person being viewed, photographed or filmed is in a state of full or partial nudity and is in a place where he would have a reasonable expectation of privacy.

2. Notwithstanding the provisions of Section 556.036, RSMo, either ordinance violation or felony prosecutions under Sections 565.250 to 565.257 shall be commenced within the following periods of limitation:

A. Three years from the date the viewing, photographing or filming occurred; or

B. If the person who was viewed, photographed or filmed did not realize at the time that he was being viewed, photographed or filmed, within three years of the time the person who was viewed or in the photograph or film first learns that he was viewed, photographed or filmed.

3. The provisions of the above sections shall not apply to:

A. Viewing, photographing or filming by law enforcement officers during a lawful criminal investigation;

B. Viewing, photographing or filming by law enforcement officers of a local jail for security purposes or during investigation of alleged misconduct by a person in the custody of the local jail.

## **Subchapter G - Offenses Against Public Order**

### 75.800. Curfew established for minors.

1. It shall be unlawful for any minor under the age of seventeen (17) years to be in or upon any public street, highway, alley, road, park, playground, public grounds, a public place, public building, place of amusement and entertainment, vacant lot, or any other area open to the public, unsupervised in the City between the hours of 12 midnight and 5:00 a.m. during the period from October 1 to May 1, and between the hours of 1:00 a.m. and 5:00 a.m. from May 2 to September 30, unless such minor is attending to urgent business and can give a satisfactory reason for being in or upon the places herein before mentioned, or is accompanied by such minor's parent, guardian, or adult relative or adult friend approved by a parent or guardian.

2. Parent responsible for minor. It shall be unlawful for the parent or guardian of a minor under the age of seventeen (17) years to permit such minor to violate the curfew provisions as stated in this Section.

### 75.810. Disorderly conduct.

1. Any person who, with intent to provoke a breach of the peace or whereby a breach of peace may be occasioned, commits any of the following acts shall be deemed to have committed the offense of disorderly conduct:

A. Congregates with others so as to obstruct a public street, sidewalk, or alley way and refuses to move on when ordered by the police.

B. Shouts or makes a noise either outside or inside a building between the hours of sunset and sunrise to the annoyance or disturbance of any considerable number of persons.

C. Interferes with any person in any place by jostling against such person or unnecessarily crowding him or by placing his hand in the proximity of such person's pocket, pocketbook or handbag.

D. Frequents or loiters about any public place soliciting others for the purpose of committing a violation of the state laws regarding sexual conduct.

E. Wanders, prowls, or loiters upon the private property of another, in the nighttime, and peeks or peers in the door or window of any building or structure located thereon which is inhabited by human beings, without any visible or lawful business with the owners or occupants thereof.

F. Knowing the same to be false, circulates or transmits to another or others, with intent that it be acted upon any statement or rumor, written, printed or by word of mouth, concerning the location of a bomb or other explosive.

75.820. Peace Disturbance. A person shall be guilty of peace disturbance if:  
1. He unreasonably and knowingly disturbs or alarms another person or persons by:  
A. Loud noise; or  
B. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or  
C. Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out; or  
D. Fighting; or  
E. Creating a noxious and offensive odor.  
2. He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:  
A. Vehicular or pedestrian traffic; or  
B. The free ingress or egress to or from a public or private place. **Ord. #1833 (2-25-08)**

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

75.840. Refusal to disperse.  
1. A person commits the crime of refusal to disperse if, being present at the scene of an unlawful assembly, or at the scene of a riot, he knowingly fails or refuses to obey the lawful command of a law enforcement officer to depart from the scene of such unlawful assembly or riot.

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

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

## Subchapter H—Offenses Involving Property Damage or Trespass

### 75.900. Graffiti.

1. Any person who writes, sprays, scratches or otherwise affixes graffiti upon any property, public or private, in which another has an interest and without the consent of such other person shall be guilty of a municipal violation, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars, or by imprisonment for not more than 90 (ninety) days, or by both such fine and imprisonment. In addition to such penalty the court may order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person, or to pay any costs incurred by the owner related to the cleanup, repair or replacement of property damaged by that person.

2. It shall be the duty of the owner and/or occupant of a building, residence or any other structure or property that has been defaced by graffiti to clean up or otherwise cover such graffiti, however, no person shall clean up or otherwise cover such graffiti without first notifying the police department and allowing the department the opportunity to photograph such graffiti. If, after the police have photographed the graffiti, the owner or occupant of a building, residence or other structure or property that has been defaced by graffiti fails to clean up or otherwise cover such graffiti, the Code Enforcement Officer or his designee shall give notice to such owner or occupant, which notice shall:

- A. Be in writing;
- B. Be addressed to and served upon the owner and/or occupant of the premises; and
- C. Inform the owner and/or occupant of the premises that such person has ten (10) days from receipt of such notice to remove or otherwise cover the graffiti or to contact the Code Enforcement Officer and give the City permission to remove or otherwise cover the graffiti.

Notice shall be deemed properly served upon such owner and/or occupant if a copy thereof is sent by certified mail to such owner or occupant's last known address, or if the notice cannot be conveniently served by the aforesaid methods, service of the notice is to be made upon such person or persons by at least one publication in the official newspaper of the City of Holts Summit, and such publication to contain the conditions and reasons of notice.

Any person who fails to notify the police department as required herein or fails to comply with any of the terms and conditions set forth in the notice after service of such notice upon them shall be guilty of an offense and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars.

75.910. Property damage in the second degree.

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

- A. He knowingly damages property of another; or
- B. He damages property for the purpose of defrauding an insurer.

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

### **Subchapter I -- Inchoate Offenses**

75.1000. Inchoate Offenses. (Attempt to commit a municipal violation)

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

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

75.1010. Conspiracy.

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

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

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

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

5. No one shall be convicted of conspiracy if, after conspiring to commit the offense, he prevented the accomplishment of the objectives of the conspiracy under circumstances manifesting a renunciation of his criminal purpose. The defendant shall have the burden of injecting the issue of renunciation of criminal purpose under Subdivision (1) of this Subsection.

6. For the purpose of time limitations on prosecutions:

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

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

7. A person may not be 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.

### **Subchapter J—Other Offenses**

#### **75.1100. Abandonment of airtight or semi-airtight containers.**

1. A person commits the crime of abandonment of airtight or semi-airtight containers if he abandons, discards, or knowingly permits to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-airtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.

2. Subsection 1 of this section does not apply to an icebox, refrigerator or other airtight or semi-airtight containers located in that part of a building occupied by a dealer, warehouseman or repairman.

3. The defendant shall have the burden of injecting the issue under subsection 2 of this section.

75.1110. Domestic animals restrained from running at large. It shall be unlawful for the owner of any animal or animals of the species of horse, mule, ass, cattle, swine, sheep or goat, in this City, to permit the same to run at large outside the enclosure of the owner of such stock, and if any of the species of domestic animals aforesaid be found running at large, outside the enclosure of the owner, it shall be lawful for any person, and it is hereby made the duty of the Police Department, on his own view, or when notified by any other person that any of such stock is so running at large, to restrain the same forthwith, and such person or officer shall, within three days, give notice thereof to the owner, if known, in writing, stating therein the amount of compensation for feeding and keeping such animal or animals and damages claimed, and thereupon the owner shall pay the person, or officer, taking up such animal or animals a reasonable compensation for the taking up, keeping and feeding such animal, or animals, and shall also pay all persons damaged by reason of such animals running at large, the actual damages sustained by him or them; provided, that said owners shall not be responsible for any accident on a public road or highway if he establishes the fact that the said animal or animals were outside the enclosure through no fault or negligence of the owner. If the owner of such stock be not know, or if notified and fails to make compensation for the taking up, feeding and keeping of animals taken up under the provisions of this Chapter, the same shall be deemed strays, and shall be dealt with in the same manner as required by law with respect to such property as strays, under the stray law. Any failure or refusal on the part of such officer to discharge the duties required of him by this Section shall render him liable on his bond to any person damaged by such failure or refusal, which damages may be sued for and recovered in any court of competent jurisdiction.

75.1120. Littering.

1. A person commits the crime of littering if he throws or places, or causes to be thrown or placed, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse, or rubbish of any kind, nature or description on the right-of-way of any public road or state highway or on or in any of the waters in this City or on the banks of any stream, or on any land or water owned, operated or leased by the City, any board, department, agency or commission thereof or on any land or water owned, operated or leased by the federal government or on any private real property owned by another without his consent.

75.1130. Sale of tobacco to minors.

1. It shall be unlawful for any person to engage in tobacco product distribution to persons under eighteen years of age.

2. No person shall sell any tobacco product or distribute any tobacco product or rolling papers to any minor. This Sub-section shall not apply to the distribution by family members on property that is not open to the public.

3. Warning signs concerning sales of tobacco products to minors shall be plainly visible at every display from which tobacco products are sold.

4. All vending machines that are in areas open to minors must be supervised or controlled by the owner or lessor of the machine. The method of control may be visual, use of tokens, or a lockout.

5. Any person who violates Sub-section 1 or 2 of this Section or Section 407.927 of the State Statute shall be fined:

- A. For the first offense, not less than twenty-five dollars;
- B. For the second offense, not less than one hundred dollars;
- C. For a third and subsequent offense, not less than two hundred fifty dollars.

6. If a sale is made by an employee or the owner of an establishment in violation of Section 407.925 to 407.932 of the State Statute, the employee shall be guilty of an offense established in Sub-section 2 and 3 of this Section. If a vending machine is in violation of Section 407.927 of the State Statute, the owner of the establishment shall be guilty of an offense established in Subsections 2 and 3 of this Section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in Sub-sections 2 and 3 of this Section.

75.1140. Purchase or possession of tobacco by minors.

1. It shall be unlawful for a minor to purchase or attempt to purchase cigarettes, or to have cigarettes in his or her possession.

2. Any person found guilty of violating the provisions of this section shall be subject to a penalty for each violation as follows:

A. The minor will be required to perform not less than five (5) hours of community service and not more than one hundred (100) hours of community service.

75.1150. Reckless burning or Exploding.

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

2. Reckless burning or exploding is a municipal violation.

75.1160. Negligent Burning or Exploding.

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

2. Negligent burning or exploding is a municipal violation.

75.1170. Fire, Negligence in Setting or Allowing to Escape on Cropland, Grassland, Marsh, Prairie, Woodland.

1. A person commits the crime of negligently setting fire to a woodland, cropland, grassland, prairie or march when he with criminal negligence causes damage to a woodland, cropland, grassland, prairie or marsh of another by starting a fire.

2. A person commits the crime of negligently allowing a fire to escape when he with criminal negligence allows a fire burning on lands in his possession or control to escape onto property of another.

3. Negligently setting fire to a woodland, cropland, grassland, prairie or marsh or negligently allowing a fire to escape is an ordinance violation.

75.1180. Tampering in the Second Degree.

1. A person commits the crime of tampering in the second degree if he:

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

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

C. Tampers or makes connection with property of a utility; or

D. Tampers with, or causes to be tampered with, any meter or other property of an electric, gas, steam or water utility, the effect of which tampering is either:

(1) to prevent the proper measuring of electric, gas, steam or water service; or

(2) to permit the diversion of any electric, gas, steam or water service.

2. In any prosecution under Subsection 4 of Section 1 above, proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam or water service, with one or more of the effects described in Subsection 4 of Section 1 above, shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

## Subchapter K -- Sexual offenses

75.1200. Indecent exposure. A person commits the offense of indecent exposure if he knowingly exposes his/her genitals, or her breasts under circumstances in which he knows that his conduct is likely to cause affront or alarm. Or masturbates, manipulates, or sexually stimulates himself or attempts to sexually stimulate himself, either alone or with the assistance of another in any public place, including, but not limited to, rest room facilities provided for public accommodation, and any other premises required to be licensed by ordinance to provide any mercantile or public service.

75.1210. Definitions. The definitions of Section 567.010 of the Revised Statutes of Missouri shall apply to the provisions of this Section.

75.1220. Prostitution. A person commits prostitution if he engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third person. A person commits the offense of prostitution if he performs an act of prostitution as defined in Section 567.010 of the Revised Statutes of Missouri. Prostitution is a municipal violation. The judge may order a drug and alcohol abuse treatment program for any person found guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. Upon the successful completion of such program by the defendant, the court shall allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty.

75.1230. Patronizing Prostitution. A person patronizes prostitution if:

1. Pursuant to a prior understanding, he gives something of value to another person as compensation for that person or a third person having engaged in sexual conduct with him or with another; or

2. He gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third person will engage in sexual conduct with him or with another; or

3. He solicits or requests another person to engage in sexual conduct with him or with another, or to secure a third person to engage in sexual conduct with him or with another, in return for something of value.

4. "Sexual Conduct" occurs when there is:

A. Sexual intercourse which means any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results; or

B. Deviate sexual intercourse which means any sexual act involving the genitals of one person and the mouth, hand, tongue or anus of another person; or

C. Sexual contact which means any touching, manual or otherwise, of the anus or genitals of one person by another, done for the purpose of arousing or gratifying sexual desire of either party.

5. Something of value means any money or property, or any token, object or article exchangeable for money or property.

6. Patronizing prostitution is a municipal violation.

75.1240. Prostitution and patronizing prostitution -- sex of parties no defense, when. In any prosecution for prostitution or patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

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

75.1250. Prostitution Houses Deemed Public Nuisances.

1. Any room, building or other structure regularly used for sexual contact for pay as defined in Section 567.020 of the State Statute or any unlawful prostitution activity prohibited by this Chapter is a public nuisance.

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

3. All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance, and they may be enjoined from engaging in any sexual contact for pay or unlawful prostitution activity anywhere within the jurisdiction of the court.

4. Appeals shall be allowed from the judgment of the court as in other civil actions.

75.1260. Responsibilities of Prosecuting Attorney and Attorney General. In addition to the responsibility of the prosecuting attorney in their respective jurisdictions to enforce the criminal provisions of this Chapter, he shall have the duty to enforce the provisions of Section 567.080 of the State Statute.

75.1270. Promoting Prostitution. A person promotes prostitution if, acting other than as a prostitute or a patron of a prostitute, he knowingly engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution

75.1280. Urinating/Defecating in public prohibited. No person shall urinate or defecate in, upon or from any public street, sidewalk, alley, parking lot or parking facility, public building, structure, or publicly maintained facility, or in any place open to the public and exposed to public view, or on private property and exposed to public view. This section shall not apply to urination or defecation in any restroom or other facility designed for the sanitary disposal of human waste.

75.1290. Obscenity.

1. A person commits the offense of preparation of obscenity when he or she knowingly:

A. Records him or herself or any other person on or with any material for the purpose of producing any obscene material for promotion to another;

B. Records him or herself or any other person on or with any material for the purpose of producing material pornographic for minors for promotion to a minor;

C. Models, poses, acts, or otherwise aids or assists in the preparation of any obscene material for the purpose of promotion to another; or

D. Models, poses, acts, or otherwise aids or assists in the preparation of any material pornographic for minors for promotion or furnishing to a minor.

75.1300. Pornographic for Minors. Any material or performance if:

1. The average person, applying contemporary community standards, would find that the material or performance, taken as a whole has an appeal to prurient interest of minors;

2. The material or performance depicts or describes nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or any explicit sexual material, in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and

3. The material or performance, taken as a whole, lack serious literary, artistic, political, or scientific value for minors.

## Subchapter L -- Stealing and Related Offenses

### 75.1400. Failure to return rented personal property with a value less than \$150.

1. A person commits the crime of failing to return leased or rented property with a value of \$150 or less if, with the intent to deprive the owner thereof, he purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property. In addition, any person who has leased or rented personal property of another who conceals the property from the owner, or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the crime of failing to return leased or rented property. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

2. It shall be prima facie evidence of the crime of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten days after proper notice following the expiration of the lease or rental agreement. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the ten-day period prescribed in this subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section, and that failure to immediately return the property may subject such person to arrest for the violation.

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

4. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to Section 569.100 or 569.120, RSMo, in addition to being in violation of this section.

5. Venue shall lie in the county where the personal property was originally rented or leased.

6. Failure to return leased or rented property is a municipal violation.

75.1410. Fraudulent use of a credit device.

1. A person commits the crime of fraudulent use of a credit device or debt device if he uses a credit device or debt device for the purpose of obtaining services or property with a value of \$150 or less, knowing that:

- A. The device is stolen, fictitious or forged; or
- B. The device has been revoked or canceled; or
- C. For any other reason his use of the device is unauthorized.

75.1420. Fraudulently stopping payment on an instrument.

1. A person commits the crime of “fraudulently stopping payment of an instrument” if he, knowingly, with the purpose to defraud, stops payment on a check or draft given in payment for the receipt of goods or services valued at \$150 or less.

2. It shall be prima facie evidence of a violation of this section, if a person stops payment on a check or draft and fails to make good the check or draft, or return or make and comply with reasonable arrangements to return the property for which the check or draft was given in the same or substantially the same condition as when received within ten days after notice in writing from the payee that the check or draft has not been paid because of a stop payment order by the issuer to the drawee.

3. “Notice in writing” means notice deposited as certified or registered mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or draft or to his last known address. The notice shall contain a statement that failure to make good the check or draft within ten days of receipt of the notice may subject the issuer to criminal prosecution.

75.1430. Issuing a false instrument or certificate.

1. A person commits the crime of issuing a false instrument or certificate when, being authorized by law to take proof or acknowledgment of any instrument which by law may be recorded, or being authorized by law to make or issue official certificates or other official written instruments, he issues such an instrument or certificate, or makes the same with the purpose that it be issued, knowing:

- A. That it contains a false statement or false information;
- B. That it is wholly or partly blank.

75.1440. Passing bad checks - Generally.

1. A person commits the ordinance violation of passing a bad check when:

A. With the purpose to defraud, he makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

B. He makes, issues or passes a check or other similar sight order for the payment of money knowing that there are insufficient funds in his account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subsection B above, the term “actual notice in writing” means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check which is the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a municipal violation, unless the face amount of the check or sight order or the aggregated amounts is less than one hundred fifty dollars.

5. When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

75.1450. Tendering worthless check in payment of taxes, fees or other charges due City.

1. Any person who shall make, draw, utter or deliver any check, draft or money order in payment of taxes, license fees, service charges, permit fees or other lawful obligations due the City, with or without intent to defraud, which check, draft or money order for any reason, except as provided in subsection 2 of this section, shall be returned to the City unpaid by the bank or other depository upon which the check, draft or money order shall have

been drawn, shall pay to the City Treasurer or other employee authorized to receive and collect payment of such taxes, license fees, service charges, permit fees or other lawful obligations due the City, in addition to the face amount of such check, draft or money order, a penalty in the amount of \$15 for each such check, draft or money order. Such penalty shall be collectible in the same manner as such check, draft or money order, or in the same manner as the obligation for which such check, draft or money order was given the City. Such penalty shall be in addition to and not in lieu of any penalty which may be assessed for any violation of the provisions of this Section.

2. No penalty authorized by subsection 1 of this section shall be paid or owed the City when such check, draft or money order is returned to the City because such bank or other depository upon which the check, draft or money order shall have been drawn has been legally closed by any governmental or other regulatory authority on or after the date upon which such check, draft or money order is drawn.

3. The making, drawing, uttering or delivering of any check, draft or money order in payment of taxes, license fees, service charges, permit fees or other lawful obligations due the City, with or without the intent to defraud, which check, draft or money order shall for any reason be returned to the City unpaid by the bank or other depository upon which drawn, shall not be deemed to constitute satisfaction of any such obligation or of any claim of the City for interest, penalties or other charges thereon, or to prevent or interrupt the accrual of any interest, penalties or other charges thereon which would have become payable to the City in the absence of such making, drawing, uttering or delivering of such check, draft or money order.

75.1460. Receiving stolen property.

1. A person commits the crime of receiving stolen property with a value of \$150.00 or less, if for the purpose of depriving the owner of a lawful interest therein, he receives, retains, or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. Evidence of the following is admissible in any criminal prosecution under this section to prove the requisite knowledge or belief of the alleged receiver:

A. That he was found in possession or control of other property stolen on separate occasions from two or more persons;

B. That he received other stolen property in another transaction within the year preceding the transaction charged;

C. That he acquired the stolen property for a consideration which he knew was far below its reasonable value.

75.1470. Stealing. A person commits the crime of stealing if he or she appropriates property or services of another with a value of \$500.00 or less with the purpose to

deprive him or her thereof, either without his or her consent or by means of deceit or coercion. Stealing is a municipal violation. **Ord. #1804 (11-13-07)**

1. Evidence of the following is admissible in any municipal court under this section on the issue of the requisite knowledge or belief of the alleged stealer.

A. That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

B. That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

C. That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

D. That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse.

75.1480. Alteration or Removal of Item Numbers with Intent to Deprive Lawful Owner.

1. A person commits the crime of alteration or removal of item numbers of items with a value of \$150.00 or less if he, with the purpose of depriving the owner of a lawful interest therein:

A. Destroys, removes, covers, conceals, alters, defaces, or causes to be destroyed, removed, covered, concealed, altered, or defaced, the manufacturer's original serial number or other distinguishing owner-applied number or mark, on any item which bears a serial number attached by the manufacturer or distinguishing number or mark applied by the owner of the item, for any reason whatsoever;

B. Sells, offers for sale, pawns or uses as security for a loan, any item on which the manufacturer's original serial number or other distinguishing owner-applies number or mark has been destroyed, removed, covered, concealed, altered, or defaced; or

C. Buys, receives as security for a loan or in pawn, or in any manner receives or has in his possession any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced.

75.1490. Theft of cable or satellite television service.

1. A person commits the crime of theft of cable or satellite television service, with a value of less than \$150.00, if he:

A. Knowingly obtains or attempts to obtain cable or satellite television service without paying all lawful compensation to the operator of such service, by means of artifice, trick, deception or device; or

B. Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or

C. Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable or satellite television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or

D. Knowingly sells, uses, manufactures, rents or offers for sale, rental or use any device, plan or kit designed and intended to obtain cable or satellite television service in violation of this section.

2. Any cable or satellite television operator or provider may bring an action to enjoin and restrain any violation of the provisions of this section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict the defendant may be entitled to reasonable attorney fees.

3. The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that the accused has committed the crime of theft of cable television service.

4. If a cable or satellite television company either:

A. Provides unsolicited cable or satellite television service; or

B. Fails to change or disconnect cable or satellite television service within ten days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten days after such written notice is received until the service is changed or disconnected.

5. Nothing in this section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

6. As used in this section, the term “cable or satellite television service” includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receives without the use of special equipment.

### **Subsection M -- Weapons Offenses**

#### 75.1500. Definitions.

1. Blackjack. Any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use.
2. Concealable firearm. Any firearm with a barrel less than sixteen inches in length, measured from the face of the bolt or standing breech.
3. Deface. To alter or destroy the manufacturers or importer’s serial number or any other distinguishing number or identification mark.
4. Firearm. Means any weapon that is designed or adapted to expel a projective by the action of an explosive.
5. Intoxicated. Means substantially impaired mental or physical capacity resulting from introduction of any substance into the body.
6. Knife. Means any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this Chapter, “knife” does not include any ordinary pocketknife with no blade more than four inches in length.
7. Knuckles. Means any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.
8. Projectile Weapon. Means any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.
9. Rifle. Means any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projective through a rifled bore by a single function of the trigger.
10. Shotgun. Means any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projective through a smooth bore barrel by a single function of the trigger.

11. Switchblade Knife. Means any knife which has a blade that folds or closes into the handle or sheath, and:

A. That opens automatically by pressure applied to a button or other device located on the handle; or

B. That opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

75.1510. Unlawful use of weapons; exceptions.

1. Unlawful use of weapons. A person commits the crime of unlawful use of weapons if he knowingly:

A. Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use. Subsection E shall not apply to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceable through this state, or to any person who has a valid concealed carry endorsement issued pursuant to Section 571.094 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state, or when the actor is transporting such weapons in a non-functioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible.

B. Sets a spring gun; or

C. Discharges or shoots a firearm: in the City limits, 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. Subsection C shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.

D. Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner. Subsection H shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.

E. 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 any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense. Subsection I shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.

F. Carries a firearm, unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function

or activity sponsored or sanctioned by school officials or the district school board. Subsection J shall 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 to any person who has a valid concealed carry endorsement issued pursuant to Section 571.094 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state, or to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo, or when the actor is transporting such weapons in a non-functioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible.

2. Subsection 1 of Section 75.1510 shall not apply to or affect any of the following, with the exception of a spring gun, provided that same are acting in an otherwise lawful manner.

A. All state, county, and municipal law enforcement officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are within or outside their jurisdictions or on or off duty, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

B. Wardens, superintendents, and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of crime;

C. Members of the armed forces or national guard while performing their official duty;

D. Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state;

E. Any person whose bona fide duty is to execute process, civil, or criminal;

F. Any federal probation officer;

G. Any state probation or parole officer, including supervisors and members of the board of probation and parole; and

H. 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;

I. Any coroner, deputy coroner, medical examiner, or assistant medical examiner.

3. A person does not commit a crime under this section if his conduct:

A. Was incident to displaying the weapon in a public museum or exhibition; or

B. Was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance.

4. 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.

75.1520. Defacing firearm, penalty. A person commits the crime of defacing a firearm if he knowingly defaces any firearm. Defacing a firearm is a municipal violation.

75.1530. Possession of Defaced Firearm, Penalty. A person commits the crime of possession of a defaced firearm if he knowingly possesses a firearm which is defaced. Possession of a defaced firearm is a municipal violation.

75.1550. Concealed weapons prohibited on City Property.

1. No person who has been issued a concealed carry endorsement by the Missouri Director of Revenue under Section 571.094 RSMo or who has been issued a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state, shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the City, or upon City property, to include but not limited to City Hall, the Police Department and the City Park.

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

3. This Section shall not apply to a building used for public housing by private persons, highways or rest areas, firing ranges, or private dwellings owned, leased or controlled by the City.

4. Any person violating this Section may be denied entrance to the building or property or ordered to leave the building or property. Any City employee violating this section may be disciplined. Carrying of a concealed firearm in a location prohibited by this

Section by any individual who holds concealed carry endorsement issued pursuant to this section shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refused to leave the premises and a peace officer is summoned, such person may be issued a citation for an amount not to exceed five hundred dollars and shall report to all appropriate authorities issuing concealed weapons permit a weapon violation charge against such person.

5. It shall be a violation of this Section, punishable as hereinafter provided, for any person issued a concealed carry endorsement pursuant to this section not to carry the concealed carry endorsement at all times the person is carrying a concealed firearm and not to display the concealed carry endorsement upon the request of any peace officer.

6. No person who has been issued a certificate of qualification which allows the person to carry a concealed firearm before the Director of Revenue begins issuing concealed carry endorsements in July, 2004, shall, by authority of that certificate, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building, or property owned, leased or controlled by the City.

75.1560      Excessive force during non-violent civil rights demonstrations.

1. The City of Holts Summit hereby adopts and will enforce this policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations. The City of Holts Summit also prohibits the physical barring of any entrance or exit to such a facility and will enforce all applicable State laws in this regard.

2. Any person charged with a violation of any provision of this resolution will be served by the City of Holts Summit with written notice stating the nature of the violation.

3. Any person convicted of this violation shall be guilty of a misdemeanor, and shall be fined an amount not to exceed one hundred (100) dollars for each violation. Each day on which such violation occurs shall be deemed to be a separate offense.

4. Any person violating any of the provisions of this resolution shall become liable to the City of Holts Summit for any expense, loss, or damage occasioned the City of Holts Summit by reason of such violation. **Ord. #2236 (06-25-12)**