

## Chapter 200

### POLICE DEPARTMENT

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#### **Section 200.010. Chief of Police — Appointment — Qualifications.**

The Mayor with the approval of a majority of the members of the Board of Aldermen shall appoint a Chief of Police who shall perform all duties required of the Marshal by law and any other Police Officers found by the Board of Aldermen to be necessary for the good government of the City. The Chief of Police shall be twenty-one (21) years of age or older.

#### **Section 200.020. Size of Police Force — Powers.**

The Police of the City may be appointed in such numbers, for such times and in such manner as may be prescribed by ordinance. They shall have power to serve and execute all warrants, subpoenas, writs or other process and to make arrests in the same manner as the Chief of Police. They may exercise such powers in areas leased or owned by the municipality outside of the boundaries of such municipality. The Chief of Police and Policemen shall be conservators of the peace and shall be active and vigilant in the preservation of good order within the City.

#### **Section 200.030. Police Training Required.**

##### **[Ord. No. 287, 10-10-2000]**

- A. The City of Clever hereby sets the standard of training for paid and unpaid (reserve) Police Officers for the City of Clever at four hundred seventy (470) hours of training.
- B. Both paid and unpaid (reserve) officers of this City must maintain their respective certifications directly with the Department of Public Safety (P.O.S.T.) and maintain sufficient continuing education credits to keep their certifications current.

#### **Section 200.040. Law Enforcement Mutual-Aid.**

##### **[Ord. No. 214, 3-11-1996]**

- A. Any Police Officer of the City of Clever shall have the authority to respond to an emergency situation outside the City boundaries when the emergency situation arises within the County of Christian.
- B. Any Police Officer of the City of Clever shall have the authority to respond to an emergency situation outside the City boundaries when the emergency situation arises with any political subdivision that also has authorized its Police Officers to respond to emergency situations arising within the County of Christian.
- C. Deputies of the Christian County Sheriff's Department, Christian County, Missouri, are hereby authorized to respond to any emergency situation arising in the City of Clever, Missouri, after receiving a request for assistance from the Clever Police Department or one (1) of its Law Enforcement Officers.
- D. Police Officers of any political subdivision that has authorized its Police Officers to respond

within the County of Christian are also hereby authorized to respond to any emergency situation arising in the City of Clever, Missouri, after receiving a request for assistance from the Clever Police Department or one (1) of its Law Enforcement Officers.

E. As used in this Section, "*Police Officer*" means an officer who has completed the basic Police training program promulgated by Chapter 590, RSMo. As used in this Section, "*emergency situation*" means any situation in which the Law Enforcement Officer has a reasonable belief that a crime is about to be committed, is being committed, or has been committed involving injury or threat of injury to any person, property, or governmental interest and such officer's response is reasonably necessary to prevent or end such emergency situation or mitigate the likelihood of injury involved in such emergency situation. The determination of the existence of any emergency situation shall be in the discretion of the officer making the response or in the discretion of an officer or governmental officer of the political subdivision in which the emergency situation is alleged to be occurring. As used in this Section, "*response*" shall mean to take any and all action which the officer may lawfully take as if exercising his/her powers within his/her own jurisdiction.

## Chapter 205

### ANIMAL REGULATIONS

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#### ARTICLE I

#### Generally

##### Section 205.010. Definitions.

[Ord. No. 416 §II, 1-17-2012; Ord. No. 547, 10-19-2021; Ord. No. 552, 11-16-2021]

The following words, when used in this Chapter, shall have the meanings set out herein:

**ADEQUATE CARE** — Normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter, and health care as necessary to maintain good health in a specific species of animal.

**ADEQUATE FOOD** — The provision at suitable intervals of not more than twelve (12) hours, unless dietary requirements of the species require a longer interval, of a quantity of wholesome foodstuffs, suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal, all which foodstuffs are served in a safe receptacle, dish or container.

**ADEQUATE SHELTER** — A structurally sound, properly ventilated, sanitary, dry and weatherproof shelter suitable for the species, age and condition of the animal, which is free of litter or hazardous substances and objects, contains clean and dry bedding material and which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions. The shelter shall have at a minimum a floor, walls with an opening suitable for the size of the animal and a roof. Unacceptable shelter includes but is not limited to barrels, pipes, crates, cardboard boxes, pet carriers and tarpaulins.

**ADEQUATE WATER** — The continual access to or access at suitable intervals not less than once each eight (8) hours for at least one (1) hour to a supply of clean, fresh, unfrozen, potable water provided in a sanitary manner

suitable for the species, condition, and age of the animal in sufficient amounts to maintain good health in the animal. Such water shall be provided in a secure manner so that the container cannot be overturned.

#### ANIMAL

1. FARM — Any livestock or other domesticated animal raised for commercial or agricultural purpose.
2. HOUSEHOLD (PETS) — Any animal normally and customarily kept by domestic households for pleasure and companionship, excluding poultry, pheasant, cows, livestock, chinchillas, horses, goats, sheep, monkeys, and other similar animals and fowl.
3. NON-DOMESTIC — Any feline (other than a domestic house cat), non-human primate, bear, wolf, coyote, fox, venomous reptile, or any other animals or crossbreed of such animals which have similar characteristics of the animals specified herein or are dangerous or unsafe for contact with humans.

ANIMAL CONTROL AUTHORITY — The animal control section of the City.

ANIMAL CONTROL OFFICER — Any person employed by the animal control authority to enforce this Chapter.

APPROVED VACCINE — All vaccines licensed by the United States Department of Agriculture.

#### AT LARGE

1. To be freely roaming on the private property of another without the consent of the owner or person in control of the property or to be freely roaming on any public property, street or highway without consent of the public entity in control of the property, street or highway.
2. Every dog, when on any street, alley, park, school ground or other public place in the City, which is not attached to a leash, the other end of which is securely held by a person, or every dog, when on private property, within the City, which is either not attached to a leash, the other end of which is securely held by a person and the leash is of sufficient length and the conditions are such that the dog cannot leave the premises, or which is not so contained by a fence or other device so as to prevent its straying from the premises, shall be deemed running at large.

Also see: RUNNING AT LARGE

BODY HARNESS — A set of straps that extend around the chest and mid-section of the dog's body, so as to not tighten around the dog's neck when the dog pulls on the end of a tether.

CREATURE — A domesticated animal used as a household pet such as a hamster, gerbil or similar animal.

DOGS — All animals of the canine species, both male and female.

ENCLOSURE — A building or real estate with a properly designed fence to restrict or contain any and all animals as listed in Sections 205.180 — 205.190.

EUTHANIZE — To put to death in a humane manner.

EXPOSED TO RABIES — Means when bitten by, or fought with, or has come in close contact with an animal showing symptoms of rabies.

FOWL — Domesticated chickens, guineas, geese, ducks, turkeys or other domesticated bird.

HARBOR — To feed or shelter an animal at the same location for three (3) or more consecutive days.

IMPOUND — To apprehend, catch, trap, net any animal by the animal control authority or its agent.

**IMPOUNDING FACILITIES** — Any premises designated by the City for the purpose of impounding and caring for all animals found in violation of this Chapter.

**KENNEL OPERATOR** — The owner of four (4) or more dogs at least four (4) months of age, whether owned for pleasure or profit, breeding or exhibiting.

**LIVESTOCK** — Domestic animals, such as swine, horses, mules, asses, sheep, goats or cattle. When these terms are used herein it shall include any related member of the species whether specifically mentioned or not.

**NON-CHOKE TYPE COLLAR** — A collar that, when worn by a dog, does not constrict or choke the dog when the dog pulls or extends the attached tether.

**OWNER or KEEPER** — Any person having a right of property in a dog, or who keeps or harbors a dog, or who has it in his/her care or acts as its custodian, or who knowingly permits a dog to remain on or about any premises owned or occupied by him/her.

**POULTRY** — Domestic fowl such as chickens, turkeys, guineas, ducks or geese.

**REGISTRATION AND VACCINATION** — The procedure of vaccinating for rabies and issuing an identification number and an appropriate certificate. These words shall be interchangeable.

**RUNNING AT LARGE** — Allowing a dog to be off the private premises of the owner or keeper, or his/her agent or servant, and not on a leash or confined to the arms, motor vehicle, trailer or other conveyance of the owner or keeper, his/her agent or servant. Also see: AT LARGE.

**SERIOUS PHYSICAL INJURY** — Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

**TETHER** — A rope, chain, or cable that is attached to a dog's collar or harness for purposes of restraining the dog.

**UNRESTRAINED DOG** — Any dog running at large or a dog on the premises of its owner or keeper but not confined to said premises by a leash, fence, structure or other means that would prevent the dog from leaving such premises.

**VETERINARIAN** — Any veterinarian holding a current State license.

**VICIOUS DOG** — Any of the following dogs:

1. Any dog, whether or not running at large and whether or not unrestrained, that without provocation has bitten any person not a trespasser causing serious physical injury to that person.
2. Any unrestrained dog, whether or not running at large, that without provocation has attempted to bite any person not a trespasser which would cause serious physical injury to that person.
3. Any unrestrained dog, whether or not running at large, that without provocation has placed any person not a trespasser in apprehension of immediate serious physical injury.
4. Any dog that has killed another dog or other domestic animal without provocation.

### **Section 205.020. City Registration Required.**

**[Ord. No. 208 §2(7), 1-8-1996; Ord. No. 516, 8-18-2020; Ord. No. 547, 10-19-2021]**

- A. Any person who keeps, harbors, or owns any dog within the City shall annually register such dog with the Code Enforcement Officer or his/her designee. The registration cost for dogs shall be provided in the fee schedule that is found in Title VIII. A replacement tag can be purchased if original is lost or

destroyed. **[Ord. No. 571, 12-20-2022]**

B. The Code Enforcement Officer or his/her designee shall record such information as follows:

1. The keeper's, harborer's or owner's name, address and phone number.
2. The animal's description with photograph of the animal, gender, and rabies vaccination number with expiration date. Any changes of information are to be provided to the Code Enforcement Officer by the animal owner.
3. The name, address and phone number of said animal's veterinarian.
4. A City registration number.

C. The Code Enforcement Officer or his/her designee shall also issue a City registration tag for such dog to correspond with the registration number of record.

D. City registration tag for such dog shall be affixed to the dog's collar. The collar with tag shall be worn, by the dog, at all times the dog is outside of its owner's residence. Failure to comply with this Subsection may result in fines or penalties.

#### **Section 205.025. Tags Not Transferable.**

**[Ord. No. 208 §2(9), 1-8-1996; Ord. No. 547, 10-19-2021]**

All tags required by this Article shall be specific for each dog and shall not be transferable to any other dog.

#### **Section 205.030. Running at Large Prohibited — Impoundment.**

**[Ord. No. 516, 8-18-2020]**

It shall be unlawful for the owner or keeper of any dog to permit the same to run at large within the City of Clever at any time. Any dog found running at large without the registration tag required per Section 205.020 shall be impounded.

#### **Section 205.040. Vicious Dogs Prohibited — Exceptions.**

**[Ord. No. 516, 8-18-2020]**

A. It shall be unlawful to own, keep or harbor a vicious dog in the City of Clever except in accordance with the following provisions:

1. *Leash and muzzle.* No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts or buildings. In addition, all vicious dogs on a leash outside its kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
2. *Confinement.* All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine

vicious dogs must be locked with a key or combination lock when such dogs are within the structure. Said structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be imbedded in the ground no less than two (2) feet. Also, such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

3. *Confinement indoors.* No vicious dog may be kept on a porch, patio or any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

4. *Signs.* All owners, keepers or harborers of vicious dogs within the City shall display in a prominent place on their premises a sign easily readable by the public using the words "*Beware of Dog*". In addition, a similar sign is required to be posted on the kennel or pen of such dog.

B. Any person convicted for violation of this Section may be fined: seventy-five dollars (\$75.00) for the first violation, one hundred fifty dollars (\$150.00) for the second violation, two hundred twenty-five dollars (\$225.00) for the third violation and any subsequent violations. Any person convicted for violation of this Section may have the dog ordered to be removed from the City. **[Ord. No. 516, 8-18-2020]**

#### **Section 205.050. Duty to Impound.**

**[Ord. No. 208 §2(10 — 11), 1-8-1996; Ord. No. 516, 8-18-2020; Ord. No. 547, 10-19-2021]**

A. *Animals Impounded, When.* Any dog found at large not displaying the tags required by this Article shall be impounded.

B. *Holding Of Impounded Animals.* All dogs impounded can be kept in the custody of the City of Clever or its authorized representative, in the City impoundment facility or some other proper place, for a period of not less than one (1) week from the time of the animal's impoundment. Such animals shall be fed, watered, and shielded from the elements in a humane manner.

C. Upon Code Enforcement Officer discretion, and type of incident, animals can be released with a minimum impound of one (1) day, or a maximum of thirty (30) daytime period, with cost incurred.

#### **Section 205.060. Disposition of Impounded Animals.**

**[Ord. No. 208 §2(12), 1-8-1996]**

A. Should any animal be impounded that displays tags as required by this Article, a representative of the City shall make a reasonable effort to notify the animal's owner of such impoundment. Notice may be made by mail, by telephone or by posting notice in a place visible to the owner on said owner's property, or in person to the owner or to any member of the owner's residence over the age of seventeen (17) years. The City shall not be required to identify ownership of any animal not displaying tags as required by this Article or to make any efforts of notification concerning any animal impounded without tags.

B. Any animal not claimed in accordance with the provisions and time periods of this Article shall be deemed a stray and may be disposed of by an authorized representative of the City under the supervision of the Animal Control Officer of Clever, Missouri, in any one (1) of the following ways:

1. Releasing the animal to any person over the age of seventeen (17) years who expresses interest in adopting such animal and desires to pay all impound and care fees provided for in this Article, and who shall certify compliance with this Article.

2. Releasing the animal to an accredited public school within the State which has a recognized research program upon payment of all impound and care fees provided for in this Article.
3. Humane termination of the animal by subjection to a carbon monoxide environment or by injection of a lethal drug or by any other humane method.
4. Releasing the animal to a recognized humane society or other animal shelter.

**Section 205.070. Release of Animals to Owners.**

**[Ord. No. 208 §2(13), 1-8-1996]**

During the periods an impounded animal is required to be retained by the provisions of this Article, the animal may be released to the owner by an authorized representative of the City. Any person claiming ownership of an impounded animal must sign an affidavit swearing that the animal is his/her personal property and pay all fees hereinafter set out. Upon a claim of ownership, said owner shall also be required to show proof of current rabies vaccination for that animal or shall be required to have such animal vaccinated by a veterinarian who holds a current license from the State of Missouri within forty-eight (48) hours from the animal's release.

**Section 205.080. Impound Fees.**

**[Ord. No. 208 §2(14), 1-8-1996; Ord. No. 383, 6-18-2007; Ord. No. 571, 12-20-2022]**

Fees for the impoundment of any animal shall be set per the provided fee schedule found in Title VIII, per animal. This fee extends to the costs incurred for housing, feeding, and watering impounded animals. Other fees may be charged when special needs are required for the animal's welfare. These needs, include, but are not limited to, parasite medications, dips, etc., special requirements for any animal are determined on an individual basis.

**Section 205.090. Animal Neglect or Abandonment.**

- A. A person is guilty of animal neglect when he/she has custody or ownership or both of an animal and fails to provide adequate care or adequate control which results in substantial harm to the animal.
- B. A person is guilty of animal abandonment when he/she has knowingly abandoned an animal in any place without making provisions for its adequate care.
- C. Animal neglect or animal abandonment are ordinance violations. Any person convicted of either violation, with in a twelve-month period beginning with the first violation may be fined: two hundred dollars (\$200.00) for the first violation, two hundred seventy-five dollars (\$275.00) for the second violation, three hundred fifty dollars (\$350.00) for the third violation, and four hundred fifty dollars (\$450.00) for the fourth and any subsequent violations. All fines and penalties for a first conviction of animal neglect or animal abandonment may be waived by the court provided that the person found guilty of animal neglect or abandonment shows that adequate, permanent remedies for the neglect or abandonment have been made. Reasonable costs incurred for the care and maintenance of neglected or abandoned animals may not be waived. **[Ord. No. 516, 8-18-2020]**
- D. In addition to any other penalty imposed by this Section, the court may order a person found guilty of animal neglect or animal abandonment to pay all reasonable costs and expenses necessary for:
  1. The care and maintenance of neglected or abandoned animals within the person's custody or ownership;

2. The disposal of any dead or diseased animals within the person's custody or ownership;
3. The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and
4. The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

**Section 205.100. Animal Abuse.<sup>1</sup>**

- A. A person is guilty of animal abuse when a person:
1. Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of Sections 578.005 to 578.023 and 273.030, RSMo.;
  2. Purposely or intentionally causes injury or suffering to an animal; or
  3. Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

**Section 205.105. Poisoning Animals Prohibited.**

[Ord. No. 208 §2(1), 1-8-1996]

- A. No person shall feed so as to constitute a direct or obvious hazard to man or animal or shall offer to tempt any domestic animal with any liquid, meat or any food product which shall:
1. Cause prostration, convulsion, pain or suffering as a prelude to death,
  2. Cause death, or
  3. Be proven to be toxic or lethal in the amount present to any person or domestic animal by a competent medical or veterinary authority.

**Section 205.110. Knowingly Releasing an Animal.**

- A. A person commits the offense of knowingly releasing an animal if that person, acting without the consent of the owner or custodian of an animal, intentionally releases any animal that is lawfully confined for the purpose of companionship or protection of persons or property or for recreation, exhibition or educational purposes.
- B. As used in this Section, "*animal*" means every living creature, domesticated or wild, but not including *Homo sapiens*.
- C. The provisions of this Section shall not apply to a public servant acting in the course of such servant's official duties.

**Section 205.120. Animal Waste Prohibited on Public and Private Property — Exception.**

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

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Any person in physical possession and control of any animal shall remove excreta or other solid waste deposited by the animal in any public or private area not designated to receive such wastes including, but not limited to, streets, sidewalks, parking lots, public parks or recreation areas and private property. The provisions of this Section shall not apply to a guide dog accompanying any blind person.

**Section 205.130. Quarantine Order to Be Issued by Mayor — To Be Published and Posted.**

Whenever rabies becomes prevalent in the City, the Mayor shall, according to the necessity of the case, issue a quarantine order, requiring every owner or person in charge of any dog or dogs within the limits of the City, to either kill or impound his/her dog or dogs or to have such dog or dogs immunized. Said order shall be published once in the paper officially publishing the business of the City; and in the absence of such paper, shall be posted as in case of sales of personal property. The Mayor is authorized by proclamation to terminate any such quarantine whenever, in his/her judgment, the necessity for it no longer exists.

**Section 205.140. Dangerous Wild Animals Prohibited.**

No person may keep any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, bear, non-human primate, coyote, any deadly, dangerous or poisonous reptile, or any deadly or dangerous reptile over eight (8) feet long, in any place other than a properly maintained zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital or animal refuge.

**Section 205.150. Animal Bites or Scratches.**

**[Ord. No. 208 §2(15), 1-8-1996]**

The owners of any animal which bites or scratches any person, regardless of the circumstances, and whether the animal had been vaccinated or not, shall be required to place the animal in a veterinary hospital maintained by a veterinarian who holds a current license from the State of Missouri for clinical observation for a period of at least ten (10) days following the evening of the bite or scratch. Any animal impounded under the provisions of this Section which has bitten or scratched a person may be placed in such veterinary hospital by a representative of the City. All expenses for such placement and observation are born by the owner of the animal or the person accepting such animal if released in accordance with the provisions herein. If such animal develops symptoms suggestive of rabies, it shall be allowed to die a natural death or, if the animal should die while in confinement for any reason, the head of such animal shall be removed by the veterinarian and submitted to any qualified official laboratory. If at the end of the ten (10) day period the animal is alive and has developed no symptoms suggestive of rabies, it may be released to its owner or other person in accordance with the provisions of this Section upon payment of all charges authorized herein.

**Section 205.160. Barking and Howling Dogs.**

**[Ord. No. 208 §2(3), 1-8-1996]**

No person shall keep any domestic animal which by frequent howling, barking, baying or yelping shall disturb the peace of any person or neighborhood within the City.

**Section 205.170. Exemptions.**

**[Ord. No. 208 §2(16), 1-8-1996]**

Any animal demonstrating a threat to the public health, safety or welfare, or to any person, may be immediately destroyed by the Chief of Police or his/her designee or the Animal Control Officer or his/her designee. If such animal exhibits signs and symptoms suggestive of rabies, such animal shall be destroyed in a manner so as to keep the head intact. The Animal Control Officer shall remove the head of such animal and shall transport the head to a State health laboratory for testing to either confirm or disprove rabies infection within such animal.

## ARTICLE II

### Large Animals

#### Section 205.180. Control of Large Animals.

[Ord. No. 230 §1, 3-10-1997; Ord. No. 416 §III, 1-17-2012; Ord. No. 552, 11-16-2021]

- A. It shall be unlawful for the owner of any animal or animals of the species of horse, mule, ass, cattle, sheep, goat, swine, fowl, or other forms of livestock in this City to permit the same to run at large outside the enclosure of the owner of such stock, and if any of these species of domestic animals aforesaid be found running at large outside the enclosure of the owner, it shall be lawful for any person and is hereby made the duty of the Code Enforcement Officer or his/her designee, on his/her own view, or when notified by any other person, that any of such stock is so running at large, to restrain the same forthwith.
- B. If the City has taken custody of any of the aforesaid stock, the City shall work with local livestock veterinarian for feeding and keeping such animal. The owner shall be responsible to pay the City for 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.
- C. If the owner of such stock be not known, or if notified and fails to make compensation for the taking up, feeding and keeping of animals taken up under the provisions of this Article, the same shall be deemed strays and be sold at public auction and the money be placed in the general revenues of the City of Clever with whatever reasonable fees paid to the veterinarian taking up said animal for the feeding and care of such animal.
- D. If a person is found in violation or in non-compliance with this Chapter as specified, the Code Enforcement Officer may cause a Municipal Court summons to be issued and the City Attorney may institute a court proceeding. Each day may be considered a separate offence.

#### Section 205.190. Keeping Livestock Within City.

[CC 1981 §8-42; Ord. No. 416 §IV, 1-17-2012; Ord. No. 552, 11-16-2021]

- A. No person in a residentially zoned property shall keep any cow, bull, jack, horse, mule, ass, cattle, sheep, goat, swine, fowl (exemption of chicken regulations), or other forms of livestock or combination of such. This Section shall not apply to any agriculturally zoned property where an excess number of such animals are kept in an enclosure or pasture on such farm on a temporary basis and the total area of land contained in said farm which is available for such animals is sufficient to accommodate such animals.
- B. As used in this Section, "farm" shall mean any contiguous area of land having the same owner or owners and the total area which is available for keeping the aforementioned animals exceeds three (3) acres. In determining whether a tract or parcel of land is of sufficient size to qualify as a farm, all the acreage of such tract or parcel shall be included, whether located inside or outside the corporate limits of the City.

## ARTICLE III

## Chickens

### Section 205.200. Keeping Of Six (6) Or Less Chickens Within The City.

#### [Ord. No. 552, 11-16-2021]

- A. The maximum number of chickens allowed is six (6) per tract of land regardless of how many dwelling units are on the tract.
- B. Only female chickens shall be allowed. There shall be no restriction on chicken breeds.
- C. Any person who keeps, harbors or owns any chickens within the City shall annually register such premises with the Code Enforcement Officer or his/her designee. The registration cost shall be five dollars (\$5.00) and completion of the premises registration form.
1. Property owners must provide owner name, phone number, address and emergency contact information to the City Animal Control Officer.
- D. Property owners must comply with all Sections of Chapter 215, Nuisances, of the City of Clever Code Book.
- E. Chickens shall be always kept in a secured enclosure or fenced area located in the defined rear of the property.
- F. Chickens shall be secured within an enclosure from sunset to sunrise.
1. Enclosures shall be kept in a clean, dry, odor-free, neat, and sanitary condition at all times. Odors from chickens, chicken manure, or other chicken related substances shall not be detectable at the property boundaries.
    - a. No person shall keep or allow or permit to be kept on any premises occupied by him/her, or under his/her charge or control, any chicken in an enclosure under such conditions that an offensive or noxious smell or odor shall arise therefrom, to the injury, annoyance or inconvenience of any inhabitant of the neighborhood.
  2. Enclosures shall provide adequate ventilation and adequate sun and shade and shall be impermeable to rodents, wild birds, and predators; including dogs and cats.
  3. Enclosures shall be designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood.
  4. Enclosures shall be enclosed on all sides and shall have a roof and doors. Access doors shall be able to be shut and locked at night. Openings, windows, and vents shall be covered with sturdy wiring or other predator and bird proof material.
  5. Enclosures shall be located at least fifteen (15) feet from any adjacent residential dwelling, church, school, or place of business.
- G. It shall be unlawful for any person or entity to keep chickens in violation of any provision of this Section.
- H. It shall be unlawful to engage in chicken breeding or fertilizer production for commercial purposes.
- I. Slaughter may occur for personal use provided that it is conducted in a sanitary manner, does not generate

noise that creates a nuisance, and is not visible from adjacent properties or any public area or right-of-way.

J. The chicken owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.

K. The chicken owner shall provide chickens access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds, and predators.

L. The chicken owner shall provide for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored. All other manure not used for composting or fertilizing shall be removed. The henhouse, chicken tractor, chicken pen, and surrounding area shall be kept free from trash and accumulated droppings.

M. No dog or cat which kills a chicken, shall, for that reason alone, be considered a dangerous or aggressive animal.

N. It shall be unlawful for any owner, renter, or leaseholder of property to allow chickens to be kept on the property in violation of the provisions of this Article.

O. Any violation of this Section that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under general nuisance abatement provisions of the City.

P. If a person is found in violation or in non-compliance with this Chapter as specified, the Code Enforcement Officer may cause a municipal court summons to be issued and the City Attorney may substitute a court proceeding.

Q. Each day a violation continues shall be deemed a separate offense.

R. All other applicable City ordinances codes shall apply.

## **Chapter 210**

### **OFFENSES**

**[HISTORY: Adopted by the Board of Aldermen of the City of Clever 10-18-2016 by Ord. No. 470. Amendments noted where applicable.]**

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#### **ARTICLE I**

##### **General Provisions**

###### **Section 210.010. Definitions.**

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

**ACCESS** — To instruct, communicate with, store data in, retrieve or extract data from, or otherwise make any use

of any resources of, a computer, computer system, or computer network.

#### AFFIRMATIVE DEFENSE

1. The defense referred to is not submitted to the trier of fact unless supported by evidence; and
2. If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not.

#### BURDEN OF INJECTING THE ISSUE

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

**COMMERCIAL FILM AND PHOTOGRAPHIC PRINT PROCESSOR** — Any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency.

**COMPUTER** — The box that houses the central processing unit (CPU), along with any internal storage devices, such as internal hard drives, and internal communication devices, such as internal modems capable of sending or receiving electronic mail or fax cards, along with any other hardware stored or housed internally. Thus, "computer" refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as "peripherals" and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. "Information" refers to all the information on a computer system, including both software applications and data.

**COMPUTER EQUIPMENT** — Computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network.

**COMPUTER HARDWARE** — All equipment which can collect, analyze, create, display, convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or data. "Hardware" includes, but is not limited to, any data processing devices, such as central processing units, memory typewriters and self-contained laptop or notebook computers; internal and peripheral storage devices, transistor-like binary devices and other memory storage devices, such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard drive, optical disks and digital memory; local area networks, such as two (2) or more computers connected together to a central computer server via cable or modem; peripheral input or output devices, such as keyboards, printers, scanners, plotters, video display monitors and optical readers; and related communication devices, such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers, programmable telephone dialing or signaling devices and electronic tone-generating devices; as well as any devices, mechanisms or parts that can be used to restrict access to computer hardware, such as physical keys and locks.

**COMPUTER NETWORK** — Two (2) or more interconnected computers or computer systems.

**COMPUTER PROGRAM** — A set of instructions, statements, or related data that directs or is intended to direct a computer to perform certain functions.

**COMPUTER SOFTWARE** — Digital information which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored in electronic, magnetic, optical or other digital form. The term commonly includes programs to run operating systems and applications, such as word processing, graphic, or spreadsheet programs, utilities, compilers, interpreters and communications programs.

COMPUTER SYSTEM — A set of related, connected or unconnected, computer equipment, data, or software.

COMPUTER-RELATED DOCUMENTATION — Written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software or other related items.

#### CONFINEMENT

1. A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court and remains in confinement until:

- a. A court orders the person's release; or
- b. The person is released on bail, bond or recognizance, personal or otherwise; or
- c. A public servant having the legal power and duty to confine the person authorizes his/her release without guard and without condition that he/she return to confinement.

2. A person is not in confinement if:

- a. The person is on probation or parole, temporary or otherwise; or
- b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement.

CONSENT — Consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

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

CONTROLLED SUBSTANCE — A drug, substance, or immediate precursor in Schedules I through V as defined in Chapter 195, RSMo.

CRIMINAL NEGLIGENCE — Failure to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

CUSTODY — A person is in custody when he/she has been arrested but has not been delivered to a place of confinement.

DAMAGE — When used in relation to a computer system or network, means any alteration, deletion, or destruction of any part of the computer system or network.

DANGEROUS FELONY — The felonies of arson in the first degree, assault in the first degree, attempted rape in the first degree if physical injury results, attempted forcible rape if physical injury results, attempted sodomy in the first degree if physical injury results, attempted forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, assault in the second degree if the victim of such assault is a special victim as defined in Subdivision (14) of Section 565.002, RSMo., kidnapping in the first degree, kidnapping, murder in the second degree, assault of a Law Enforcement Officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when

the victim is a child less than twelve (12) years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve (12) years of age at the time of the commission of the act giving rise to the offense, child molestation in the first or second degree, abuse of a child if the child dies as a result of injuries sustained from conduct chargeable under Section 568.060, RSMo., child kidnapping, parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty (120) days under Section 565.153, RSMo., and an "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is found to be an "habitual offender" or "habitual boating offender" as such terms are defined in Section 577.001, RSMo.

**DANGEROUS INSTRUMENT** — Any instrument, article or substance which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

**DATA** — A representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer or computer network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic storage media, punched cards and as may be stored in the memory of a computer.

**DEADLY WEAPON** — Any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged; or a switchblade knife, dagger, billy club, blackjack or metal knuckles.

**DIGITAL CAMERA** — A camera that records images in a format which enables the images to be downloaded into a computer.

**DISABILITY** — A mental, physical, or developmental impairment that substantially limits one (1) or more major life activities or the ability to provide adequately for one's care or protection, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings.

**ELDERLY PERSON** — A person sixty (60) years of age or older.

**FELONY** — An offense so designated or an offense for which persons found guilty thereof may be sentenced to death or imprisonment for a term of more than one (1) year.

**FORCIBLE COMPULSION** — Either:

1. Physical force that overcomes reasonable resistance; or
2. A threat, express or implied, that places a person in reasonable fear of death, serious physical injury, or kidnapping of such person or another person.

**INCAPACITATED** — A temporary or permanent physical or mental condition in which a person is unconscious, unable to appraise the nature of his/her conduct, or unable to communicate unwillingness to an act.

**INFRACTION** — A violation defined by this Code or by any other Statute of this state if it is so designated or if no sentence other than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction.

**INHABITABLE STRUCTURE**

1. A vehicle, vessel or structure:
  - a. Where any person lives or carries on business or other calling; or
  - b. Where people assemble for purposes of business, government, education, religion, entertainment, or public transportation; or
  - c. Which is used for overnight accommodation of persons.

2. Any such vehicle, vessel, or structure is inhabitable regardless of whether a person is actually present.
3. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an inhabitable structure of another.

#### KNOWINGLY

1. When used with respect to conduct or attendant circumstances, means a person is aware of the nature of his or her conduct or that those circumstances exist; or
2. When used with respect to a result of conduct, means a person is aware that his or her conduct is practically certain to cause that result.

**LAW ENFORCEMENT OFFICER** — Any public servant having both the power and duty to make arrests for violations of the laws of this State, and Federal Law Enforcement Officers authorized to carry firearms and to make arrests for violations of the laws of the United States.

**MISDEMEANOR** — An offense so designated or an offense for which persons found guilty thereof may be sentenced to imprisonment for a term of which the maximum is one (1) year or less.

**OF ANOTHER** — Property that any entity, including but not limited to any natural person, corporation, limited liability company, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

**OFFENSE** — Any felony, ordinance violation, misdemeanor or infraction.

**PHYSICAL INJURY** — Slight impairment of any function of the body or temporary loss of use of any part of the body.

**PLACE OF CONFINEMENT** — Any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held.

**POSSESS or POSSESSED** — Having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his/her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one (1) person alone has possession of an object, possession is sole. If two (2) or more persons share possession of an object, possession is joint.

**PROPERTY** — Anything of value, whether real or personal, tangible or intangible, in possession or in action.

**PUBLIC SERVANT** — Any person employed in any way by a government of this State who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this State, or any person elected to a position with any government of this State. It includes, but is not limited to, legislators, jurors, members of the judiciary and Law Enforcement Officers. It does not include witnesses.

**PURPOSELY** — When used with respect to a person's conduct or to a result thereof, means when it is his/her conscious object to engage in that conduct or to cause that result.

**RECKLESSLY** — Consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

**SERIOUS EMOTIONAL INJURY** — An injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious



emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty.

**SERIOUS PHYSICAL INJURY** — Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

**SERVICES** — When used in relation to a computer system or network, means use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage or retrieval functions.

**SEXUAL ORIENTATION** — Male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender.

**SPECIAL VICTIM** — Any of the following:

1. A Law Enforcement Officer assaulted in the performance of his or her official duties or as a direct result of such official duties;
2. Emergency personnel, any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician, assaulted in the performance of his or her official duties or as a direct result of such official duties;
3. A probation and parole officer assaulted in the performance of his/her official duties or as a direct result of such official duties;
4. An elderly person;
5. A person with a disability;
6. A vulnerable person;
7. Any jailer or corrections officer of the State or one (1) of its political subdivisions assaulted in the performance of his/her official duties or as a direct result of such official duties;
8. A highway worker in a construction or work zone as the terms "highway worker," "construction zone" and "work zone" are defined under Section 304.580, RSMo.;
9. Any utility worker, meaning any employee of a utility that provides gas, heat, electricity, water, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned, while in the performance of his/her job duties, including any person employed under a contract;
10. Any cable worker, meaning any employee of a cable operator, as such term is defined in Section 67.2677, RSMo., including any person employed under contract, while in the performance of his/her job duties; and
11. Any employee of a mass transit system, including any employee of public bus or light rail companies, while in the performance of his/her job duties.

**VEHICLE** — A self-propelled mechanical device designed to carry a person or persons, excluding vessels or aircraft.

**VESSEL** — Any boat or craft propelled by a motor or by machinery, whether or not such motor or machinery is a principal source of propulsion used or capable of being used as a means of transportation on water, or any boat or craft more than twelve (12) feet in length which is powered by sail alone or by a combination of sail and machinery, and used or capable of being used as a means of transportation on water, but not any boat or craft having, as the only means of propulsion, a paddle or oars.

## VOLUNTARY ACT

1. A bodily movement performed while conscious as a result of effort or determination. Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed, or having acquired control of it was aware of his/her control for a sufficient time to have enabled him or her to dispose of it or terminate his/her control; or

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

**VULNERABLE PERSON** — Any person in the custody, care, or control of the Department of Mental Health who is receiving services from an operated, funded, licensed, or certified program.

### **Section 210.020. Attempt.**

A. Guilt for an offense may be based upon an attempt to commit an offense if, with the purpose of committing the offense, a person performs any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.

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

### **Section 210.030. Conspiracy.<sup>2</sup>**

A. Guilt for an offense may be based upon a conspiracy to commit an offense when a person, with the purpose of promoting or facilitating the commission of an offense, agrees with another person or persons that they or one or more of them will engage in conduct which constitutes such offense.

B. It is no defense to a prosecution for conspiring to commit an offense that a person, who knows that a person with whom he or she conspires to commit an offense has conspired with another person or persons to commit the same offense, does not know the identity of such other person or persons.

C. If a person conspires to commit a number of offenses, he or she can be found guilty of only one offense so long as such multiple offenses are the object of the same agreement.

D. No person may be convicted of an offense based upon a 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 her or by a person with whom he or she conspired.

#### *E. Exceptions.*

1. No person shall be convicted of an offense based upon a conspiracy to commit an offense if, after conspiring to commit the offense, he/she prevented the accomplishment of the objectives of the conspiracy under circumstances manifesting a renunciation of his/her criminal purpose.

2. The defendant shall have the burden of injecting the issue of renunciation of criminal purpose

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<sup>2</sup>1. Note: Under certain circumstances this offense can be a felony under state law.

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under Subsection (E)(1).

F. For the purpose of time limitations on prosecutions:

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

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

**Section 210.040. through Section 210.110. (Reserved)**

ARTICLE II

**Offenses Against the Person**

**Section 210.120. Assault.<sup>3</sup>**

A. A person commits the offense of assault if:

1. The person attempts to cause or recklessly causes physical injury, physical pain or illness to another person;
2. With criminal negligence the person causes physical injury to another person by means of a firearm;
3. The person purposely places another person in apprehension of immediate physical injury;
4. The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person;
5. The person knowingly causes or attempts to cause physical contact with a person with a disability, which a reasonable person, who does not have a disability, would consider offensive or provocative; or
6. The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

**Section 210.130. Domestic Assault.<sup>4</sup>**

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<sup>3</sup>2. Editor's Note: As to assault of certain other persons, see the definition of "special victim" as set out in Section 210.010 of this Chapter.

<sup>4</sup>3.

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

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A. A person commits the offense of domestic assault if the act involves a domestic victim, as the term "domestic victim" is defined under Section 565.002, RSMo., and:

1. The person attempts to cause or recklessly causes physical injury, physical pain, or illness to such domestic victim;
2. With criminal negligence the person causes physical injury to such domestic victim by means of a deadly weapon or dangerous instrument;
3. The person purposely places such domestic victim in apprehension of immediate physical injury by any means;
4. The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to such domestic victim;
5. The person knowingly causes physical contact with such domestic victim knowing he or she will regard the contact as offensive; or
6. The person knowingly attempts to cause or causes the isolation of such domestic victim by unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication devices or transportation for the purpose of isolation.

**Section 210.140. (Reserved)**<sup>5</sup>

**Section 210.150. Harassment.**

A person commits the offense of harassment if he/she, without good cause, engages in any act with the purpose to cause emotional distress to another person.

**Section 210.160. Stalking — Definitions.**<sup>6</sup>

A. *Definitions.* As used in this Section:

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

B. A person commits the offense of stalking if he or she purposely, through his or her course of conduct, disturbs, or follows with the intent to disturb another person.

C. This Section shall not apply to activities of Federal, State, County, or Municipal Law

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<sup>54</sup>. Editor's Note: This Section previously pertained to assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer. However, the authorizing statute, former RSMo. §565.083, was repealed without replacement by SB 491 in the 2014 Legislative Session, effective 1-1-2017. See Section 210.120, Assault, as it relates to a "special victim."

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<sup>65</sup>.

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

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Enforcement Officers conducting investigations of any violation of Federal, State, County, or Municipal Law.

D. Any Law Enforcement Officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this Section.

**Section 210.170. Kidnapping.<sup>7</sup>**

A person commits the offense of kidnapping if he or she knowingly restrains another unlawfully and without consent so as to interfere substantially with his or her liberty.

**Section 210.180. Endangering the Welfare of a Child.<sup>8</sup>**

A. A person commits the offense of endangering the welfare of a child if he/she:

1. With criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen (17) years old; or
2. Knowingly encourages, aids or causes a child less than seventeen (17) years of age 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
3. Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen (17) years of age, recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him/her from coming within the provisions of Paragraph (c) of Subdivision (1) of Subsection (1) or Paragraph (d) of Subdivision (2) of Subsection (1) or Subdivision (3) of Subsection (1) of Section 211.031, RSMo.; or
4. Knowingly encourages, aids or causes a child less than seventeen (17) years of age to enter into any room, building or other structure which is a public nuisance as defined in Section 579.105, RSMo.

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

**Section 210.190. Leaving a Child Unattended in a Motor Vehicle — Definitions.<sup>9</sup>**

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<sup>7</sup>6. Note: Under certain circumstances this offense can be a felony under state law.

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<sup>8</sup>7. Note: Under certain circumstances this offense can be a felony under state law.

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<sup>9</sup>8. Note: Under certain circumstances this offense can be a felony under state law.

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A. *Definitions.* As used in this Section, the following terms mean:

COLLISION — The act of a motor vehicle coming into contact with an object or a person.

INJURES — To cause physical harm to the body of a person.

MOTOR VEHICLE — Any automobile, truck, truck-tractor, or any motor bus or motor-propelled vehicle not exclusively operated or driven on fixed rails or tracks.

UNATTENDED — Not accompanied by an individual fourteen (14) years of age or older.

B. A person commits the offense of leaving a child unattended in a motor vehicle if such person knowingly leaves a child less than eleven (11) years of age unattended in a motor vehicle and such child injures another person by causing a motor vehicle collision or by causing the motor vehicle to injure a pedestrian.

C. The offense of leaving a child unattended in a motor vehicle is an ordinance violation.

**Section 210.200. through Section 210.290. (Reserved)**

ARTICLE III

**Offenses Concerning Administration of Justice**

**Section 210.300. Concealing an Offense.<sup>10</sup>**

A. A person commits the offense of concealing an offense if he or she:

1. Confers or agrees to confer any pecuniary benefit or other consideration to any person in consideration of that person's concealing of any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof; or
2. Accepts or agrees to accept any pecuniary benefit or other consideration in consideration of his/her concealing any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof.

**Section 210.310. Hindering Prosecution.<sup>11</sup>**

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

1. Harbors or conceals such person; or
2. Warns such person of impending discovery or apprehension, except this does not apply to a

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<sup>10</sup>9. Note: Under certain circumstances this offense can be a felony under state law.

<sup>11</sup>10.

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

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warning given in connection with an effort to bring another into compliance with the law; or

3. Provides such person with money, transportation, weapon, disguise or other means to aid him/her in avoiding discovery or apprehension; or
4. Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person.

#### **Section 210.320. Refusal To Identify as a Witness.**

A person commits the offense of refusal to identify as a witness if, knowing he or she has witnessed any portion of an offense, or of any other incident resulting in physical injury or substantial property damage, he or she refuses to report or gives a false report of his or her name and present address to a Law Enforcement Officer engaged in the performance of his or her duties.

#### **Section 210.330. Disturbing a Judicial Proceeding.**

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

#### **Section 210.340. Tampering With a Witness or Victim.<sup>12</sup>**

- A. A person commits the offense of tampering with a witness or victim if:
  1. With the purpose to induce a witness or a prospective witness to disobey a subpoena or other legal process, absent himself or herself, avoid subpoena or other legal process, withhold evidence, information, or documents, or testify falsely, he or she:
    - 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; or
  2. He or she purposely prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any crime or a person who is acting on behalf of any such victim from:
    - a. Making any report of such victimization to any peace officer, State, Local or Federal Law Enforcement Officer, prosecuting agency, or judge;
    - b. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof;

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<sup>12</sup> 1. Note: Under certain circumstances this offense can be a felony under state law.

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- c. Arresting or causing or seeking the arrest of any person in connection with such victimization.

**Section 210.350. Tampering With Physical Evidence.**<sup>13</sup>

- A. A person commits the offense of tampering with physical evidence if he/she:
  - 1. Alters, destroys, suppresses or conceals any record, document or thing with the purpose to impair its verity, legibility or availability in any official proceeding or investigation; or
  - 2. Makes, presents or uses any record, document or thing knowing it to be false with the purpose to mislead a public servant who is or may be engaged in any official proceeding or investigation.

**Section 210.360. Improper Communication.**

A person commits the offense of improper communication if he/she communicates, directly or indirectly, with any juror, special master, referee or arbitrator in a judicial proceeding, other than as part of the proceedings in a case, for the purpose of influencing the official action of such person.

**Section 210.370. False Impersonation.**

- A. A person commits the offense of false impersonation if such person:
  - 1. Falsely represents himself/herself to be a public servant with the purpose to induce another to submit to his/her pretended official authority or to rely upon his/her pretended official acts, and
    - a. Performs an act in that pretended capacity; or
    - b. Causes another to act in reliance upon his/her pretended official authority.
  - 2. Falsely represents himself/herself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this State with purpose to induce another to rely upon such representation, and
    - a. Performs an act in that pretended capacity; or
    - b. Causes another to act in reliance upon such representation; or
  - 3. Upon being arrested, falsely represents himself/herself, to a Law Enforcement Officer, with the first and last name, date of birth or social security number, or a substantial number of identifying factors or characteristics as that of another person that results in the filing of a report or record of arrest or conviction for an infraction or offense that contains the first and last name, date of birth and social security number, or a substantial number of identifying factors or characteristics to that of such other person as to cause such other person to be identified as the actual person arrested or convicted.
- B. If a violation of Subsection (A)(3) hereof is discovered prior to any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney bringing any action on the underlying charge shall notify the court thereof, and the court shall order the false-identifying factors

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<sup>13</sup>12. Note: Under certain circumstances this offense can be a felony under state law.

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ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

C. Any person who is the victim of a false impersonation and whose identity has been falsely reported in arrest or conviction records may move for expungement and correction of said records under the procedures set forth in Section 610.123, RSMo. Upon a showing that a substantial number of identifying factors of the victim was falsely ascribed to the person actually arrested or convicted, the court shall order the false-identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate factors from the arrest and court records.

### **Section 210.380. False Reports.**

- A. A person commits the offense of making a false report if he/she knowingly:
1. Gives false information to any person for the purpose of implicating another person in an offense; or
  2. Makes a false report to a Law Enforcement Officer that an offense has occurred or is about to occur; or
  3. Makes a false report or causes a false report to be made to a Law Enforcement Officer, security officer, Fire Department or other organization, official or volunteer which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred or is about to occur.
- B. It is a defense to a prosecution under Subsection (A) of this Section that the person retracted the false statement or report before the Law Enforcement Officer or any other person took substantial action in reliance thereon.
- C. The defendant shall have the burden of injecting the issue of retraction under Subsection (B) of this Section.

### **Section 210.390. Resisting or Interfering With Arrest, Detention or Stop.<sup>14</sup>**

- A. A person commits the offense of resisting or interfering with arrest, detention, or stop if he or she knows or reasonably should know that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle, and for the purpose of preventing the Officer from effecting the arrest, stop or detention, he or she:
1. Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or
  2. Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.
- B. This Section applies to:

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<sup>14</sup>13. Note: Under certain circumstances this offense can be a felony under state law.

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1. Arrests, stops or detentions with or without warrants;
2. Arrests, stops or detentions for any offense, infraction or ordinance violation; and
3. Arrests for warrants issued by a court or a probation and parole officer.

C. A person is presumed to be fleeing a vehicle stop if he or she continues to operate a motor vehicle after he or she has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing him or her.

D. It is no defense to a prosecution under Subsection (A) of this Section that the Law Enforcement Officer was acting unlawfully in making the arrest. However, nothing in this Section shall be construed to bar civil suits for unlawful arrest.

#### **Section 210.400. Escape or Attempted Escape From Custody.<sup>15</sup>**

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

#### **Section 210.410. Interference With Legal Process.**

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

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

#### **Section 210.420. Identification Upon Request by Police Officer.**

When a Police Officer has reasonable cause to believe that a person has violated any City ordinance, such officer may request the suspect to identify himself/herself. It shall be unlawful for anyone to refuse to properly identify himself/herself when he/she has been asked to do so by an officer after said officer has identified himself/herself as a Clever Police Officer.

#### **Section 210.430. Refusing to Obey the Lawful Request of a Police Officer.**

Any person who refuses to obey the lawful request of a Police Officer, after said officer has identified himself/herself as such, shall, upon conviction, be punished as provided in Section 100.220 of the Code of the City of Clever, Missouri.

#### **Section 210.440. through Section 210.510. (Reserved)**

### ARTICLE IV

#### **Offenses Concerning Public Safety**

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<sup>15</sup>14.

**Note: Under certain circumstances this offense can be a felony under state law.**

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**Section 210.520. Abandonment of Airtight or Semi-Airtight Containers.**

- A. A person commits the offense of abandonment of an airtight or semi-airtight container if he or she knowingly abandons, discards, or permits to remain on premises under his or her control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-airtight container which has a capacity of one and one-half (1 1/2) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.
- B. Subsection (A) of this Section does not apply to an icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouse operator or repair person.
- C. The defendant shall have the burden of injecting the issue under Subsection (B) of this Section.
- D. The offense of abandonment of an airtight or semi-airtight container is an ordinance violation.

**Section 210.530. Littering.**

A person commits the offense of littering if he or she places, deposits, or causes to be placed or deposited, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse, or rubbish of any kind, nature or description on the right-of-way of any public road or State highway or on or in any of the waters in this City or on the banks of any stream, or on any land or water owned, operated or leased by the State, any board, department, agency or commission thereof or on any land or water owned, operated or leased by the Federal Government or the City, or on any private real property owned by another without the owner's consent.

**Section 210.540. Littering Via Carcasses.**

- A. A person commits the offense of unlawful disposition of a dead animal if he or she knowingly places or causes to be placed the carcass or offal of any dead animal:
  - 1. Into any well, spring, brook, branch, creek, pond, or lake; or
  - 2. On any public road or highway, river, stream, or watercourse or upon premises not his or her own for the purpose of annoying another or others.

**Section 210.550. Tampering With a Water Supply.**

- A. A person commits the offense of tampering with a water supply if he or she purposely:
  - 1. Poisons, defiles or in any way corrupts the water of a well, spring, brook or reservoir used for domestic or municipal purposes; or
  - 2. Diverts, dams up and holds back from its natural course and flow any spring, brook or other water supply for domestic or municipal purposes, after said water supply shall have once been taken for use by any person or persons, corporation, town or city for his/her, their or its use.
- B. The offense of tampering with a water supply is an ordinance violation.

**Section 210.560. through Section 210.650. (Reserved)**

## ARTICLE V

### Offenses Concerning Public Peace

#### Section 210.660. Definitions.

As used in this Article, the following terms mean:

**PRIVATE PROPERTY** — Any place which at the time of the offense is not open to the public. It includes property which is owned publicly or privately.

**PROPERTY OF ANOTHER** — Any property in which the person does not have a possessory interest.

**PUBLIC PLACE** — Any place which at the time of the offense is open to the public. It includes property which is owned publicly or privately.

#### Section 210.670. Peace Disturbance.

- A. A person commits the offense of peace disturbance if he or she:
1. 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. Is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
    - a. Vehicular or pedestrian traffic; or
    - b. The free ingress or egress to or from a public or private place.

#### Section 210.680. Private Peace Disturbance.

- A. A person commits the offense of private peace disturbance if he/she is on private property and unreasonably and purposely causes alarm to another person or persons on the same premises by:
1. Threatening to commit an offense against any person; or
  2. Fighting.
- B. For purposes of this Section, if a building or structure is divided into separately occupied units, such units are separate premises.

**Section 210.690. Unlawful Assembly.**

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

**Section 210.700. Rioting.**

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

**Section 210.710. Refusal To Disperse.**

A person commits the offense of refusal to disperse if, being present at the scene of an unlawful assembly or at the scene of a riot, he/she knowingly fails or refuses to obey the lawful command of a Law Enforcement Officer to depart from the scene of such unlawful assembly or riot.

**Section 210.720. Obstructing Public Places.**

A. *Definition.* The following term shall be defined as follows:

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

B. It shall be unlawful for any person to stand or remain idle either alone or in consort with others in a public place in such manner so as to:

1. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;
2. Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk, or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto;
3. Obstruct the entrance to any business establishment, without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

C. When any person causes or commits any of the conditions in this Section, a Police Officer or any Law Enforcement Officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this Section.

**Section 210.730. Disrupting a House of Worship.**<sup>16</sup>

- A. For purposes of this Section, "house of worship" means any church, synagogue, mosque, other building or structure, or public or private place used for religious worship, religious instruction, or other religious purpose.
- B. A person commits the offense of disrupting a house of worship if such person:
  - 1. Intentionally and unreasonably disturbs, interrupts, or disquiets any house of worship by using profane discourse, rude or indecent behavior, or making noise either within the house of worship or so near it as to disturb the order and solemnity of the worship services; or
  - 2. Intentionally injures, intimidates, or interferes with or attempts to injure, intimidate, or interfere with any person lawfully exercising the right of religious freedom in or outside of a house of worship or seeking access to a house of worship, whether by force, threat, or physical obstruction.

**Section 210.740. Unlawful Funeral Protests Prohibited — Definitions.**

A. A person commits the offense of unlawful funeral protest if he or she pickets or engages in other protest activities within three hundred (300) feet of any residence, cemetery, funeral home, church, synagogue or other establishment during or within one (1) hour before or one (1) hour after the conducting of any actual funeral or burial service at that place.

B. *Definitions.* As used in this Section, the following terms mean:

OTHER PROTEST ACTIVITIES — Any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

FUNERAL and BURIAL SERVICE — The ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this Section does not apply to processions while they are in transit beyond any three-hundred-foot zone that is established under Subsection (A) above.

C. The offense of unlawful funeral protest shall be an ordinance violation.

**Section 210.750. Unreasonably Loud or Disturbing Noises Prohibited.**

A. It shall be unlawful for any person to make any excessive, unnecessary or unusually loud noise which either damages, disturbs, injures or endangers the comfort, health, peace or safety of others within the City of Clever. The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Section, but said enumeration shall not be deemed to be exclusive, namely:

- 1. The using, operating, or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, or other machine or device which violates the peace, quiet and comfort of the neighboring inhabitants at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie

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<sup>16</sup>15. Note: Under certain circumstances this offense can be a felony under state law.

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evidence of a violation of this Section.

2. The keeping of any animal, bird or fowl which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.
3. Between the hours of 9:00 P.M. and 8:00 A.M., the use of mechanical loud speakers or amplifiers or other noise-making device for the purpose of advertising or attracting attention to any performance, show, sale or display of merchandise or for any other purpose.
4. Yelling, shouting, whistling or singing, particularly between the hours of 11:00 P.M. and 8:00 A.M. or at any time or place so as to annoy or disturb the quiet or comfort of persons in any office, dwelling, hotel, residence or any other persons in the vicinity.
5. The use of any automobile, motorcycle, or vehicle so out of repair as to create loud and unnecessary grating, scraping, grinding, rattling or other noise.

### **Section 210.760. Disturbance of Lawful Assembly.**

No person shall willfully, maliciously or contemptuously disquiet or disturb any congregation or other assembly met for religious worship or when meeting at a place of worship or dispersing therefrom, or any school, or other meeting or assembly of people met together for any lawful purpose whatever by making a noise or by rude or indecent behavior or profane discourse within the place of assembly or so near the same as to interrupt or disturb the order or solemnity thereof or willfully menace, threaten or assault any person at such a place.

### **Section 210.770. Disorderly Conduct.**

A. Definitions. As used in this Section, the following terms shall have these prescribed meanings:

INCITE A RIOT — Urging or instigating other person to riot, but shall not be deemed to mean the mere oral or written:

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

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

RIOT — A public disturbance involving:

1. An act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons, which act or acts shall constitute a clear and a present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual; or
2. A threat or threats of the commission of an act or acts of violence by one (1) or more persons part of an assemblage of three (3) or more persons having, individually or collectively, the ability of immediate execution of such threat or threats where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

B. *Disorderly Conduct Prohibited.* A person shall be guilty of disorderly conduct if, with the

purpose of causing public danger, alarm, disorder, nuisance or if his/her conduct is likely to cause public danger, alarm, disorder, or nuisance, he/she willfully does any of the following acts in a public place:

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his/her life, injury to his/her limb or health;
2. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
3. Causes, provokes, or engages in any fight, brawl, or riotous conduct so as to endanger the life, limb, health, or property of another;
4. Interferes with another's pursuit of a lawful occupation by acts of violence;
5. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the City Police or other lawful authority known to be such;
6. Is in a public place under the influence of an intoxicating liquor or drug in such condition as to be unable to exercise care for his/her own safety or the safety of others;
7. Resists or obstructs the performance of duties by City Police or any other authorized official of the City when known to be such an official;
8. Incites, attempts to incite or is involved in attempting to incite a riot;
9. Addresses abusive language or threats to any member of the Police Department, any other authorized official of the City who is engaged in lawful performance of his/her duties or any other person when such words have a tendency to cause acts of violence. Words merely causing displeasure, annoyance, or resentment are not prohibited; this includes the disrupter of any and all City meetings;
10. Damages, befouls, or disturbs property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition;
11. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other person nearby or near to any public highway, road, street, lane, alley, park, square or common whereby the public peace is broken or disturbed or the traveling public annoyed;
12. Fails to obey a lawful order to disperse by a Police Officer when known to be such an official where one (1) or more persons are committing acts of disorderly conduct in the immediate vicinity and the public health and safety is imminently threatened;
13. Uses abusive or obscene language or makes an obscene gesture.
14. Enters into any schoolhouse or church house in which there is an assemblage of people, met for a lawful purpose or the 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 assemblage of people, or in the City Hall within this City.
15. No person shall knowingly damage the property of another.
16. No person shall discharge a paint gun, throw any stone, brickbat, ball or missile or use a slingshot or other device to cause an object to be thrown, shot or slung toward another person(s) or property within the City without the prior consent of said person; nor shall any person use any of the above devices to cause any object to be thrown toward or propelled toward a moving vehicle within the City



limits of the City of Clever, Missouri.

17. No person shall lay or cause to be laid or deposited upon any roadway any object which may damage a motor vehicle, in any way impair the driver's vision or startle the vehicle's operator.

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

D. Any person who violates the provisions of this Section may be punished by a minimum fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

## **Section 210.780. through Section 210.820. (Reserved)**

### ARTICLE VI

#### **Offenses Concerning Weapons and Firearms**

##### **Section 210.830. Definitions.**

The following words, when used in this Article, shall have the meanings set out herein:

ANTIQUÉ, CURIO OR RELIC FIREARM — Any firearm so defined by the National Gun Control Act, 18 U.S.C. Title 26, §5845, and the United States Treasury/Bureau of Alcohol, Tobacco and Firearms, 27 CFR 178.11:

1. "Antique firearm" is any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, said ammunition not being manufactured any longer; this includes any matchlock, wheel lock, flintlock, percussion cap or similar type ignition system, or replica thereof;

2. Curio or relic firearm is any firearm deriving value as a collectible weapon due to its unique design, ignition system, operation or at least fifty (50) years old, associated with a historical event, renown personage or major war.

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.

BLASTING AGENT — Any material or mixture, consisting of fuel and oxidizer that is intended for blasting, but not otherwise defined as an explosive under this Section, provided that the finished product, as mixed for use of shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

CONCEALABLE FIREARM — Any firearm with a barrel less than sixteen (16) inches in length, measured from the face of the bolt or standing breech.

DEFACE — To alter or destroy the manufacturer's or importer's serial number or any other distinguishing number or identification mark.

DETONATOR — Any device containing a detonating charge that is used for initiating detonation in an explosive, including but not limited to, electric blasting caps of instantaneous and delay types, non-electric blasting caps for use with safety fuse or shock tube and detonating cord delay connectors.

EXPLOSIVE WEAPON — Any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon. For the purposes of this Article, the term "explosive" shall mean any chemical compound mixture or device, the primary or common purpose of which is to function by

explosion, including but not limited to, dynamite and other high explosives, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cords, igniter cords, and igniters or blasting agents.

**FIREARM** — Any weapon that is designed or adapted to expel a projectile by the action of an explosive.

**FIREARM SILENCER** — Any instrument, attachment or appliance that is designed or adapted to muffle the noise made by the firing of any firearm.

**GAS GUN** — Any gas ejection device, weapon, cartridge, container or contrivance, other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellent or temporary incapacitating substance.

**INTOXICATED** — Substantially impaired mental or physical capacity resulting from introduction of any substance into the body.

**KNIFE** — 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 Article, "knife" does not include any ordinary pocketknife with no blade more than four (4) inches in length.

**KNUCKLES** — 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.

**MACHINE GUN** — Any firearm that is capable of firing more than one (1) shot automatically, without manual reloading, by a single function of the trigger.

**PROJECTILE WEAPON** — 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.

**RIFLE** — 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 projectile through a rifled bore by a single function of the trigger.

**SHORT BARREL** — A barrel length of less than sixteen (16) inches for a rifle and eighteen (18) inches for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than twenty-six (26) inches.

**SHOTGUN** — 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 projectile through a smooth bore barrel by a single function of the trigger.

**SPRING GUN** — Any fused, timed or non-manually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

**SWITCHBLADE KNIFE** — Any knife which has a blade that folds or closes into the handle or sheath, and

1. That opens automatically by pressure applied to a button or other device located on the handle; or
2. That opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

#### **Section 210.840. Weapons — Carrying Concealed — Other Unlawful Use.<sup>17</sup>**

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<sup>17</sup>16. Note: Under certain circumstances this offense can be a felony under state law.

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- A. A person commits the offense of unlawful use of weapons if he/she knowingly:
1. Carries concealed upon or about his/her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or
  2. Sets a spring gun; or
  3. Discharges or shoots a firearm within the City limits;<sup>18</sup> or
  4. Exhibits, in the presence of one (1) or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or
  5. Has a firearm or projectile weapon readily capable of lethal use on his/her person, while he/she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self defense; or
  6. (Reserved)
  7. Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.
  8. Possesses a firearm while also knowingly in possession of a controlled substance that is sufficient for a felony violation of Section 579.015, RSMo.

B. Subsections (A)(1) and (7) of this Section shall not apply to the persons described in this Subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this Subsection. Subsections (A)(3) and (4) of this Section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this Subsection:

1. All State, County and Municipal Peace Officers who have completed the training required by the Police Officer Standards and Training Commission pursuant to Sections 590.030 to 590.050, RSMo., and who possess the duty and power of arrest for violation of the general criminal laws of the State or for violation of ordinances of Counties or Municipalities of the State, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired Peace Officers, as defined in Subsection (12) of Section 571.030, RSMo., and who carry the identification defined in Subsection (13) of Section 571.030, RSMo., or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
2. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
3. Members of the Armed Forces or National Guard while performing their official duty;
4. Those persons vested by Article V, Section 1, of the Constitution of Missouri with the judicial power of the State and those persons vested by Article III of the Constitution of the United States with

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<sup>18</sup>17.

State Law Reference: §252.243.3, RSMo., limits the discharge of firearms in certain areas known as "Hunting Heritage Protection Areas," which are defined therein.

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the judicial power of the United States, the members of the Federal judiciary;

5. Any person whose bona fide duty is to execute process, civil or criminal;
6. Any Federal Probation Officer or Federal Flight Deck Officer as defined under the Federal Flight Deck Officer Program, 49 U.S.C. §44921, regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;
7. Any State Probation or Parole Officer, including supervisors and members of the Board of Probation and Parole;
8. Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the Department of Public Safety under Section 590.750, RSMo.;
9. Any coroner, deputy coroner, medical examiner or assistant medical examiner;
10. Any prosecuting attorney or assistant prosecuting attorney, circuit attorney or assistant circuit attorney or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under Subsection (2) of Section 571.111, RSMo.;
11. Any member of a Fire Department or Fire Protection District who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement issued prior to August 28, 2013, or valid concealed carry permit under Section 571.111, RSMo., when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties; and
12. Upon the written approval of the Governing Body of a Fire Department or Fire Protection District, any paid Fire Department or Fire Protection District Chief who is employed on a full-time basis and who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.

C. Subsections (A)(1), (5) and (7) of this Section do not apply when the actor is transporting such weapons in a non-functioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subsection (A)(1) of this Section does not apply to any person nineteen (19) years of age or older or eighteen (18) years of age or older and a member of the United States Armed Forces, or honorably discharged from the United States Armed Forces, transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his/her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this State. Subsection (A)(7) of this Section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event or club event.

D. Subsections (A)(1) and (7) of this Section shall not apply to any person who has a valid concealed carry permit issued pursuant to Sections 571.101 to 571.121, RSMo., a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision of another State.

E. Subsections (A)(3), (4), (5) and (7) of this Section shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.

F. 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 or club-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.

**Section 210.850. Possession, Manufacture, Transport, Repair, Sale of Certain Weapons.<sup>19</sup>**

A. A person commits an offense if such person knowingly possesses, manufactures, transports, repairs, or sells:

1. An explosive weapon;
2. An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;
3. A gas gun;
4. A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm;
5. Knuckles; or
6. Any of the following in violation of Federal law:
  - a. A machine gun;
  - b. A short-barreled rifle or shotgun;
  - c. A firearm silencer; or
  - d. A switchblade knife.

B. A person does not commit an offense pursuant to this Section if his/her conduct involved any of the items in Subsections (A)(1) through (5), the item was possessed in conformity with any applicable Federal law, and the conduct:

1. Was incident to the performance of official duty by the Armed Forces, National Guard, a governmental law enforcement agency or a penal institution; or
2. Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in Subparagraph (1) of this Subsection; or
3. Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or
4. Was incident to displaying the weapon in a public museum or exhibition; or
5. Was incident to using the weapon in a manner reasonably related to a lawful dramatic performance.

**Section 210.860. Defacing Firearm.**

A person commits the offense of defacing a firearm if he/she knowingly defaces any firearm.

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<sup>19</sup>18. Note: Under certain circumstances this offense can be a felony under state law.

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**Section 210.870. Purchase in Another State by Missouri Residents, Permitted When.**

Residents of the State of Missouri may purchase firearms in any State, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, 18 U.S.C. §921 et seq., and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the State of Missouri and in the State in which the purchase is made.

**Section 210.880. Purchase in Missouri by Non-Resident, Permitted When.**

Residents of any State may purchase firearms in the State of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, 18 U.S.C. §921 et seq., and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the State of Missouri and in the State in which such persons reside.

**Section 210.890. Unlawful Transfer of Weapons.<sup>20</sup>**

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

**Section 210.900. Carrying Concealed Firearms Prohibited — Penalty for Violation.**

- A. It shall be a violation of this Section, punishable as hereinafter provided, for any person to carry any concealed firearm into:
1. Any Police, Sheriff or Highway Patrol office or station without the consent of the Chief Law Enforcement Officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
  2. Within twenty-five (25) feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
  3. The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

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<sup>20</sup>19. Note: Under certain circumstances this offense can be a felony under state law.

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4. Any courthouse solely occupied by the Circuit, Appellate or Supreme Court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This Subsection shall also include, but not be limited to, any juvenile, family, drug or other court offices, any room or office wherein any of the courts or offices listed in this Subsection are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by Supreme Court Rule pursuant to Subdivision (6) of Subsection (1) of Section 571.107, RSMo. Nothing in this Subsection shall preclude those persons listed in Subsection (B)(1) of Section 210.840 while within their jurisdiction and on duty, those persons listed in Subsections (B)(2), (4) and (10) of Section 210.840, or such other persons who serve in a law enforcement capacity for a court as may be specified by Supreme Court Rule pursuant to Subdivision (6) of Subsection (1) of Section 571.107, RSMo., from carrying a concealed firearm within any of the areas described in this Subsection. Possession of a firearm in a vehicle on the premises of any of the areas listed in this Subsection shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
5. Any meeting of the Clever Board of Aldermen, except that nothing in this Subsection shall preclude a member of the Board of Aldermen holding a valid concealed carry permit or endorsement from carrying a concealed firearm at a meeting of the Board of Aldermen of which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
6. Any building owned, leased or controlled by the City of Clever identified by signs posted at the entrance to the building. This Subsection shall not apply to any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by the City of Clever. Persons violating this Subsection may be denied entrance to the building, ordered to leave the building and, if employees of the City, be subjected to disciplinary measures for violation;
7. Any establishment licensed to dispense intoxicating liquor for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this Subsection shall not apply to the licensee of said establishment. The provisions of this Subsection shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and that receives at least fifty-one percent (51%) of its gross annual income from the dining facilities by the sale of food. This Subsection does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this Subsection authorizes any individual who has been issued a concealed carry permit or endorsement to possess any firearm while intoxicated;
8. Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
9. Any place where the carrying of a firearm is prohibited by Federal law;
10. Any higher education institution or elementary or secondary school facility without the consent of the Governing Body of the higher education institution or a school official or the district school board, unless the person with the concealed carry endorsement or permit is a teacher or administrator of an elementary or secondary school who has been designated by his or her school district as a school protection officer and is carrying a firearm in a school within that district, in which case no consent is required. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not

removed from the vehicle or brandished while the vehicle is on the premises;

11. Any portion of a building used as a child care facility without the consent of the manager. Nothing in this Subsection shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a concealed carry permit or endorsement;

12. Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the Gaming Commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

13. Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

14. Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

15. Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one (1) or more signs displayed in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than one (1) inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity or person may prohibit persons holding a concealed carry permit or endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry permit or endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry permit or endorsement from carrying a concealed firearm in vehicles owned by the employer;

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

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

B. Any person violating any of the provisions of Subsection (A) of this Section shall be punished as follows:

1. If the violator holds a concealed carry permit or endorsement issued pursuant to State law, the violator may be subject to denial to the premises or removal from the premises. If such person refuses to leave the premises and a Peace Officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars (\$100.00) for the first offense. If a second citation for a similar violation occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars (\$200.00). If a third citation for a similar violation is issued within one (1) year of the first citation, such person shall be fined an amount not to exceed five hundred dollars (\$500.00). Upon conviction of charges arising from a citation issued pursuant to this Section, the court shall notify the Sheriff of the County which issued the concealed carry permit, or, if the person is a holder



of a concealed carry endorsement issued prior to August 28, 2013, the court shall notify the Sheriff of the County which issued the certificate of qualification for a concealed carry permit or endorsement and the Department of Revenue.

2. If the violator does not hold a current valid concealed carry permit or endorsement issued pursuant to State law, upon conviction of a charge of violating this Section the defendant shall be punished as provided in Section 100.220 of this Code of Ordinances.

3. Employees of the City of Clever may, in addition to any other punishment hereby, be subject to disciplinary action.

C. It shall be a violation of this Section, punishable by a citation for an amount not to exceed thirty-five dollars (\$35.00), for any person issued a concealed carry permit or endorsement pursuant to State law to fail to carry the concealed carry permit or endorsement at all times the person is carrying a concealed firearm, or to fail to display the concealed carry permit or endorsement upon the request of any Peace Officer.

#### **Section 210.910. Open Display of Firearm Permitted, When.**

Any person who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit, and who is lawfully carrying a firearm in a concealed manner, may briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.

#### **Section 210.920. Discharging Air Gun, Etc.**

Any person within the limits of this City who shall discharge any BB gun which expels a projectile by means of a spring, air or any other means, paintball gun or air gun or shall shoot any pebble, bullet, slug, arrow or other hard substance by means of a sling, crossbow, rubber band or bow or any other means shall be deemed guilty of an ordinance violation.

#### **Section 210.930. Turkey Shoots and Other Charitable Events.**

The discharge of firearms in connection with any turkey shoots or other charitable event may be authorized by the Board of Aldermen.

#### **Section 210.940. Possession of Firearm Unlawful for Certain Persons — Penalty — Exception.<sup>21</sup>**

A. A person commits the offense of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and:

1. Such person has been convicted of a felony under the laws of this State, or of a crime under the laws of any State or of the United States which, if committed within this State, would be a felony; or
2. Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

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<sup>21</sup>20. Note: This offense is a felony under state law.

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- B. The provisions of Subsection (A)(1) of this Section shall not apply to the possession of an antique firearm.

**Section 210.950. through Section 210.1010. (Reserved)**

ARTICLE VII

**Offenses Concerning Property**

**Section 210.1020. Definitions.**

As used in this Article, the following terms mean:

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

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

UTILITY — An enterprise which provides gas, electric, steam, water, sewage disposal, or communication, video, internet, or voice over internet protocol services, and any common carrier. It may be either publicly or privately owned or operated.

**Section 210.1030. Tampering.<sup>22</sup>**

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

1. Tamper with property of another for the purpose of causing substantial inconvenience to that person or to another; or
2. Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle; or
3. Tamper or makes connection with property of a utility; or
4. Tamper with, or causes to be tampered with, any meter or other property of an electric, gas, steam or water utility, the effect of which tampering is either:
  - a. To prevent the proper measuring of electric, gas, steam or water service; or
  - b. To permit the diversion of any electric, gas, steam or water service.

- B. In any prosecution under Subsection (A)(4), proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam or water service with one (1) or more of the effects described in Subsection (A)(4), shall be sufficient to support an inference which the trial court may submit to the trier of fact from which the trier of

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<sup>22</sup>21. Note: Under certain circumstances this offense can be a felony under state law.

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fact may conclude that there has been a violation of such Subsection by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

C. Any person or persons who damage or caused to be damaged any water meter or any property belonging to the City of Clever, Missouri, will be held responsible for repair of same or replacement of property damaged.

**Section 210.1040. Property Damage.**<sup>23</sup>

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

**Section 210.1050. Claim of Right.**

- A. A person does not commit an offense by damaging, tampering with, operating, riding in or upon or making connection with property of another if he/she does so under a claim of right and has reasonable grounds to believe he/she has such a right.
- B. The defendant shall have the burden of injecting the issue of claim of right.
- C. No person who, as a tenant, willfully or wantonly destroys, defaces, damages, impairs or removes any part of a leased structure or dwelling unit, or the facilities, equipment or appurtenances thereof, may inject the issue of claim of right.

**Section 210.1060. Trespass in the First Degree.**

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

**Section 210.1070. Trespass in the Second Degree.**

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

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<sup>23</sup>22. Note: Under certain circumstances this offense can be a felony under state law.

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**Section 210.1080. Trespass of a School Bus.**

- A. A person commits the offense of trespass of a school bus if he or she knowingly and unlawfully enters any part of or unlawfully operates any school bus.
- B. For the purposes of this Section, the terms "unlawfully enters" and "unlawfully operates" refer to any entry or operation of a school bus which is not:
  - 1. Approved of and established in a school district's written policy on access to school buses; or
  - 2. Authorized by specific written approval of the school board.
- C. In order to preserve the public order, any district which adopts the policies described in Subsection (B) of this Section shall establish and enforce a student behavior policy for students on school buses.

**Section 210.1090. Reckless Burning or Exploding.**

A person commits the offense of reckless burning or exploding if he/she recklessly starts a fire or causes an explosion and thereby damages or destroys the property of another.

**Section 210.1100. Negligent Burning or Exploding.**

- A. A person commits the offense of negligent burning or exploding if he/she with criminal negligence causes damage to property or to the woodlands, cropland, grassland, prairie, or marsh of another by:
  - 1. Starting a fire or causing an explosion; or
  - 2. Allowing a fire burning on lands in his or her possession or control onto the property of another.

**Section 210.1105. Open Burning Of Residential Yard Waste, Etc.**

**[Ord. No. 387-A, 2007]**

- A. Burning Limited.
  - 1. Within the corporate limits of the City, the open burning of residential yard waste consisting of leaves and brush from vegetation grown on a residential property is permitted.
  - 2. The burning of garbage, tires, fabric, furniture or any other man made waste is prohibited.
- B. Restrictions On Burning Yard Waste. The burning of yard waste shall be conducted as follows:
  - 1. At no time shall a fire be located on a City street or any sidewalk.
  - 2. Firefighting material sufficient to contain any fire started under this Section will be at the site of the burning.
  - 3. All fires shall be monitored from a point on the property where the fire is located by a person capable of containing a fire, should containment be necessary. A minor child is not considered a person considered capable of containing a fire.
  - 4. If the safety of the community or the public may be endangered, the Mayor may invoke a

temporary burning ban.

5. If climatologically induced conditions indicate open burning may create a health hazard, the Mayor may invoke a temporary burning ban.

6. Any person found in violation of this Section may be subject to a fine of up to five hundred dollars (\$500.00) and/or sentenced to up to ninety (90) days in jail.

C. Applications where this Section do not apply are as follows:

1. Fireplaces located wholly within a residence, outdoor barbecues for the preparation of food, properly supervised fires set for recreational or ceremonial purposes, or the controlled burn of structures or other flammables arranged and supervised by the Clever Fire Department.

### **Section 210.1110. Stealing.**<sup>24</sup>

A. A person commits the offense of stealing if he or she:

1. Appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion;

2. Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or

3. For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

### **Section 210.1120. Theft of Motor Fuel.**

A. No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle unless payment or authorized charge for motor fuel dispensed has been made.

B. A person found guilty or pleading guilty to stealing pursuant to Section 210.1110 for the theft of motor fuel as described in Subsection (A) shall have his/her driver's license suspended by the court beginning on the date of the court's order of conviction. The person shall submit all of his/her operator's and chauffeur's licenses to the court upon conviction and the court shall forward all such driver's licenses and the order of suspension of driving privileges to the Department of Revenue for administration of such order.

### **Section 210.1130. (Reserved)**<sup>25</sup>

### **Section 210.1140. Financial Exploitation of an Elderly Person or Person With a Disability — Certain Defense**

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<sup>24</sup>23. Note: Under certain circumstances this offense can be a felony under state law.

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<sup>25</sup>24. Editor's Note: This Section previously pertained to receiving stolen property. However, the authorizing statute, former RSMo. §570.080, was repealed without replacement by SB 491 in the 2014 Legislative Session, effective 1-1-2017.

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**Prohibited.**<sup>26</sup>

A. A person commits the offense of financial exploitation of an elderly person or a person with a disability if such person knowingly obtains control over the property of the elderly person or person with a disability with the intent to permanently deprive the person of the use, benefit or possession of his or her property thereby benefitting the offender or detrimentally affecting the elderly person or person with a disability by:

1. Deceit;
2. Coercion;
3. Creating or confirming another person's impression which is false and which the offender does not believe to be true;
4. Failing to correct a false impression which the offender previously has created or confirmed;
5. Preventing another person from acquiring information pertinent to the disposition of the property involved;
6. Selling or otherwise transferring or encumbering property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record;
7. Promising performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not sufficient evidence to prove that the offender did not intend to perform; or
8. Undue influence, which means the use of influence by someone who exercises authority over an elderly person or person with a disability in order to take unfair advantage of that person's vulnerable state of mind, neediness, pain, or agony. "Undue influence" includes, but is not limited to, the improper or fraudulent use of a power of attorney, guardianship, conservatorship, or other fiduciary authority.

B. Nothing in this Section shall be construed to limit the remedies available to the victim pursuant to any State law relating to domestic violence.

C. Nothing in this Section shall be construed to impose criminal liability on a person who has made a good-faith effort to assist the elderly person or person with a disability in the management of his or her property, but through no fault of his or her own has been unable to provide such assistance.

D. Nothing in this Section shall limit the ability to engage in bona fide estate planning, to transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that such actions do not adversely impact the standard of living to which the elderly person or person with a disability has become accustomed at the time of such actions.

E. It shall not be a defense to financial exploitation of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability.

F. *Medicaid Funds*. It shall be unlawful in violation of this Section for any person receiving or in the

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<sup>26</sup>25.

**Note: Under certain circumstances this offense can be a felony under state law.**

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possession of funds of a Medicaid-eligible elderly person or person with a disability residing in a facility licensed under Chapter 198, RSMo., to fail to remit to the facility in which the Medicaid-eligible person resides all money owing the facility resident from any source, including, but not limited to, social security, railroad retirement, or payments from any other source disclosed as resident income contained in the records of the Department of Social Services, Family Support Division, or its successor. The Department of Social Services, Family Support Division, or its successor is authorized to release information from its records containing the resident's income or assets to any prosecuting or circuit attorney in the State of Missouri for purposes of investigating or prosecuting any suspected violation of this Section.

G. The offense of financial exploitation of an elderly person or person with a disability is an ordinance violation.

#### **Section 210.1150. Fraudulent Use of a Credit or Debit Device.<sup>27</sup>**

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

1. The device is stolen, fictitious or forged; or
2. The device has been revoked or canceled; or
3. For any other reason his or her use of the device is unauthorized; or

B. A person commits the offense of fraudulent use of a credit device or debit device if he or she uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels such charges or payment without just cause. It shall be prima facie evidence of a violation of this Section if a person cancels such charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri Department of Revenue.

#### **Section 210.1160. Deceptive Business Practice.**

A. A person commits the offense of deceptive business practice if in the course of engaging in a business, occupation or profession, he or she recklessly:

1. Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;
2. Sells, offers, displays for sale, or delivers less than the represented quantity of any commodity or service;
3. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he or she furnishes the weight or measure;
4. Sells, offers, or exposes for sale adulterated or mislabeled commodities;
5. Makes a false or misleading written statement for the purpose of obtaining property or credit;
6. Promotes the sale of property or services by a false or misleading statement in any advertisement; or

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<sup>27</sup>26. Note: Under certain circumstances this offense can be a felony under state law.

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7. Advertises in any manner the sale of property or services with the purpose not to sell or provide the property or services:

- a. At the price which he or she offered them;
- b. In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or
- c. At all.

**Section 210.1170. Alteration or Removal of Item Numbers With Intent To Deprive Lawful Owner.**<sup>28</sup>

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

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

**Section 210.1180. Stealing Leased or Rented Personal Property — Enforcement Procedure — Penalty — Venue.**<sup>29</sup>

A. A person commits the offense of stealing leased or rented property if, with the intent to deprive the owner thereof, such person:

1. 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;
2. Conceals or aids or abets the concealment of the property from the owner;
3. Sells, encumbers, conveys, pawns, loans, abandons or gives away the leased or rented property or any part thereof, without the written consent of the lessor, or without informing the person to whom the property is transferred to, that the property is subject to a lease;
4. Returns the property to the lessor at the end of the lease term, plus any agreed upon extensions, but does not pay the lease charges agreed upon in the written instrument, with the intent to wrongfully

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<sup>28</sup>27. Note: Under certain circumstances this offense can be a felony under state law.

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<sup>29</sup>28. Note: Under certain circumstances this offense can be a felony under state law.

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deprive the lessor of the agreed upon charges.

B. 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.

C. Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or that a lessee fails or refuses to return the property or pay the lease charges to the lessor within seven (7) days after written demand for the return has been sent by certified mail, return receipt requested, to the address the person set forth in the lease agreement, or in the absence of the address, to the person's last known place of residence, shall be evidence of intent to violate the provisions of this Section, except that if a motor vehicle has not been returned within seventy-two (72) hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the offense of stealing leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two (72) hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate State and local computer system listing stolen motor vehicles. Any Law Enforcement Officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he/she may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the seven-day period prescribed in this Subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five (5) days notify the person who leased or rented the property that such person is in violation of this Section, and that failure to immediately return the property may subject such person to arrest for the violation.

D. This Section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement or within ten (10) days after proper notice.

E. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner commits the offense of property damage pursuant to Section 569.100, RSMo., or Section 210.1040 of this Code in addition to being in violation of this Section.

F. Venue shall lie in the County where the personal property was originally rented or leased.

### **Section 210.1190. Passing Bad Checks.<sup>30</sup>**

A. A person commits the offense of passing a bad check when he/she:

1. With the purpose to defraud, makes, issues or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money knowing that it will not be paid by the drawee or that there is no such drawee; or

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<sup>30</sup>29. Note: Under certain circumstances this offense can be a felony under state law.

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2. Makes, issues or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money, knowing that there are insufficient funds in or on deposit with that account for the payment of such check, sight order or other form of presentment involving the transmission of account information in full and all other checks, sight orders or other forms of presentment involving the transmission of account information upon such funds then outstanding, or that there is no such account or no drawee and fails to pay the check or sight order or other form of presentment involving the transmission of account information within ten (10) days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

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

#### **Section 210.1200. Shoplifting — Detention of Suspect by Merchant — Liability Presumption.**

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

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

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

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

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

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

C. Any person willfully concealing unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment, shall be presumed to have so concealed such merchandise with the intention of committing a wrongful taking of such merchandise within the meaning of Subsection (A), and the finding of such unpurchased merchandise concealed upon the person or among the belongings of such person shall be evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time of such person by a merchant, his/her agent or employee in order that recovery of such merchandise may be effected, and any such reasonable detention shall not be deemed to be unlawful nor render such merchant, his/her agent or employee criminally or civilly liable.

#### **Section 210.1210. Copper Wire or Cable, Catalytic Converters, Collectors and Dealers To Keep Register,**

### **Information Required — Penalty — Exempt Transactions.**

- A. Every purchaser or collector of, or dealer in, junk, scrap metal or any secondhand property shall keep a register containing a written or electronic record for each purchase or trade in which each type of metal subject to the provisions of this Section is obtained for value. There shall be a separate record for each transaction involving any:
1. Copper, brass or bronze;
  2. Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting or fastener;
  3. Material containing copper or aluminum that is knowingly used for farming purposes as farming is defined in Section 350.010, RSMo.; whatever may be the condition or length of such metal; or
  4. Catalytic converter.
- B. The record required by this Section shall contain the following data:
1. A copy of the driver's license or photo identification issued by the State or by the United States Government or agency thereof to the person from whom the material is obtained;
  2. The current address, gender, birth date, and a photograph of the person from whom the material is obtained if not included or are different from the identification required in Subsection (B)(1) of this Subsection;
  3. The date, time and place of the transaction;
  4. The license plate number of the vehicle used by the seller during the transaction;
  5. A full description of the metal, including the weight and purchase price.
- C. The records required under this Section shall be maintained for a minimum of twenty-four (24) months from when such material is obtained and shall be available for inspection by any Law Enforcement Officer.
- D. Anyone convicted of violating this Section shall be guilty of an ordinance violation.
- E. This Section shall not apply to any of the following transactions:
1. Any transaction for which the total amount paid for all regulated scrap metal purchased or sold does not exceed fifty dollars (\$50.00), unless the scrap metal is a catalytic converter;
  2. Any transaction for which the seller, including a farm or farmer, has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or
  3. Any transaction for which the type of metal subject to Subsection (A) of this Section is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications.

### **Section 210.1220. Metal Beer Keg, Prohibition on Purchase or Possession by Scrap Metal Dealer — Violation, Penalty.**

- A. No scrap metal dealer shall knowingly purchase or possess a metal beer keg, whether damaged or

undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut or otherwise alter scrap metal except when the purchase is from the brewer or its authorized representative. For purposes of this Section, "keg" shall have the same meaning as in Section 311.082, RSMo.

B. Anyone who is found guilty of, or pleads guilty to, violating this Section shall be guilty of an ordinance violation punishable only by fine. Nothing in this Section shall be construed to preclude a person violating this Section from also being prosecuted for any applicable criminal offense.

**Section 210.1230. Metal Belonging to Various Entities — Scrap Yard Not To Purchase — Violation, Penalty.**

A. No scrap yard shall purchase any metal that can be identified as belonging to a public or private cemetery, political subdivision, telecommunications provider, cable provider, wireless service or other communications-related provider, electrical cooperative, water utility, municipal utility or utility regulated under Chapters 386 or 393, RSMo., including bleachers, guardrails, signs, street and traffic lights or signals, and manhole cover or covers, whether broken or unbroken, from anyone other than the cemetery or monument owner, political subdivision, telecommunications provider, cable provider, wireless service or other communications-related provider, electrical cooperative, water utility, municipal utility, utility regulated under Chapter 386 or 393, RSMo., or manufacturer of the metal or item described in this Section unless such person is authorized in writing by the cemetery or monument owner, political subdivision, telecommunications provider, cable provider, wireless service or other communications-related provider, electrical cooperative, water utility, municipal utility, utility regulated under Chapter 386 or 393, RSMo., or manufacturer to sell the metal.

B. Anyone convicted of violating this Section shall be guilty of an ordinance violation.

**Section 210.1240. Scrap Metal Dealers — Payments in Excess of \$500.00 To Be Made by Check — Exceptions.**

A. Any scrap metal dealer paying out an amount that is five hundred dollars (\$500.00) or more shall make such payment by issuing a prenumbered check drawn on a regular bank account in the name of the licensed scrap metal dealer and with such check made payable to the person documented as the seller in accordance with this Section, or by using a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with Chapter 407, RSMo.

B. Any scrap metal dealer that purchases scrap metal from a seller and pays in the form of cash is required to obtain a copy of the seller's driver's license or non-driver's license if the metal is copper or a catalytic converter. This Section shall not apply to any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business.

C. Any person in violation of Sections 210.1210 to 210.1240 by selling stolen scrap metal shall be responsible for consequential damages related to obtaining the scrap metal.

**Section 210.1250. through Section 210.1340. (Reserved)**

ARTICLE VIII

## Offenses Concerning Prostitution

### Section 210.1350. Article Definitions.

As used in this Article, the following terms mean:

**DEVIATE SEXUAL INTERCOURSE** — Any sexual act involving the genitals of one (1) person and the mouth, hand, tongue, or anus of another person; or any act involving the penetration, however slight, of the penis, the female genitalia, or the anus by a finger, instrument, or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**PERSISTENT PROSTITUTION OFFENDER** — A person who has been found guilty of two (2) or more prostitution-related offenses.

**PROSTITUTION-RELATED OFFENSE** — Any violation of State law for prostitution, patronizing prostitution, or promoting prostitution.

**SEXUAL CONDUCT** — Sexual intercourse, deviate sexual intercourse, or sexual contact.

**SEXUAL CONTACT** — Any touching of another person with the genitals or any touching of the genitals or anus of another person or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person or for the purpose of terrorizing the victim.

**SEXUAL INTERCOURSE** — Any penetration, however slight, of the female genitalia by the penis.

**SOMETHING OF VALUE** — Any money or property, or any token, object or article exchangeable for money or property.

### Section 210.1360. Prostitution.<sup>31</sup>

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

### Section 210.1370. Patronizing Prostitution.<sup>32</sup>

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

1. Pursuant to a prior understanding, gives something of value to another person as compensation for having engaged in sexual conduct with any person; or
2. Gives or agrees to give something of value to another person with the understanding that such person or another person will engage in sexual conduct with any person; or
3. Solicits or requests another person to engage in sexual conduct with any person in return for something of value.

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<sup>31</sup>30. Note: Under certain circumstances this offense can be a felony under state law.

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<sup>32</sup>31.

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

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B. It shall not be a defense that the person believed that the individual he or she patronized for prostitution was eighteen (18) years of age or older.

**Section 210.1380. (Reserved)**<sup>33</sup>

**Section 210.1390. Prostitution Houses Deemed Public Nuisances.**

A. Any room, building or other structure regularly used for any prostitution activity prohibited by this Article is a public nuisance.

B. The City 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 prostitution activity, the court may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one (1) year.

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

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

**Section 210.1400. through Section 210.1490. (Reserved)**

ARTICLE IX

**Sexual Offenses**

**Section 210.1500. Article Definitions.**

As used in this Article, the following terms shall have the meanings set forth herein:

**DEVIATE SEXUAL INTERCOURSE** — Any act involving the genitals of one person and the hand, mouth, tongue or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**SEXUAL CONDUCT** — Sexual intercourse, deviate sexual intercourse or sexual contact.

**SEXUAL CONTACT** — Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**SEXUAL INTERCOURSE** — Any penetration, however slight, of the female genitalia by the penis.

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<sup>33</sup>32.

Editor's Note: This Section previously noted that in prosecutions of prostitution and patronizing prostitution, the sex (gender) of the parties was no defense. However, the authorizing statute, former RSMo. §567.040, was repealed without replacement by SB 491 in the 2014 Legislative Session, effective 1-1-2017.

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**Section 210.1510. Sexual Misconduct.**

- A. A person commits the offense of sexual misconduct in the first degree if such person:
1. Exposes his/her genitals under circumstances in which he/she knows that his/her conduct is likely to cause affront or alarm;
  2. Has sexual contact in the presence of a third person or persons under circumstances in which he/she knows that such conduct is likely to cause affront or alarm; or
  3. Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

**Section 210.1520. Sexual Abuse.**<sup>34</sup>

A person commits the offense of sexual abuse in the second degree if he/she purposely subjects another person to sexual contact without that person's consent.

**Section 210.1530. Certain Offenders Not To Physically Be Present or Loiter Within 500 Feet of a Child Care Facility — Violation — Penalty.**

- A. Any person who has been found guilty of:
1. Violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering The Welfare Of A Child In The First Degree; Section 573.200, RSMo., Use Of A Child In A Sexual Performance; Section 573.205, RSMo., Promoting A Sexual Performance By A Child; Section 573.023, RSMo., Sexual Exploitation Of A Minor; Section 573.025, RSMo., Promoting Child Pornography In The First Degree; Section 573.035, RSMo., Promoting Child Pornography In The Second Degree; Section 573.037, RSMo., Possession Of Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material To Minors; or
  2. Any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section;

shall not knowingly be physically present in or loiter within five hundred (500) feet of or to approach, contact, or communicate with any child under eighteen (18) years of age in any child-care facility building, on the real property comprising any child care facility when persons under the age of eighteen (18) are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

- B. For purposes of this Section, "child care facility" shall include any child care facility licensed under Chapter 210, RSMo., or any child care facility that is exempt from State licensure but subject to State regulation under Section 210.252, RSMo., and holds itself out to be a child care facility.
- C. Violation of the provisions of this Section is an ordinance violation.

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<sup>34</sup>33. Note: Under certain circumstances this offense can be a felony under state law.

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**Section 210.1540. Certain Offenders Not To Be Present Within 500 Feet of School Property, Exception — Permission Required for Parents or Guardians Who Are Offenders, Procedure.**

A. Any person who has been found guilty of:

1. Violating any of the provisions of Chapter 566, RSMo., or the provisions of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering The Welfare Of A Child In The First Degree; Section 573.200, RSMo., Use Of A Child In A Sexual Performance; Section 573.205, RSMo., Promoting A Sexual Performance By A Child; Section 573.023, RSMo., Sexual Exploitation Of A Minor; Section 573.025, RSMo., Promoting Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material To Minors; or

2. Any offense in any other jurisdiction which, if committed in this State, would be a violation listed in this Section;

shall not be present in or loiter within five hundred (500) feet of any school building, on real property comprising any school, or in any conveyance owned, leased or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in Subsection (B) of this Section.

B. No parent, legal guardian or custodian who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the offenses listed in Subsection (A) of this Section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds, or in the conveyance, unless the parent, legal guardian, or custodian has permission to be present from the Superintendent or School Board or in the case of a private school from the Principal. In the case of a public school, if permission is granted, the Superintendent or School Board President must inform the Principal of the school where the sex offender will be present. Permission may be granted by the Superintendent, School Board, or in the case of a private school from the Principal for more than one (1) event at a time, such as a series of events, however, the parent, legal guardian or custodian must obtain permission for any other event he/she wishes to attend for which he/she has not yet had permission granted.

C. Regardless of the person's knowledge of his or her proximity to school property or a school-related activity, violation of the provisions of this Section is an ordinance violation.

**Section 210.1550. Halloween, Restrictions on Conduct — Violations.**

A. Any person required to register as a sexual offender under Sections 589.400 to 589.425, RSMo., shall be required on October 31st of each year to:

1. Avoid all Halloween-related contact with children;

2. Remain inside his or her residence between the hours of 5:00 P.M. and 10:30 P.M. unless required to be elsewhere for just cause including, but not limited to, employment or medical emergencies;

3. Post a sign at his or her residence stating "No candy or treats at this residence"; and



4. Leave all outside residential lighting off during the evening hours after 5:00 P.M.
- B. Any person required to register as a sexual offender under Sections 589.400 to 589.425, RSMo., who violates the provisions of Subsection (A) of this Section shall be guilty of an ordinance violation.

**Section 210.1560. Window Peeping.**

No person shall look, peep or peer into, or be found loitering around or within view of any window of a building occupied as the residence of another with the intent of watching or looking through such window to observe any person undressed, in the act of dressing or undressing. The intent of this Section is to make it unlawful to engage in the act commonly referred to as being a "peeping tom".

**Section 210.1570. Invasion of Privacy.**<sup>35</sup>

- A. A person commits the offense of invasion of privacy if he or she knowingly:
1. Photographs, films, videotapes, produces, or otherwise creates an image of another person, without the person's consent, while the person is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy; or
  2. Photographs, films, videotapes, produces, or otherwise creates an image of another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.
- B. Invasion of privacy is an ordinance violation.

**Section 210.1580. through Section 210.1660. (Reserved)**

ARTICLE X

**Offenses Concerning Pornography**

**Section 210.1670. Definitions.**

When used in this Article, the following terms shall have the meanings set out herein:

FURNISH — To issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide.

MATERIAL — Anything printed or written, or any picture, drawing, photograph, motion-picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. "Material" includes undeveloped photographs, molds, printing plates, stored computer data, and other latent representational objects.

MINOR — Any person less than eighteen (18) years of age.

NUDITY or STATE OF NUDITY — The showing of the human genitals, pubic area, vulva, anus, anal cleft, or the

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<sup>35</sup>34. Note: Under certain circumstances, this offense can be a felony under state law.

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female breast with less than a fully opaque covering of any part of the nipple or areola.

OBSCENE — Any material or performance if, taken as a whole:

1. Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and
2. The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and
3. A reasonable person would find the material lacks serious literary, artistic, political or scientific value.

PERFORMANCE — Any play, motion-picture film, videotape, dance or exhibition performed before an audience of one (1) or more.

PORNOGRAPHIC FOR MINORS — Any material or performance if the following apply:

1. The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and
2. The material or performance depicts or describes nudity, sexual conduct, the condition of human genitals when in a state of sexual stimulation or arousal or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and
3. The material or performance, taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

PROMOTE — To manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same, by any means including a computer.

SADOMASOCHISTIC ABUSE — Flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

SEXUAL CONDUCT — Actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

SEXUAL EXCITEMENT — The condition of human male or female genitals when in a state of sexual stimulation or arousal.

### **Section 210.1680. Promoting Pornography for Minors or Obscenity.<sup>36</sup>**

- A. A person commits the offense of promoting pornography for minors or obscenity if, knowing of its content and character, he/she:
1. Promotes or possesses with the purpose to promote any obscene materials for pecuniary gain; or
  2. Produces, presents, directs or participates in any obscene performance for pecuniary gain; or
  3. Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or

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<sup>36</sup>35. Note: Under certain circumstances this offense can be a felony under state law.

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4. Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or
5. Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

**Section 210.1690. Furnishing Pornographic Materials to Minors.**<sup>37</sup>

- A. A person commits the offense of furnishing pornographic material to minors if, knowing of its content and character, he/she:
1. Furnishes any material pornographic for minors knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or
  2. Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or
  3. Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.
- B. It is not a defense to a prosecution for a violation of this Section that the person being furnished the pornographic material is a Peace Officer masquerading as a minor.
- C. The offense of furnishing pornographic material to minors or attempting to furnish pornographic material to minors is an ordinance violation.

**Section 210.1700. through Section 210.1790. (Reserved)**

ARTICLE XI

**Offenses Concerning Drugs**

**Section 210.1800. Possession of Marijuana or Synthetic Cannabinoid.**<sup>38</sup>

A person commits the offense of possession of marijuana or any synthetic cannabinoid, as both terms are defined in Section 195.010, RSMo., if he or she knowingly possesses marijuana or any synthetic cannabinoid, except as authorized by Chapter 579 or Chapter 195, RSMo.<sup>39</sup>

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<sup>37</sup>36.

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

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<sup>38</sup>37. Note: Under certain circumstances this offense can be a felony under state law.

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State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

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**Section 210.1810. Possession of a Controlled Substance.**<sup>40</sup>

A person commits the offense of possession of a controlled substance, as defined in Section 195.010, RSMo., if he or she knowingly possesses a controlled substance, except as authorized by Chapter 579, RSMo., or Chapter 195, RSMo.<sup>41</sup>

**Section 210.1820. Limitations on the Retail Sale of Methamphetamine Precursor Drugs.**

- A. The retail sale of methamphetamine precursor drugs shall be limited to:
  - 1. Sales in packages containing not more than a total of three (3) grams of one (1) or more methamphetamine precursor drugs calculated in terms of ephedrine base, pseudoephedrine base and phenylpropanolamine base; and
  - 2. For non-liquid products, sales in blister packs, each blister containing not more than two (2) dosage units, or where the use of blister packs is technically infeasible, sales in unit dose packets or pouches.
- B. The penalty for a knowing violation of Subsection (A) of this Section is found in Section 569.060, RSMo.

**Section 210.1830. Unlawful Possession of Drug Paraphernalia.**<sup>42</sup>

A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses, or possesses with intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, a controlled substance or an imitation controlled substance in violation of Chapter 579, RSMo., or Chapter 195, RSMo.

**Section 210.1840. Inhalation or Inducing Others To Inhale Solvent Fumes to Cause Certain Reactions, Prohibited — Exceptions.**

No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues or induce any other person to do so for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental processes;

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<sup>40</sup>39.

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

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<sup>41</sup>40.

State Law Reference: For similar statutory provisions and the elements setting the levels of this offense, see §§195.010, 195.017 and 579.015, RSMo.

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<sup>42</sup>41.

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

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except that this Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

**Section 210.1850. Inducing, or Possession With Intent To Induce, Symptoms by Use of Solvents and Other Substances, Prohibited.**

A. As used in this Section, "alcoholic beverage vaporizer" means any device which, by means of heat, a vibrating element, or any method, is capable of producing a breathable mixture containing one (1) or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose or mouth or both.

B. No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use or abuse of any of the following substances:

1. Solvents, particularly toluol;
2. Ethyl alcohol;
3. Amyl nitrite and its iso-analogues;
4. Butyl nitrite and its iso-analogues;
5. Cyclohexyl nitrite and its iso-analogues;
6. Ethyl nitrite and its iso-analogues;
7. Pentyl nitrite and its iso-analogues; and
8. Propyl nitrite and its iso-analogues.

C. This Section shall not apply to substances that have been approved by the United States Food and Drug Administration as therapeutic drug products or are contained in approved over-the-counter drug products or administered lawfully pursuant to the order of an authorized medical practitioner.

D. No person shall intentionally possess any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues for the purpose of using it in the manner prohibited by Section 210.1840 and this Section.

E. No person shall possess or use an alcoholic beverage vaporizer.

F. Nothing in this Section shall be construed to prohibit the legal consumption of intoxicating liquor.

**Section 210.1860. Possession or Purchase of Solvents To Aid Others in Violations, Prohibited — Violations of Sections 210.1840 to 210.1850 — Penalty.<sup>43</sup>**

A. No person shall intentionally possess or buy any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite and propyl nitrite and their iso-analogues for the purpose of inducing or aiding any other person to violate the provisions of Sections 210.1840 and 210.1850 hereof.

B. Any person who violates any provision of Sections 210.1840 through 210.1860 is guilty of an

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<sup>43</sup>42. Note: Under certain circumstances this offense can be a felony under state law.

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ordinance violation for the first violation.

**Section 210.1870. Possession or Sale of Products Containing Synthetic Cannabinoids and Alternative Drugs.**

A. For the purposes of this Section, the terms are defined as follows:

**ILLEGAL SMOKING PRODUCT** — Any substance, whether described as K2, K3, tobacco, herbs, incense, spice, or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one (1) or more of the following chemicals:

1. 2-[(1R,3S)3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol and homologues;
2. (6aS, 10aS)-9-(hydroxycyclohexyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol(also known as HU-211 or Dexanabinol);
3. (1-(1,3-benzodioxol-5-yl)-2-(1-pyrrolidiny)-1-pentanone, commonly known as bath salts;
4. 4-methyl-alpha-pyrrolidinobutophenone, or MPBP (Sections 195.010 and 195.017, RSMo.);
5. Synthetic cannabinoids which include any natural or synthetic material, compound, mixture, or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist including, but not limited to, the synthetic cannabinoids specifically listed in Section 195.017, RSMo., and any analogues, homologues, isomers, esters, ethers, and salts. These include the compounds commonly found in K3. However, synthetic cannabinoids will not include any approved pharmaceutical authorized by the United States Food and Drug Administration;
6. Any product containing a synthetic cannabinoid, stimulant or psychedelic/hallucinogen, as those terms are defined herein such as, but not limited to, the examples of brand names or identifiers listed in Exhibit "A" which is on file in the City offices.
7. Any synthetic cannabinoid included a laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist, such as:
  - a. JWH-007 (1-pentyl-2methyl-3-(1-maphthoyl)indole)
  - b. JWH-015 [(2-Methyl-1-propyl-1H-indol-3-yl)-1-maphthalenylmethanone]
  - c. JWH-018 [1pentyl-3-(1-naphthoyl)indole]
  - d. JWH-019 [1-hexyl-3-(naphthalene-1-oyl)indole]
  - e. JWH-073 [nahthalen-1-yl-(1-butylindol-3-yl)methanone]
  - f. JWH-073 [1-butyl-3(1-naphthoyl)indole]
  - g. JWH-081 [4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)meyhanone]
  - h. JWH-098 [4-methoxynaphthalen-1-yl-(1-pentyl-2-methylindol-3-yl)meyhan- one]
  - i. JWH-122 [1-Pentyl-3-(4-methyl-1-naphthoyl)indole]
  - j. JWH-164 [7-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone]

- k. JWH-200 [1-(2-morpholin-4-ylethyl)indo-1-3-yl]-naphthalen-1-ylmethanone]
- l. JWH-203 [2-(2-chlorophenyl)-1-(1-pentylindol-3-yl)]ethanone
- m. JWH-210 [4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)]methanone
- n. JWH-250 [1-pentyl-3-(2-methoxyphenylacetyl)]indole
- o. JWH-251 [1-pentyl-3-(2-methylphenylacetyl)]indole
- p. JWH-398 [1-pentyl-3-(4-chloro-1-naphthoyl)]indole
- q. HU-210 [(6aR, 10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)]-6a,7,10a-tetrahydrobenzo [c] chromen-1-ol]
- r. HU-211[(6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 10,10a-tetrahydrobenzo {c} chromen-1-ol]
- s. HU-308({(1R,2R,5R)-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo {3.1.1} hept-3-enyl} methanol)
- t. HU-331((3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]5-Pentyl-2, 5-cyclohexadiene-1, 4-dione)
- u. CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol)
- v. CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) and its homologues
- w. WIN 55,212-2(®-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de]-1,4-benzoxazin-6-yl]-1-mepthalenylmethanone)
- x. RCS-4 ((4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone
- y. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-yl)-2-(2-methoxyphenyl)ethanone)

8. Any compound that mimics the effects of any federally controlled Schedule 1 substance such as cathinone, methcathinone, MDMA, and MDEA, including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including salts, isomers, and salts of isomers) containing substances which have a stimulant effect on the central nervous system, such as:

- a. 3-Fluoromethcathinone
- b. 4-Fluoromethcathinone (other name: flephedrone)
- c. 3,4-Methylenedioxy-methcathinone (other name: methylone, MDMC)
- d. 3,4-Methylenedioxyprovalerone, methylenedioxyprovalerone (other name: MDPV)
- e. 4-Methylmethcathinone, 4-methylmethcathinone (other names: mephedrone, 4-MMC)
- f. 4-Methoxymethcathinone (other names: methedrone, bk-PMMA, PMMC)
- g. 4-Ethylmethcathinone (other name: 4-EMC)
- h. Ethcathinone

- i. Deta-keto-N-methylbenzodioxolylpropylamine (other names: butylone, bk-MBDB)
- j. Napthylpyrovalerone (other names: naphyrone, NRG-1)
- k. N,N-dimethylcathinone (other name: metamfepramone)
- l. Alpha-pyrrolidinopropiophenone (other name: alpha-PPP)
- m. 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPPP)
- n. 3,4-methylenedioxy,alpha-pyrrolidinopropiophenone (other name: MDPPP)
- o. Alpha-pyrrolidinovalerophenone (other name: alpha-P VP)
- p. 6,7-dihydro-5H-indeno(5,6-d)-1,3-dioxal-6-amine (other name: MDAJ)
- q. Any compound that is structurally derived from 2-amino-1-phenyl-1-propanone by modification or substitution in any of the following ways:
  - (1) In the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituent's, whether or not further substituted in the phenyl ring by one (1) or more other univalent substituent's;
  - (2) At the 3-position with an alkyl substituent;
  - (3) At the nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups;
  - (4) Or by inclusion of the nitrogen atom in a cyclic structure.

9. Any compound that mimics the effects of any federally controlled Schedule 1 substance, including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including salts, isomers, esters, ethers and salts of isomers) containing substances which have a psychedelic/hallucinogenic effect on the central nervous system and/or brain, such as:

- a. 2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine(2C-E);
- b. 2-(2,5-dimethoxy-4-methylphenyl) ethanamine(2C-D);
- c. 2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine(2C-C);
- d. 2-(4-Iodo-2,5-dimethoxyphenyl) ethanamine(2C-I);
- e. 2-(4-(Ethylthio)-2,5-dimethoxyphenyl) ethanamine(2C-T-2);
- f. 2-(4-(Isopropylthio)-2,5-dimethoxyphenyl) ethanamine(2C-T-4);
- g. 2-(2,5-Dimethoxyphenyl) ethanamine(2C-H);
- h. 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine(2C-N);
- i. 2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine(2C-P);

**PERSON** — An individual, corporation, partnership, wholesaler, retailer, or any licensed or unlicensed business.

**B.** It shall be unlawful for any person within the City of Clever to distribute, deliver, sell, offer for sale, publicly display for sale, or attempt to distribute, deliver, or sell any illegal smoking products.



C. It shall be unlawful for any person to knowingly possess or have under his or her control any illegal smoking product.

D. Any person who violates the provisions of this Section shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

**Section 210.1880. through Section 210.1960. (Reserved)**

ARTICLE XII

**Offenses Concerning Minors<sup>44</sup>**

**Section 210.1970. Article Definitions.**

For the purposes of this Article, the following words and phrases are defined as follows:

GUARDIAN — Guardian appointed by court of competent jurisdiction.

MINOR — Any person under the age of seventeen (17).

PARENT — The natural or adoptive father or mother, legal guardian or any other person having the care or custody of a minor child.

PARENTAL NEGLECT — Any act or omission by which a parent fails to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit any offense.

**Section 210.1980. Curfew for Persons Under Seventeen.**

A. It shall be unlawful for any person under the age of seventeen (17) years to be in or upon any public place or way within the City of Clever between the hours of 11:00 P.M. and 6:00 A.M. The provisions of this Section shall not apply to any such persons accompanied by a parent or guardian, to any such person upon an errand or other legitimate business directed by such person's parent or guardian, to any such person who is engaged in gainful, lawful employment during said time period, or who is returning or in route to said employment, or to any such person who is attending or in route to or from any organized religious or school activity.

B. *Responsibility Of Parent.* The parent, guardian or other adult person having the care and custody of a person under the age of seventeen (17) years shall not knowingly permit such person to violate this Section.

C. *Notice To Parent.* Any Law Enforcement Officer finding any person under the age of seventeen (17) years violating the provisions of this Section shall warn such person to desist immediately from such violation and shall promptly report the violation to his/her superior officer who shall cause a written notice to be served upon the parent, guardian or person in charge of such person setting forth the manner in which this Section has been violated. Any parent, guardian or person in charge of such person who shall knowingly permit such person to violate the provisions of this Section, after receiving notice of the first (1st) violation, shall be guilty of an offense.

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<sup>44</sup>43. Cross Reference: As to alcohol-related offenses involving minors, §600.060.

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D. *Service Of Notice.* The written notice provided in Subsection (C) may be served by leaving a copy thereof at the residence of such parent, guardian or person in charge of the person in violation of this Section with any person found at such residence over the age of seventeen (17) years or by mailing such notice to the last known address of such parent, guardian or person in charge of such person, wherever such person may be found.

#### **Section 210.1990. Parental Responsibility.**

A. Whenever a minor shall be arrested or detained for the commission of any offense within the City, the Police Department shall, as soon as possible thereafter, deliver written notice to the minor's parent of the arrest or detention, and such notice shall advise the parent of his/her responsibility under this Section. The notice shall be in such a form as to be signed by the notified parent signifying receipt thereof. If the parent refuses to sign said notice, the notifying Law Enforcement Officer shall indicate such refusal on the notice.

B. No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit any offense. Written parental notice as defined in Subsection (A) of this Section shall be prima facie evidence of parental neglect if the minor commits a second (2nd) or successive violation of any offense.

C. Each violation of the provisions of this Section shall constitute a separate offense. Any person who shall violate this Section shall be subject to imprisonment for not more than ninety (90) days and/or a fine of not less than one hundred dollars (\$100.00) for the first (1st) violation, not less than two hundred dollars (\$200.00) for a second (2nd) violation and not less than five hundred dollars (\$500.00) for any successive violation. In addition, the court may, as a condition of any probation granted to any parent found guilty of violating Subsection (B) of this Section, order the defendant to make restitution to any person who has been damaged by the misconduct of the minor in an amount not to exceed two thousand dollars (\$2,000.00).

#### **Section 210.2000. through Section 210.2090. (Reserved)**

### ARTICLE XIII

#### **Offenses Concerning Tobacco, Alternative Nicotine Products or Vapor Products**

##### **Section 210.2100. Definitions.**

**[Ord. No. 548, 10-19-2021]**

For purposes of this Article, the following definitions shall apply:

ALTERNATIVE NICOTINE PRODUCT — Any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. "Alternative nicotine product" does not include any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.<sup>45</sup>

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<sup>45</sup>44. Editor's Note: See 21 U.S.C. § 351 et seq.

CENTER OF YOUTH ACTIVITIES — Any playground, school or other facility, when such facility is being used primarily by persons under the age of eighteen (18) for recreational, educational or other purposes.

DISTRIBUTE — A conveyance to the public by sale, barter, gift or sample.

PROOF OF AGE — A driver's license or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid.

ROLLING PAPERS — Paper designed, manufactured, marketed or sold for use primarily as a wrapping or enclosure for tobacco which enables a person to roll loose tobacco into a smokeable cigarette.

SAMPLE — A tobacco product, alternative nicotine product or vapor product distributed to members of the general public at no cost or at nominal cost for product promotional purposes.

SAMPLING — The distribution to members of the general public of tobacco product, alternative nicotine product or vapor product samples.

TOBACCO PRODUCTS — Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, but does not include alternative nicotine products or vapor products.

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

VENDING MACHINE — Any mechanical, electric or electronic self-service device, which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products, alternative nicotine products or vapor products.

**Section 210.2105. No Tobacco Sales to Persons Under 21 — Alternative Nicotine Products, Vapor Products and Nicotine Liquid Containers.**

[Ord. No. 548, 10-19-2021<sup>46</sup>]

- A. Any person or entity who sells tobacco products, alternative nicotine products, or vapor products shall deny the sale of such tobacco products to any person who is less than twenty-one (21) years of age.
- B. Any person or entity who sells or distributes tobacco products, alternative nicotine products, or vapor products by mail or through the Internet in this State in violation of Subsection (A) of this Section shall be assessed a fine of two hundred fifty dollars (\$250.00) for the first violation and five hundred dollars (\$500.00) for each subsequent violation.
- C. Alternative nicotine products and vapor products shall only be sold to persons twenty-one (21)

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<sup>46</sup>45. Editor's Note: Ord. No. 548 also changed the title of this Section from "No Tobacco Sales to Minors — Alternative Nicotine Products, Vapor Products and Nicotine Liquid Containers — Sale to Minors Prohibited" to "No Tobacco Sales to Persons Under 21 — Alternative Nicotine Products, Vapor Products and Nicotine Liquid Containers."

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years of age or older, shall be subject to local and State sales tax, but shall not be otherwise taxed or regulated as tobacco products.

D. Nicotine Liquid Containers — Regulations.

1. Any nicotine liquid container that is sold at retail in this State shall satisfy the child-resistant effectiveness standards set forth in 16 CFR 1700.15(b) as in effect on the effective date of this Section when tested in accordance with the method described in 16 CFR 1700.20 as in effect on the effective date of this Section.
2. For the purposes of this Subsection, “nicotine liquid container” shall mean a bottle or other container of liquid or other substance containing nicotine if the liquid or substance is sold, marketed, or intended for use in a vapor product. A “nicotine liquid container” shall not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in a vapor product, provided that such cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.
3. Any person who engages in retail sales of liquid nicotine containers in this State in violation of this Subsection shall be assessed a fine of two hundred fifty dollars (\$250.00) for the first violation and five hundred dollars (\$500.00) for each subsequent violation.
4. The Department of Health and Senior Services may adopt rules necessary to carry out the provisions of this Subsection. Any rule or portion of a rule, as that term is defined in Section 536.010, RSMo., that is created under the authority delegated in that Section shall become effective only if it complies with and is subject to all of the provisions of Chapter 536, RSMo., and, if applicable, Section 536.028, RSMo. This Section and Chapter 536, RSMo., are non-severable, and if any of the powers vested with the General Assembly under Chapter 536, RSMo., to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.
5. The provisions of this Subsection and any rules adopted hereunder shall be null, void, and of no force and effect upon the effective date of the final regulations issued by the Federal Food and Drug Administration or from any other Federal agency if such regulations mandate child-resistant effectiveness standards for nicotine liquid containers.

**Section 210.2110. Unlawful To Sell or Distribute Tobacco Products, Alternative Nicotine Products or Vapor Products to Persons Under 21 — Vending Machine Requirements.**

[Ord. No. 548, 10-19-2021<sup>47</sup>]

- A. It shall be unlawful for any person to sell, provide or distribute tobacco products, alternative nicotine products or vapor products to persons under twenty-one (21) years of age.
- B. All vending machines that dispense tobacco products, alternative nicotine products or vapor products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than twenty-one (21) years of age from purchasing any tobacco product, alternative nicotine product or vapor product from such machine or shall be equipped with a lock-

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<sup>47</sup>46. Editor's Note: Ord. No. 548 also changed the title of this Section from "Unlawful To Sell or Distribute Tobacco Products, Alternative Nicotine Products or Vapor Products to Minors — Vending Machine Requirements" to "Unlawful To Sell or Distribute Tobacco Products, Alternative Nicotine Products or Vapor Products to Persons Under 21 — Vending Machine Requirements."

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out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than twenty-one (21) years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this Subsection shall be subject to the penalties contained in Subsection (D) of this Section. A determination of non-compliance may be made by a local law enforcement agency or the Division of Alcohol and Tobacco Control. Nothing in this Section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

C. No person or entity shall sell, provide or distribute any tobacco product, alternative nicotine product or vapor product or rolling papers to any person under twenty-one (21) or sell any individual cigarettes to any person in this State. This Subsection shall not apply to the distribution by family members on property that is not open to the public.

D. Any person, including, but not limited to, a sales clerk, owner or operator, who violates Subsection (A), (B) or (C) of this Section or Section 210.2140 of this Article shall be penalized as follows:

1. For the first offense, twenty-five dollars (\$25.00);
2. For the second offense, one hundred dollars (\$100.00); and
3. For a third and subsequent offense, two hundred fifty dollars (\$250.00).

E. Any owner of the establishment where tobacco products, alternative nicotine products or vapor products are available for sale who violates Subsection (C) of this Section shall not be penalized pursuant to this Section if such person documents the following:

1. An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the State and Federal regulations regarding sales of tobacco products, alternative nicotine products or vapor products to persons under twenty-one (21). Such training program must be attended by all employees who sell tobacco products, alternative nicotine products or vapor products to the general public;
2. A signed statement by the employee stating that the employee has been trained and understands the State laws and Federal regulations regarding the sale of tobacco products, alternative nicotine products or vapor products to persons under twenty-one (21); and

F. The exemption in Subsection (E) of this Section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products, alternative nicotine products or vapor products are available for sale if:

1. Four (4) or more violations per location of Subsection (C) of this Section occur within a one-year period; or
2. Such person knowingly violates or knowingly allows his/her employees to violate Subsection (C) of this Section.

G. If a sale is made by an employee of the owner of an establishment in violation of this Article, the employee shall be guilty of an offense established in Subsections (A), (B) and (C) of this Section. If a vending machine is in violation of Section 210.2140, the owner of the establishment shall be guilty of an offense established in Subsections (C) and (D) 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 Subsections (C) and (D) of this Section.

H. A person cited for selling, providing or distributing any tobacco product, alternative nicotine product or vapor product to any individual less than twenty-one (21) years of age in violation of Subsection (A), (B) or (C) of this Section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was twenty-one (21) years of age or older.

I. Any person adversely affected by this Section may file an appeal with the Administrative Hearing Commission which shall be adjudicated pursuant to the procedures established in Chapter 621, RSMo.

**Section 210.2120. Those Prohibited From Purchase or Possession of Tobacco Products, Alternative Nicotine Products or Vapor Products — Misrepresentation of Age.**

[Ord. No. 548, 10-19-2021<sup>48</sup>]

A. No person less than eighteen (18) years of age shall possess, cigarettes, tobacco products, alternative nicotine products or vapor products unless such person is an employee of a seller of cigarettes, tobacco products, alternative nicotine products or vapor products and is in such possession to affect a sale in the course of employment or an employee of the Division of Alcohol and Tobacco Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.

B. No person less than twenty-one (21) years of age shall purchase, or attempt to purchase, cigarettes, tobacco products, alternative nicotine products or vapor products.

C. Any person less than twenty-one (21) years of age shall not misrepresent his/her age to purchase cigarettes, tobacco products, alternative nicotine products or vapor products.

D. Any person who violates the provisions of this Section shall be penalized as follows:

1. For the first violation, the person is guilty of an infraction and shall have any cigarettes, tobacco products, alternative nicotine products or vapor products confiscated.
2. For a second violation and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes, tobacco products, alternative nicotine products or vapor products confiscated and shall complete a tobacco education or smoking cessation program, if available.

**Section 210.2130. Retail Sales Tax License Required for Sale of Tobacco Products, Alternative Nicotine Products or Vapor Products.**

[Ord. No. 548, 10-19-2021]

No person shall sell cigarettes, tobacco products, alternative nicotine products or vapor products unless the person has a retail sales tax license.

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<sup>48</sup>47. Editor's Note: Ord. No. 548 also changed the title of this Section from "Minors Prohibited From Purchase or Possession of Tobacco Products, Alternative Nicotine Products or Vapor Products — Misrepresentation of Age" to "Those Prohibited From Purchase or Possession of Tobacco Products, Alternative Nicotine Products or Vapor Products — Misrepresentation of Age."

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**Section 210.2140. Required Sign Stating Violation of State Law To Sell Tobacco Products, Alternative Nicotine Products or Vapor Products to Persons Under Age 21 — Display of Sign Required, Where.**

[Ord. No. 548, 10-19-2021<sup>49</sup>]

A. The owner of an establishment at which tobacco products, alternative nicotine products, vapor products or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products, alternative nicotine products, vapor products are sold and on every vending machine where tobacco products, alternative nicotine products, vapor products are purchased a sign that shall:

1. Contain in red lettering at least one-half (1/2) inch high on a white background the following:

IT IS A VIOLATION OF STATE LAW FOR CIGARETTES, OTHER TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS TO BE SOLD OR OTHERWISE PROVIDED TO ANY PERSON UNDER THE AGE OF TWENTY-ONE OR FOR SUCH PERSON TO PURCHASE, ATTEMPT TO PURCHASE CIGARETTES, OTHER TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS; and

2. Include a depiction of a pack of cigarettes at least two (2) inches high defaced by a red diagonal diameter of a surrounding red circle and the words "Under 21."

**Section 210.2150. Restrictions on Sales of Individual Packs of Cigarettes.**

[Ord. No. 548, 10-19-2021]

A. No person or entity shall sell individual packs of cigarettes or smokeless tobacco products unless such packs satisfy one (1) of the following conditions prior to the time of sale:

1. It is sold through a vending machine; or
2. It is displayed behind the checkout counter or it is within the unobstructed line of sight of the sales clerk or store attendant from the checkout counter.

**Section 210.2160. Proof of Age Required, When Defense to Action for Violation Is Reasonable Reliance on Proof — Liability.**

[Ord. No. 548, 10-19-2021]

A. A person or entity selling tobacco products, alternative nicotine products or vapor products or rolling papers or distributing tobacco product, alternative nicotine product or vapor product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of twenty-one (21).

B. The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo.,

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<sup>49</sup>48.

Editor's Note: Ord. No. 548 also changed the title of this Section from "Required Sign Stating Violation of State Law To Sell Tobacco Products, Alternative Nicotine Products or Vapor Products to Minors Under Age 18 — Display of Sign Required, Where" to "Required Sign Stating Violation of State Law To Sell Tobacco Products, Alternative Nicotine Products or Vapor Products to Persons Under Age 21 — Display of Sign Required, Where."

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or the operator's or chauffeur's license issued pursuant to the laws of any State or possession of the United States to residents of those States or possessions, or an identification card as provided for in Section 302.181, RSMo., or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the Division of Alcohol and Tobacco Control or any owner or employee of an establishment that sells tobacco products, alternative nicotine products or vapor products for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least twenty-one (21) years of age when such person desires to purchase or obtain tobacco products, alternative nicotine products or vapor products procured from a registrant. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

C. Any person who shall, without authorization from the Department of Revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of an ordinance violation.

D. Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of Subsections (A), (B) and (C) of Section 210.2110 of this Article. No person shall be liable for more than one (1) violation of Subsections (B) and (C) of Section 210.2110 on any single day.

**Section 210.2170. through Section 210.2200. (Reserved)**

ARTICLE XIV

**Miscellaneous Offenses**

**Section 210.2210. Discharge of Fireworks Prohibited — Exceptions — Penalties.**

A. It shall be unlawful for any person to sell, display for sale, offer to sell or discharge any firecracker, bomb, Roman candle, rocket or other dangerous, combustible or explosive material or fireworks within the corporate limits of the City; provided however, that such fireworks may be discharged within the City of Clever, Missouri, on the fourth (4th) day of July of each year.

B. *Fireworks Display — Exceptions.* The City may, at the discretion of the Board of Aldermen, provide for and allow a fireworks display which would be open and available to the public on other dates.

**Chapter 215**

**NUISANCES**

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Cross References — As to dangerous buildings as a nuisance, ch. 505; as to prostitution houses deemed a nuisance, §210.465; As to keeping of chickens, nuisance, Ch. 205, Art. V.

ARTICLE I



## Generally

### Section 215.010. Nuisances Affecting Health.

- A. The following are declared to be nuisances affecting health:
1. All decayed or unwholesome food offered for sale to the public or offered to the public at no charge.
  2. All diseased animals running at large.
  3. All ponds or pools of stagnant water.
  4. Carcasses of dead animals not buried or destroyed within twenty-four (24) hours after death.
  5. Accumulations, wheresoever they may occur, of manure, rubbish, garbage, refuse and human and industrial, noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes.
  6. Garbage cans which are not fly-tight, that is, garbage cans which do not prevent the entry of flies, insects and rodents.
  7. The pollution of any well, cistern, spring, underground water, stream, lake, canal or body of water by sewage or industrial wastes or other substances harmful to human beings.
  8. Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities, or the presence of any gas, vapor, fume, smoke, dust or any other toxic substance on, in or emitted from the equipment of any premises in quantities sufficient to be toxic, harmful or injurious to the health of any employee or to any premises, occupant or to any other person.
  9. Common drinking cups, roller towels, combs, brushes or eating utensils in public or semi-public places where not properly sanitized after use.
  10. Any vehicle used for septic tank cleaning which does not meet the requirements of this Chapter of the Code of Ordinances of the City of Clever.
  11. Any vehicle used for garbage or rubbish disposal which is not equipped with a water-tight metal body and provided with a tight metal cover or covers and so constructed as to prevent any of the contents from leaking, spilling, falling or blowing out of such vehicle at any time, except while being loaded, or not completely secured and covered so as to prevent offensive odors from escaping therefrom or exposing any part of the contents at any time.
  12. Any and all infestations of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae and hookworm larvae.
  13. The keeping of animals and fowls in any area within the City not zoned for agricultural uses except pet cats and dogs, animals in public or licensed zoos, and farm animals in laboratories.
  14. Unlicensed dumps and licensed dumps not operated or maintained in compliance with the ordinances of the City of Clever and the Statutes of the State of Missouri.
  15. No person shall discharge or cause to be discharged into a stormwater system any waste materials, liquids, vapor, fat, gasoline, benzene, naphtha, oil or petroleum product, mud, straw, lawn clippings, tree limbs or branches, metal or plastic objects, rags, garbage or any other substance which is capable of causing an obstruction to the flow of the storm system or interfere with the proper operation of the system or which will pollute the natural creeks or waterways.

16. Ashes, slops, filth, excrement, stones, straw, soot, rubbish, manure, offal, stagnant water, junk, brush, trash, all sorts of decaying animal matter, decaying fruits or vegetables or other vegetable or plant matter, broken chinaware, wrecks or parts of worn out automobiles or other machines, automobiles or other machines which are no longer operable by reason of condition or repair, scrap iron or other metals, tin cans, old bottles, broken glass, discarded wearing apparel, dead animals or other offensive or disagreeable substance or thing, old dilapidated barns, sheds or other buildings left, deposited or caused or permitted to remain, left or deposited in such quantity or such condition as to be offensive to the sight or smell or a menace to health, safety, peace or comfort or of such a nature as to be or become harbors or breeding places for mosquitoes, ants, flies, rats, mice or other insects, animals or vermin, whether left or deposited upon private premises owned, occupied or controlled by persons causing or permitting the same or upon any public street, sidewalk, alley, parkway, public enclosure or vacant lot; all water, steam and condensation drained from, emitted from or thrown upon any sidewalks, parkway, alley or street from any place occupied by a commercial or business structure or any appurtenances thereto belonging. Also, the creation of dust by the operation of motor vehicles, racing cars, rides or other motor-driven contrivances whether dust is carried beyond the borders of the property whereon the above enumerated vehicles may be operated in such quantities as to interfere with reasonable enjoyment of any property in the neighborhood.

17. Factories, slaughterhouses and all places of business causing an offensive odor to a greater extent than is required for the necessary prosecution or carrying on of such business.

18. Hog pens or hog pastures.

19. Accumulating, storing, piling, stacking or placing of paper, magazines, rags, sawdust, boxes, straw, leaves or other similar substances on residential or business property by the owner or person in charge of said property, whether through their agent, servants, employees or otherwise, when these substances are so accumulated, stored, piled, stacked or placed that they may, by natural causes such as wind or storm, escape from the property where so stored, accumulated, piled, stacked or placed onto the property of others, the streets, sidewalks or alleys.

20. Ponds and pools of unclean water.

21. Stables, stalls, sheds, pens or yards in which any horses, cattle or livestock have been kept which are in an unclean condition.

22. All substances or things which cause an odor disagreeable or are unsightly to the surrounding neighborhood.

23. All other acts, practices, conduct, business, occupation callings, trades, uses of property and all other things detrimental or certain to be detrimental to the health of the inhabitants of the City of Clever.

B. *Unlawful To Cause, Maintain Within City Or One-Half Mile Thereof.* It is unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied lot or land or any part thereof in the City of Clever or within one-half (½) mile of the corporate limits of the City of Clever, Missouri, to cause, permit or maintain a nuisance on any such lot or land. Additionally, it is unlawful for any person or his/her agent, servant, representative or employee to cause or maintain a nuisance on the land or property of another with or without permission. Each day that a nuisance shall be maintained is a separate offense.

C. *Abatement Generally.*

1. *Abatement of nuisance — Abatement Officer.* Whenever the Abatement Officer for the City shall ascertain or have knowledge that a nuisance exists on any premises in the City, he/she shall, by

written notice, notify the persons occupying or having possession of said premises to abate or remove such nuisance within the time to be specified in such notice, not less than fifteen (15) days. Failure to abate such nuisance within the time specified within the notice or failure to pursue the removal or abatement of such nuisance without unnecessary delay shall be deemed an ordinance violation.

2. *Notice.* The Abatement Officer shall determine all individuals, firms or corporations who, from the records in the Recorder of Deeds office, appear to be the titled owners of the aforesaid property and immediately cause a written notice to be served on each such individual, firm or corporation by one (1) of the following methods:

- a. The delivery of a true copy of the notice to the person(s) intended to be notified or the leaving of a copy at his/her usual place of abode with some member of his/her family over the age of fifteen (15) years.
- b. Mailing a copy to such person at such place or address by United States certified mail return receipt.
- c. If service of such written notice is unable to be perfected by any of the methods described above, the Abatement Officer shall direct the City Clerk to cause a copy of the aforesaid notice to be published in a newspaper of general circulation in the County where the City is located, once a week for two (2) consecutive weeks and shall further cause a copy of the aforesaid notice to be left with the individual, if any, in possession of such property on which it is alleged such public nuisance exists, or if there is no individual in possession thereof, the Abatement Officer shall cause a copy of the notice to be posted at such structure, location or premises. The Abatement Officer may also determine from the Recorder of Deeds' office who the lien holder of the property, if any, as documented therein, is and cause a written notice to be served on such lien holder by United States mail return receipt.
- d. The aforesaid notice to the owners and lien holder, if any, of the property shall state clearly and concisely:
  - (1) The street address or legal description of the property;
  - (2) A description of the condition or conditions alleged to constitute a public nuisance.

3. *Summary abatement.* Whenever it becomes necessary to abate a nuisance immediately in order to secure the general health, welfare or safety of the City or any of its inhabitants, the City is authorized to abate such nuisance without notice and may use any suitable means or assistance for that purpose, whether by employees of the City or laborers especially employed for that purpose, or any other help or assistance necessary therefor.

4. *Municipal Court may order abatement — cost of abatement by the City, how paid.* If, upon a trial for the failure to abate such nuisance within the time specified within the notice or failure to pursue the removal or abatement of such nuisance without unnecessary delay, the judge of the Municipal Court shall find that a violation exists and that the defendant has had proper notice as provided in this Section and that the defendant has failed to abate the nuisance, the judge of the Municipal Court shall, in addition to the penalty for violating this Section, make an order directing the Abatement Officer to abate such nuisance forthwith and immediately report the expenses thereof to the City Clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the City Collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws

governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

5. *Right of entry.* Any person or contractor employed by or under contract with the City for the abatement of a nuisance and any agent or employee of such contractor shall have the right of entry for that purpose into and upon any premises and it shall be unlawful to interfere with any Police Officer, Abatement Officer or any officer, agent or employee of the City or with any representative of the City engaged in the abatement of any nuisance pursuant to an order of the Municipal Judge or any summary abatement as described above.

6. *Remand and hearing.* In case the Municipal Judge shall determine that abatement of any alleged nuisance is not immediately necessary for the protection of the health of the inhabitants of the City, he/she may instead of entering a finding remand the matter to the Board of Aldermen and the City shall hold a hearing before declaring the same to be a nuisance and ordering its abatement. At least fifteen (15) days' notice of such hearing shall be given to the owner or occupant of the premises upon which such alleged nuisance exists or to his/her agent or to the person causing or maintaining such alleged nuisance, which notice shall state the time and place of such hearing. All interested parties may appear at such hearing either in person or by attorney and present evidence concerning the matters at issue. If, upon such hearing, the Board of Aldermen finds that a nuisance exists, it shall order the owner, occupant or agent of such property, or the person causing or maintaining such nuisance, to abate the same and if the same be not abated within the time prescribed by the City Board of Aldermen in such order, the matter may again be presented for prosecution before the Municipal Court for determination.

7. *Court suit authorized.* Nothing in this Section shall be construed as abandoning or limiting the City's right to bring suit for all expenses attending the abatement of a nuisance, when performed by the City, in any court of competent jurisdiction in the name of the City against the person maintaining, keeping, creating or refusing to abate the nuisance so abated.

## ARTICLE II

### **Weeds, High Grass or Other Vegetation**

#### **Section 215.020. Debris on Property — Effect of Failure to Remove Nuisance — Penalties.**

A. Any lot or land shall be a public nuisance if it has the presence of debris of any kind, including, but not limited to, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are seven (7) inches or more in height, rubbish and trash, lumber not piled or stacked twelve (12) inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material which is unhealthy or unsafe and declared to be a public nuisance. **[Ord. No. 449, 8-19-2014]**

1. However, exception for unimproved lot or land:

- a. Maintained at no more than twelve (12) inches in height.
- b. Any land zoned "A-1" Agriculture.

B. When a public nuisance as described above exists, the City Clerk or Assistant City Clerk shall so declare and give written notice to the owner of the property by personal service, certified mail, if otherwise unsuccessful, by publication. Such notice shall, at a minimum:

1. Declare that a public nuisance exists;

2. Describe the condition which constitute such nuisance;
3. Order the removal or abatement of such condition within seven (7) days from the date of service of such notice;
4. Inform the owner that he or she may file a written request for a hearing before the City Clerk or Assistant City Clerk on the question of whether a nuisance exists upon such property; and
5. State that if the owner fails to begin removing the nuisance within time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the City Clerk or Assistant City Clerk shall cause the condition which constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes.

C. If the owner of such property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the City Clerk or Assistant City Clerk shall cause the condition which constitutes the nuisance to be removed. If the City Clerk or Assistant City Clerk causes such condition to be removed or abated, the cost of such removal shall be certified to the City Clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the City Collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

## Chapter 217

### ABANDONED PROPERTY

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Cross References — As to maximum charges for towing and storage, §385.050; as to sale of abandoned property by city, §385.060; as to crime inquiry and inspection reports required by state law, §385.040.

#### **Section 217.010. Definitions.**<sup>50</sup>

As used in this Chapter, the following terms shall have the meanings set out herein:

**ABANDONED PROPERTY** — Any unattended or unlicensed motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in this Chapter, whether or not operational. For any vehicle towed from the scene of an accident at the request of law enforcement and not retrieved by the vehicle's owner within five (5) days of the accident, the agency requesting the tow shall be required to write an abandoned property report or a criminal inquiry and inspection report.

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<sup>50</sup>1. State Law Reference — For similar provisions, §304.001, RSMo.

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PERSON — Any natural person, corporation or other legal entity.

RIGHT-OF-WAY — The entire width of land between the boundary lines of a public road or State highway, including any roadway.

ROADWAY — That portion of a public road or State highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

TOWING COMPANY — Any person or entity which tows, removes or stores abandoned property.

**Section 217.020. Abandoning Motor Vehicle — Last Owner of Record Deemed the Owner of Abandoned Motor Vehicle, Procedures — Penalty — Civil Liability.**

A. A person commits the offense of abandoning a motor vehicle, vessel or trailer if he/she abandons any motor vehicle, vessel or trailer on the right-of-way of any public road or State highway or on or in any of the waters in this State or on the banks of any stream or on any land or water owned, operated or leased by the State, any board, department, agency or commission thereof or any political subdivision thereof or on any land or water owned, operated or leased by the Federal Government or on any private real property owned by another without his/her consent.

B. For purposes of this Section, the last owner of record of a motor vehicle, vessel or trailer found abandoned and not shown to be transferred pursuant to Sections 301.196 and 301.197, RSMo., shall be deemed prima facie to have been the owner of such motor vehicle, vessel or trailer at the time it was abandoned and to have been the person who abandoned the motor vehicle, vessel or trailer or caused or procured its abandonment. The registered owner of the abandoned motor vehicle, vessel or trailer shall not be subject to the penalties provided by this Section if the motor vehicle, vessel or trailer was in the care, custody or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address and other pertinent information of the person who leased, rented or otherwise had care, custody or control of the motor vehicle, vessel or trailer at the time of the alleged violation. The affidavit submitted pursuant to this Subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the motor vehicle, vessel or trailer. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the motor vehicle, vessel or trailer is alleged to have been stolen, the owner of the motor vehicle, vessel or trailer shall submit proof that a Police report was filed in a timely manner indicating that the vehicle or vessel was stolen at the time of the alleged violation.

C. Abandoning a motor vehicle, vessel or trailer is an ordinance violation.

D. Any person convicted pursuant to this Section shall be civilly liable for all reasonable towing, storage and administrative costs associated with the abandonment of the motor vehicle, vessel or trailer. Any reasonable towing, storage and administrative costs in excess of the value of the abandoned motor vehicle, vessel or trailer that exist at the time the motor vehicle or vessel is transferred pursuant to Section 304.156, RSMo., shall remain the liability of the person convicted pursuant to this Section so long as the towing company, as defined in Chapter 304, RSMo., provided the title owner and lienholders, as ascertained by the Department of Revenue records, a notice within the time frame and in the form as described in Subsection (1) of Section 304.156, RSMo.

**Section 217.030. Open Storage of Inoperable Vehicles or Public Safety Hazards Prohibited.**<sup>51</sup>

The open storage of inoperable or unlicensed vehicles or other vehicles deemed by the City to constitute a public safety hazard is prohibited. Nothing in this Section shall apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property, nor to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing or storage facility so long as the business is operated in compliance with its business license and the property is in compliance with applicable zoning ordinances.

**Section 217.040. Towing of Abandoned Property on Private Real Property.**<sup>52</sup>

A. *Generally.* The City, including the City Police Department, may tow motor vehicles from real property which are deemed a public safety hazard pursuant to Section 217.030 or are derelict, junk, scrapped, disassembled or otherwise harmful to the public health. The City shall perform such tow pursuant to the terms of Section 217.050. When a City agency other than the Police Department authorizes a tow under this Subsection, it shall report the tow to the Police Department within two (2) hours with a crime inquiry and inspection report.

B. *Towing Authorized By City Police Department.* If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the real property, at the request of the person in possession of the real property, any City Police Officer may authorize a towing company to remove such abandoned property from the property in the following circumstances:

1. The abandoned property is left unattended for more than forty-eight (48) hours; or
2. In the judgment of a Police Officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

C. *Towing Authorized By Real Property Owner, Lessee Or Property Or Security Manager.*

1. The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a Law Enforcement Officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this Subsection may be made only under any of the following circumstances:

- a. *Sign.* There is displayed, in plain view at all entrances to the property, a sign not less than seventeen (17) by twenty-two (22) inches in size, with lettering not less than one (1) inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four (24) hour staffed emergency information telephone number by which

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<sup>51</sup>2.

State Law Reference — For similar provisions, §304.159, RSMo.

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<sup>52</sup>3.

State Law References — For similar provisions, §§304.157.1 — 2, 304.157.4 — 9, 304.158.2 — 4, 304.158.8 — 9, RSMo.

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the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property.

b. *Unattended on owner-occupied residential property.* The abandoned property is left unattended on owner-occupied residential property with four (4) residential units or less and the owner, lessee or agent of the real property in lawful possession has notified the City Police Department, and ten (10) hours have elapsed since that notification.

c. *Unattended on other private real property.* The abandoned property is left unattended on private real property and the owner, lessee or agent of the real property in lawful possession of real property has notified the City Police Department, and ninety-six (96) hours have elapsed since that notification.

2. Pursuant to this Section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a City Police Officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to Section 575.060, RSMo. The report shall be in the form designed, printed and distributed by the Missouri Director of Revenue and shall contain the following:

- a. The year, model, make and abandoned property identification number of the property and the owner and any lienholders, if known;
- b. A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;
- c. The license plate or registration number and the State of issuance, if available;
- d. The physical location of the property and the reason for requesting the property to be towed;
- e. The date the report is completed;
- f. The printed name, address and telephone number of the owner, lessee or property or security manager in possession of the real property;
- g. The towing company's name and address;
- h. The signature of the towing operator;
- i. The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this Section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;
- j. Space for the name of the law enforcement agency notified of the towing of the abandoned property and for the signature of the Law Enforcement Official receiving the report; and
- k. Any additional information the Missouri Director of Revenue deems appropriate.

3. Any towing company which tows abandoned property without authorization from the City Police Department pursuant to Subsection (B) of this Section shall deliver a copy of the abandoned property report to the City Police Department. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the City Police Department has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two (2) hours if the tow was



made from a signed location pursuant to Subsection (C)(1)(a) of this Section, otherwise the report shall be delivered within twenty-four (24) hours.

4. The City Police Department, after receiving such abandoned property report, shall record the date on which the abandoned property report is filed with the Police Department and shall promptly make an inquiry into the National Crime Information Center (NCIC) and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The Police Department shall enter the information pertaining to the towed property into the statewide law enforcement computer system and a Police Officer shall sign the abandoned property report and provide the towing company with a signed copy.

5. The City Police Department, after receiving notification that abandoned property has been towed by a towing company, shall search the records of the Missouri Department of Revenue and provide the towing company with the latest owner and lienholder information on the abandoned property, and if the tower has online access to the Department of Revenue's records, the tower shall comply with the requirements of Section 304.155, RSMo. If the abandoned property is not claimed within ten (10) working days, the towing company shall send a copy of the abandoned property report signed by a Law Enforcement Officer to the Department of Revenue.

6. No owner, lessee or property or security manager of real property shall knowingly authorize the removal of abandoned property in violation of this Section.

7. Any owner of any private real property causing the removal of abandoned property from that real property shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:

- a. Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and
- b. The removal of property other than the property specified by the owner of the private real property from which the abandoned property was removed.

D. *Damage To Property.* The owner of abandoned property removed from private real property may recover for any damage to the property resulting from any act of any person causing the removal of, or removing, the abandoned property.

E. *Real Property Owner Liability.* Any owner of any private real property causing the removal of abandoned property parked on that property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this Chapter.

F. *Written Authorization Required — Delegation Of Authority To Tow.*

1. Except for the removal of abandoned property authorized by the City Police Department pursuant to this Section, a towing company shall not remove or commence the removal of abandoned property from private real property without first obtaining written authorization from the real property owner. All written authorizations shall be maintained for at least one (1) year by the towing company.

2. General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of abandoned property unlawfully parked within fifteen (15) feet of a fire hydrant or in a fire lane

designated by a Fire Department or the State Fire Marshal.

G. *Towing Company Liability.* Any towing company, or any affiliate of a towing company, which removes, or commences removal of, abandoned property from private property without first obtaining written authorization from the property owner or lessee, or any employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in Subsection (F) of this Section, is liable to the owner of the property for four (4) times the amount of the towing and storage charges, in addition to any applicable ordinance violation penalty, for a violation of this Section.

#### **Section 217.050. General Provisions and Procedures.**<sup>53</sup>

A. *Payment Of Charges.* The owner of abandoned property removed as provided in this Chapter shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in Section 385.050.

B. *Crime Inquiry And Inspection Report.* As to crime inquiry and inspection reports required by State law, see Chapter 385 of this Code, Section 385.040.

C. *Reclaiming Property.* The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

D. *Lienholder Repossession.* If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the City Police Department within two (2) hours of the repossession and shall further provide the Police Department with any additional information the Police Department deems appropriate. The City Police Department shall make an inquiry with the National Crime Information Center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

E. *Notice To Owner/Tow Lien Claim.* Any towing company which comes into possession of abandoned property pursuant to this Chapter and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the Missouri Department of Revenue or of a corresponding agency in any other State. The towing company shall notify the owner and any lienholder within ten (10) business days of the date of mailing indicated on the notice sent by the Missouri Department of Revenue pursuant to Section 304.156, RSMo., by certified mail, return receipt requested. The notice shall contain the following:

1. The name, address and telephone number of the storage facility;
2. The date, reason and place from which the abandoned property was removed;
3. A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
4. A statement that the storage firm claims a possessory lien for all such charges;

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<sup>53</sup>4.

State Law References — For similar provisions, §§304.155.5 — 6, 304.155.11 — 12, 304.158.1, 304.158.5, 304.158.7, RSMo.

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5. A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
6. A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this Section to contest the propriety of such towing or removal;
7. A statement that if the abandoned property remains unclaimed for thirty (30) days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and
8. A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

*F. Physical Search Of Property.* In the event that the Missouri Department of Revenue notifies the towing company that the records of the Department of Revenue fail to disclose the name of the owner or any lienholder of record, the towing company shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents were found and a good faith effort has been made. For purposes of this Section, "*good faith effort*" means that the following checks have been performed by the company to establish the prior State of registration and title:

1. Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a State of possible registration and title;
2. Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;
3. Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and
4. If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

*G. Petition In Circuit Court.* The owner of the abandoned property removed pursuant to this Chapter or any person claiming a lien, other than the towing company, within ten (10) days after the receipt of notification from the towing company pursuant to Subsection (E) of this Section may file a petition in the Associate Circuit Court in the County where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The Missouri Director of Revenue shall not be a party to such petition but a copy of the petition shall be served on the Director of Revenue.

*H. Notice To Owner.* Notice as to the removal of any abandoned property pursuant to this Chapter shall be made in writing within five (5) working days to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and the place to which the property has been removed by either:

1. The public agency authorizing the removal; or
2. The towing company, where authorization was made by an owner or lessee of real property.

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this Section shall include the amount of mileage if available shown on the abandoned property at the time of removal.

I. *Tow Truck Requirements.* Any towing company which tows abandoned property for hire shall have the towing company's name, City and State clearly printed in letters at least three (3) inches in height on the sides of the truck, wrecker or other vehicle used in the towing.

J. *Storage Facilities.* Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this Chapter shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property.

K. *Disposition Of Towed Property.* Notwithstanding the provisions of Section 301.227, RSMo., any towing company who has complied with the notification provisions in Section 304.156, RSMo., including notice that any property remaining unredeemed after thirty (30) days may be sold as scrap property, may then dispose of such property as provided in this Subsection. Such sale shall only occur if at least thirty (30) days have passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in Section 304.156, RSMo. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the Director of Revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the Director of Revenue within two (2) weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three (3) years that shall be available for inspection by law enforcement and authorized Department of Revenue officials. The record shall contain the year, make, identification number of the property, date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing company as required in this Chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in Section 301.227, RSMo. Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in Section 301.227, RSMo., on vehicles purchased on a bill of sale pursuant to the Section.

## **Chapter 220**

### **HUMAN RIGHTS**

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#### **ARTICLE I**

##### **In General**

###### **Section 220.010. Purposes of Chapter.**

A. The purposes of this Chapter are:

1. To secure for all individuals within the City freedom from any discriminatory practice made unlawful by Article III of this Chapter.

2. To implement within the City the policies embodied in Missouri and Federal human rights legislation and to promote cooperation between the City and the State and Federal agencies enforcing that legislation.
3. To provide a City Commission on Human Rights which is dedicated to the elimination of discriminatory practices made unlawful by Article III of this Chapter.

**Section 220.020. Definitions.**

For the purposes of this Chapter, the following terms shall be deemed to have the meanings indicated below:

COMMISSION — The Missouri Commission on Human Rights.

COMPLAINANT — A person who has filed a complaint with the Commission alleging that another person has engaged in a prohibited discriminatory practice.

DISABILITY — A physical or mental impairment which substantially limits one (1) or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question. For purposes of this Chapter, the term "*disability*" does not include current, illegal use of or addiction to a controlled substance as such term is defined by Section 195.010, RSMo.; however, a person may be considered to have a disability if that person:

1. Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;
2. Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or
3. Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance.

DISCRIMINATION — Any unfair treatment based on race, color, religion, national origin, ancestry, sex, age as it relates to employment, disability or familial status as it relates to housing.

DWELLING — Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

FAMILIAL STATUS — One (1) or more individuals who have not attained the age of eighteen (18) years being domiciled with:

1. A parent or another person having legal custody of such individual; or
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

HOUSING FOR OLDER PERSONS — Housing:

1. Provided under any State or Federal program that the Commission determines is specifically designed and

operated to assist elderly persons as defined in the State or Federal program;

2. Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

3. Intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit.

Housing qualifies as housing for older persons under this Chapter if:

1. The housing has significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;
2. At least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and
3. The owner or manager of the housing has published and adhered to policies and procedures which demonstrate an intent by said owner or manager to provide housing for persons fifty-five (55) years of age or older.

**PERSON** — Includes one (1) or more individuals, corporations, partnerships, associations, organizations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries or other organized groups of persons.

**PLACES OF PUBLIC ACCOMMODATION** — All places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public or such public places providing food, shelter, recreation and amusement including, but not limited to:

1. Any inn, hotel, motel or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five (5) rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his/her residence;
2. Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain or other facility principally engaged in selling food for consumption on the premises including, but not limited to, any such facility located on the premises of any retail establishment;
3. Any gasoline station, including all facilities located on the premises of such gasoline station and made available to the patrons thereof;
4. Any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment;
5. Any public facility owned, operated or managed by or on behalf of this State or any agency or subdivision thereof, or any public corporation; and any such facility supported in whole or in part by public funds; or
6. Any establishment which is physically located within the premises of any establishment otherwise covered by this Section or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

**RENT** — Includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

**RESPONDENT** — A person who is alleged to have engaged in a prohibited discriminatory practice in a complaint

filed with the Commission.

UNLAWFUL DISCRIMINATORY PRACTICE — Any act that is unlawful under this Chapter.

## ARTICLE II

### Discriminatory Practices

#### Section 220.030. Unlawful Housing Practices.

- A. It shall be an unlawful housing practice:
1. To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, to deny or otherwise make unavailable a dwelling to any person because of race, color, religion, national origin, ancestry, sex, disability or familial status.
  2. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, disability or familial status.
  3. To make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, ancestry, sex, disability or familial status or an intention to make any such preference, limitation or discrimination.
  4. To represent to any person because of race, color, religion, national origin, ancestry, sex, disability or familial status that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
  5. To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, ancestry, sex, disability or familial status.
  6. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:
    - a. That buyer or renter;
    - b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
    - c. Any person associated with that buyer or renter.
  7. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
    - a. That person;
    - b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
    - c. Any person associated with that person.
- B. For purposes of Sections 220.030, 220.040 and 220.050, discrimination includes:

1. A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
2. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
3. In connection with the design and construction of covered multi-family dwellings for first (1st) occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:
  - a. The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability.
  - b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs.
  - c. All premises within such dwellings contain the following features of adaptive design:
    - (1) An accessible route into and through the dwelling;
    - (2) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
    - (3) Reinforcements in bathroom walls to allow later installation of grab bars; and
    - (4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

C. As used in Subdivision (3) of Subsection (B) of this Section, the term "*covered multi-family dwelling*" means:

1. Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and
2. Ground floor units in other buildings consisting of four (4) or more units.

D. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for people with physical disabilities, commonly cited as "ANSI A117.1", suffices to satisfy the requirements of Subsection (B)(3)(a) of this Section.

#### **Section 220.040. Discrimination in Commercial Real Estate Loans.**

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, disability or familial status to a person applying therefor for the purpose of purchasing, construction, improving, repairing or maintaining a dwelling, or to discriminate against him/her in fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, religion, national origin, ancestry, sex, disability or familial status of such person or of any person associated with him/her in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or



occupants of the dwellings in relation to which such loan or other financial assistance is to be made or given.

**Section 220.050. Discrimination in Selling or Renting by Real Estate Agencies Prohibited.**

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization or facility relating to the business of selling or renting dwellings on account of race, color, religion, national origin, ancestry, sex, disability or familial status.

**Section 220.060. Discrimination in Public Accommodations Prohibited — Exceptions.**

- A. All persons within the City of Clever are free and equal and shall be entitled to the full and equal use and enjoyment within this State of any place of public accommodation, as hereinafter defined, without discrimination or segregation on the grounds of race, color, religion, national origin, sex, ancestry or disability.
- B. It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person or to attempt to refuse, withhold from or deny any other person any of the accommodations, advantages, facilities, services or privileges made available in any place of public accommodation as defined in Section 220.020 and this Section or to segregate or discriminate against any such person in the use thereof on the grounds of race, color, religion, national origin, sex, ancestry or disability.
- C. The provisions of this Section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association or society or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in Section 220.020 and this Section.

**Section 220.070. Additional Unlawful Discriminatory Practices.**

- A. It shall be an unlawful discriminatory practice:
  - 1. To aid, abet, incite, compel or coerce the commission of acts prohibited under this Chapter or to attempt to do so;
  - 2. To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this Chapter or because such person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this Chapter;
  - 3. For the City to discriminate on the basis of race, color, religion, national origin, sex, ancestry, age as it relates to employment, disability or familial status as it relates to housing; or
  - 4. To discriminate in any manner against any other person because of such person's association with any person protected by this Chapter.

**Section 220.080. Exemptions.**

- A. Nothing in this Chapter shall be construed to invalidate or limit any law of the State or of the City that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this Chapter.

B. Nothing in Sections 220.030, 220.040 and 220.050:

1. Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
2. Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling, nor does any provision of said Sections regarding familial status apply with respect to housing for older persons.
3. Shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by Section 195.010, RSMo.

C. Nothing in this Chapter shall prohibit a religious organization, association or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

D. Nothing in this Chapter, other than the prohibitions against discriminatory advertising in Subsection (A)(3) of Section 220.030, shall apply to:

1. The sale or rental of any single-family house by a private individual owner, provided the following conditions are met:
  - a. The private individual owner does not own or have any interest in more than three (3) single-family houses at any one time; and
  - b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this Section applies to only one (1) such sale in any twenty-four (24) month period.
2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his/her residence.

## ARTICLE III

### Enforcement Procedures

#### Section 220.090. Complaints.

A. Any individual who claims to be aggrieved by a discriminatory practice may file with the Commission a verified complaint in writing stating the name and address of the person alleged to have committed such practice, the particulars thereof, and such other information as may be required by the Commission.

- B. Any complaint filed under this Section in which affirmative relief is sought shall state what relief is sought or proposed.
- C. All such complaints shall be filed within one hundred eighty (180) days of the date of the alleged discriminatory practice.
- D. An individual who files a complaint with the Commission shall be advised of the possibility of filing a complaint with the Missouri Commission on Human Rights.

**Section 220.100. Complaints — Investigation, Conciliation and Mediation.**

- A. Complaints shall be investigated and conciliated or mediated by individuals who have been approved by the Commission and trained in investigation, conciliation and mediation.
- B. Upon filing of a complaint, the Chairperson of the Commission shall designate an individual to investigate the allegations. The individual shall promptly investigate such allegations, and if he/she determines that probable cause exists for crediting the allegations of the complaint, he/she shall thereupon undertake to eliminate the alleged discriminatory practice or practices by conference, conciliation and persuasion or mediation and shall inform the Commission of the results of such efforts. If the individual determines that no such probable cause exists, he/she shall so report to the Commission which shall thereupon dismiss the complaint without further proceedings or direct further investigation or, if it determines that probable cause exists for crediting the allegations of the complaint, direct that the alleged discriminatory practice or practices be the subject of conference, conciliation and persuasion or mediation. Neither the members of the Commission nor any person participating in the investigation shall disclose what has occurred in the course of such efforts to conciliate. The determination of probable cause shall be made, and the investigation and conciliation or mediation shall be conducted, in accordance with such rules, regulations and guidelines as the Commission shall prescribe.
- C. If such efforts fail to eliminate the alleged discriminatory practice or practices, the complainant shall be referred to the Missouri Commission on Human Rights.

**Section 220.110. Prosecutions — Time Limitations.**

- A. No prosecution for a violation of any provision of this Chapter shall be commenced unless a complaint shall have first been filed with the Commission and efforts of the Commission to eliminate the alleged violation have failed.
- B. The period of limitation for any violation of this Chapter shall not run during any time while a complaint involving the alleged violation is pending before the Commission.

**Chapter 225**

**EMERGENCY MANAGEMENT**

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**Section 225.010. Establishment.**

There is hereby created within and for the City of Clever an emergency management organization to be known as the Clever Emergency Management Organization, which is responsible for the preparation and implementation of

emergency functions required to prevent injury and minimize and repair damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, and emergency activities (excluding functions for which military forces are primarily responsible) in accordance with Chapter 44, RSMo., and supplements thereto, and the Missouri Emergency Operations Plan adopted thereunder.

**Section 225.020. Organization.**

This agency shall consist of a Director and other members appointed by the Clever Emergency Management Organization to conform to the State organization and procedures for the conduct of emergency operations as outlined in the Missouri Emergency Operations Plan.

**Section 225.030. Functions.**

The organization shall perform emergency management functions within the City of Clever and may conduct these functions outside the territorial limits as directed by the Governor during the time of emergency pursuant to the provisions of Chapter 44, RSMo., and supplements thereto.

**Section 225.040. Director.**

- A. The Director will be appointed by the Mayor and shall serve at the pleasure of the Mayor.
- B. The Director shall have direct responsibility for the organization, administration and operations of local emergency management operations, subject to the direction and control of the Mayor or Board of Aldermen.
- C. The Director shall be responsible for maintaining records and accounting for the use and disposal of all items of equipment placed under the jurisdiction of the Clever Emergency Management Organization.

**Section 225.050. Scope of Operation.**

- A. The City of Clever in accordance with Chapter 44, RSMo., may:
  - 1. Appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for emergency management purposes; provide for the health and safety of persons, the safety of property; and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the Federal and State Governments.
  - 2. Appoint, provide or remove rescue teams, auxiliary fire and Police personnel and other emergency operation teams, units or personnel who may serve without compensation.

**Section 225.060. Mutual-Aid Agreements.**

The Mayor or Public Safety Agency may enter into mutual-aid arrangements or agreements with other public and private agencies within and without the State for reciprocal emergency aid as authorized in Section 44.090, RSMo.

**Section 225.070. City May Accept Services, Etc.**

The Mayor of the City may, with the consent of the Governor, accept services, materials, equipment, supplies or

funds gifted, granted or loaned by the Federal Government or an officer or agency thereof for emergency management purposes, subject to the terms of the offer.

**Section 225.080. Oath.**

No person shall be employed or associated in any capacity in the Clever Emergency Management Organization who advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this State or the overthrow of any Government in the United States by force or violence, or has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in the Clever Emergency Management Organization shall, before entering upon his/her duties, take an oath, in writing, before a person authorized to administer oaths in this State, which oath shall be substantially as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Missouri against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence; and that during such a time as I am a member of the Clever Emergency Management Organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence."

**Section 225.090. Office Space.**

The Mayor is authorized to designate space in any City-owned or leased building for the Clever Emergency Management Organization.

## **Chapter 230**

### **SOLID WASTE**

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Editor's Note: As to open burning of residential yard waste, etc., Section 210.1105.

**Section 230.010. Definitions.**

For the purposes of this Chapter, the following terms shall be deemed to have the meanings indicated below:

**BULKY RUBBISH** — Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded in solid waste transportation vehicles by solid waste collectors with the equipment available therefor.

CITY — The City of Clever, Missouri.

COLLECTION — Removal of solid waste from its place of storage to the transportation vehicle.

COMMERCIAL SOLID WASTE — All solid waste generated from a source other than a dwelling unit.

CONTRACTOR — Such person, firm or corporation as may be contracted with to provide solid waste transportation and disposal for the City.

CURBSIDE — A location adjacent to and not more than five (5) feet from any street.

DISPOSABLE SOLID WASTE CONTAINER — Disposable plastic or paper sacks with a capacity of twenty (20) to thirty-nine (39) gallons or, if specifically designated for storage of solid waste, a maximum of fifty-five (55) gallons.

DWELLING UNIT — Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating. Units of multiple-housing facilities may be billed as dwelling units upon request by the owner of said dwelling units.

GARBAGE — Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food.

HAZARDOUS WASTES — Any waste or combination of wastes, as determined by the Hazardous Waste Management Commission by rules and regulations, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a present or potential threat to the health of humans or the environment.

MAJOR APPLIANCES — Clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, wood stoves, air-conditioners, refrigerators and freezers.

OCCUPANT — Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as a tenant.

PERSON — Any natural individual, firm, partnership, trust, association or corporation. As applied to partnerships or associations, the word includes the partners or members thereof; and as applied to corporations, it includes the officers, agents or employees thereof who are responsible for the act referred to.

PROCESSING — Incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

PROHIBITED ITEMS — Items which are eliminated by State law from being disposed of in a solid waste disposal area including, but not limited to, major appliances, waste oil, lead acid batteries, waste tires and the like as the same may be now or hereafter defined by State law.

RESIDENTIAL SOLID WASTE — Solid waste resulting from the maintenance and operation of dwelling units.

SOLID WASTE — Garbage, refuse and other discarded materials including, but not limited to, solid and semi-solid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in Sections 260.360 to 260.432, RSMo., recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting. Solid waste does not include "*Yard Waste*" as defined herein.

SOLID WASTE CONTAINER — Receptacle used by any person to store solid waste during the interval between solid waste collections.

SOLID WASTE DISPOSAL — The process of discarding or getting rid of unwanted material. In particular the

final disposition of solid waste by man.

**SOLID WASTE MANAGEMENT** — The entire solid waste system of storage, collection, transportation, processing and disposal.

**STORAGE** — Keeping, maintaining or storing solid waste from time of its production until the time of its collection.

**TRANSPORTATION** — The transporting of solid waste from the place of collection or processing to a solid waste processing facility or solid waste disposal area.

**YARD WASTES** — Leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

### **Section 230.020. Solid Waste Storage.**

#### **[Ord. No. 120 §§2.5 — 2.6, 6-11-1984]**

A. The occupant of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste within the corporate limits of the City shall provide sufficient and adequate containers for the storage of all solid waste, except bulky rubbish and demolition and construction waste, to serve each such dwelling unit and/or establishment and to maintain such solid waste containers at all times in good repair.

B. The occupant of every dwelling unit and of every institutional, commercial, business, industrial or agricultural establishment shall place all solid waste to be collected in proper solid waste containers and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times. Accumulation of waste in suitable containers shall not be stored upon any site in the City for a period longer than seven (7) days.

C. Residential solid waste shall be stored in containers of not more than thirty-nine (39) gallons nor less than twenty (20) gallons in nominal capacity, except that residential solid waste may be stored in trash bags of adequate strength in a size not to exceed fifty-five (55) gallons. All containers, including bags, shall be leakproof and waterproof, fly-tight and properly covered, tied or enclosed, except when depositing waste therein or removing the contents thereof. Containers other than bags shall have handles, bails or other suitable lifting devices or features. Containers other than bags shall be of a type originally manufactured for residential solid waste with tapered sides for easy emptying. They shall be of lightweight and sturdy construction. The weight of any individual container, including bags and its contents, shall not exceed seventy-five (75) pounds. Galvanized metal containers or rubber, fiberglass or plastic containers which do not become brittle in cold weather may be used in addition to bags. Disposable solid waste containers with suitable frames or containers as approved by the City may also be used for storage of residential solid waste. Galvanized metal containers or rubber, fiberglass or plastic containers with suitable frames or containers as approved by the City may also be used for storage of residential solid waste.

D. Commercial solid waste shall be stored in solid waste containers as approved by the Board. The containers shall be waterproof, leakproof and shall be covered at all times except when depositing waste therein or removing the contents thereof and shall meet all requirements as set forth by Section 230.060.

E. Solid waste containers which are not approved will be collected together with their contents and disposed of.

F. Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The

weight of any individual bundle shall not exceed seventy-five (75) pounds.

G. Yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises or upon adjacent public rights-of-way. The weight of any individual container and contents shall not exceed seventy-five (75) pounds.

### **Section 230.030. Collection of Solid Waste.**

**[Ord. No. 120 §§3.2, 3.3, 3.4, 3.6, 6-11-1984]**

A. The City shall provide for the collection of solid waste as follows:

1. *Collection of residential solid waste.* The City shall provide for the collection of residential solid waste in the City, provided however, that the City may provide the collection service by contracting with a person, County or other City or a combination thereof for the entire City or portions thereof as deemed to be in the best interests of the City.

2. *Other collections.* The City may, at its discretion, provide commercial solid waste collection services upon specific application of the owners or persons in charge thereof. However, in the event that such application is not made or approved, it shall be the duty of such establishment to provide for collection of all solid waste produced upon any such premises in a manner approved by City. If and when the City does provide commercial collection service, the provisions herein concerning such service shall apply.

B. All solid waste from premises to which collection services are provided by the City shall be collected, except bulky rubbish as defined herein, provided however, that bulky rubbish will be collected if tied securely in bundles not exceeding reasonable limitations of weight and bulk to be fixed by regulations to be made and promulgated by the Director as hereinafter provided. All solid waste collected shall, upon being loaded into collection equipment, become the property of the collection agency.

C. Solid waste containers as required by this Chapter for the storage of residential solid waste shall be placed at curbside for collection but shall not be so placed until after 6:00 P.M. on the day next preceding the regularly scheduled collection day. Containers shall be removed from curbside no later than 8:00 P.M. on the day of collection. No alley service shall be allowed under the terms of this Chapter, except as approved by the Board of Aldermen.

D. Individuals desiring the collection of bulky rubbish shall deal directly with those licensed by the City for the collection of the same.

The following collection frequencies shall apply to collection of solid waste within the City. All residential solid waste, other than bulky rubbish, shall be collected at least once monthly. All commercial waste shall be caused to be collected once monthly by the owner or operator thereof and shall be collected at such lesser intervals as may be fixed by the Director upon a determination that such lesser intervals are necessary for the preservation of the health and/or safety of the public.

E. Solid waste collectors, employed by the City or a solid waste collection agency operating under contract with the City, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this Chapter. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste.

F. It shall be the responsibility of the occupants of each dwelling unit to prepare, package and deliver solid waste to curbside for collection as prescribed in this Chapter and as it may be amended from time to time.



G. It shall be the responsibility of each commercial, industrial, institutional or other non-residential generator of solid waste to prepare, package and store solid waste so generated as prescribed by this Chapter and as it may be amended from time to time.

H. It shall be the responsibility of every solid waste collector to abide by this Chapter and receive and transport solid waste in a manner consistent with the provisions of this Chapter.

I. The following collection frequencies shall apply to collections of solid waste within the City: All residential solid waste, other than bulky rubbish, shall be collected at least once weekly. All commercial solid waste shall be collected once weekly and shall be collected at such lesser intervals as may be fixed by the Board upon a determination that such lesser intervals are necessary for the preservation of the health and/or safety of the public.

J. Residential solid waste containers shall be stored upon the residential premises. Except as provided in Subsection (C) hereof, all solid waste containers stored out-of-doors shall be stored behind any building located on the tract of land. Commercial solid waste containers shall remain in the location from which they are to be serviced except while being serviced.

K. All solid waste collectors operating under contract with the City or otherwise collecting solid waste within the City limits shall be responsible for the collected solid waste from the point of collection to the point of disposal, provided the solid waste was stored in compliance with the applicable Sections of this Chapter. Any spillage or blowing litter caused as a result of the duties of the solid waste collector shall be collected and placed in the transportation vehicle by the solid waste collector.

L. It shall be unlawful for any person, firm or corporation collecting and disposing of rubbish, garbage or waste material from premises in the residential districts or premises in any commercial district which abuts or adjoins a residential district in the City to make such collection or dispose of rubbish, garbage or waste materials between the hours of 9:00 P.M. and 7:00 A.M.

M. Tree limbs and yard wastes, as described in Section 230.020(F — G) respectively, shall be placed at the curb or front property line fronting on a street for collection. Solid waste containers, as required by this Section for the storage of other residential solid waste, shall be placed at the curb or front property line fronting on a street for collection. Any solid waste containers, tree limbs, yard wastes or other solid waste permitted by this Section to be placed at the curb or front property line fronting a street for collection shall not be so placed until the regularly scheduled collection day.

N. Bulky rubbish shall be collected by request to the Director. The Director shall establish the procedure and fees for collecting bulky rubbish.

#### **Section 230.040. Transportation of Solid Waste.**

A. All transportation vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with water-tight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste or, as an alternative, the entire bodies thereof shall be enclosed with only loading hoppers exposed. Provided however, other vehicles may be used to transport bulky rubbish which because of its size or weight is not susceptible to being loaded or unloaded in vehicles described above, but in no event shall such vehicles be operated without adequate cover or binding to prevent spillage or waste therefrom and in accordance with the rules and regulations made by the Board.

B. Permits shall not be required for the removal, hauling or disposal of earth and rock material from

grading or excavation activities. However, all such material shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

C. Transportation and disposal of demolition and construction wastes shall be in accordance with this Section and Section 230.050.

#### **Section 230.050. Disposal of Solid Waste.**

A. Solid wastes shall be deposited at a processing facility or disposal area approved by the City and complying with all requirements of the Missouri Solid Waste Management Law, Sections 260.200 to 260.255, RSMo., and the rules and regulations adopted thereunder. The City may designate the processing or disposal facility to be utilized by persons holding permits under this Chapter.

B. The Board may classify certain wastes as hazardous wastes which will require special handling and shall be disposed of only in a manner acceptable to the Board which will meet all local, State and Federal regulations.

#### **Section 230.060. Rules and Regulations.**

A. The Board may make, amend, revoke and enforce reasonable and necessary rules and regulations governing, but not limited to:

1. Preparation, drainage and wrapping of garbage deposited in solid waste containers.
2. Specifications for solid waste containers including the type, composition, equipment, size and shape thereof.
3. Identification of solid waste containers and of the covers thereof and of equipment thereto appertaining, if any.
4. Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations on bundles of solid waste too large for solid waste containers.
5. Storage of solid waste in solid waste containers.
6. Sanitation, maintenance and replacement of solid waste containers.
7. Schedules of and routes for collection and transportation of solid waste.
8. Collection points of solid waste containers.
9. Collection, transportation, processing and disposal of solid waste.
10. Processing facilities and fees for the use thereof.
11. Disposal facilities and fees for the use thereof.
12. Records of quantity and type of wastes received at processing and/or disposal facilities.
13. Handling of special wastes such as toxic wastes, sludge, ashes, agriculture, construction, bulky items, tires, automobiles, oils, greases, etc.

B. The City Clerk or such other City Official who is responsible for preparing utility or other service charge billings for the City is hereby authorized to make and promulgate reasonable and necessary rules and

regulations for the billing and collection of solid waste collection and/or disposal service charges, as hereinafter provided for, subject to the approval of the Board.

C. A copy of any and all rules and regulations made and promulgated under the provisions hereof shall be filed in the office of the City Clerk of the City.

#### **Section 230.070. Prohibited Practices.**

A. It shall be unlawful for any person to:

1. Deposit solid waste in any solid waste container other than his/her own without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal.
2. Interfere in any manner with solid waste collection and transportation equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the City, those of a solid waste collection agency operating under contract with the City, or any duly licensed collector.
3. Dispose of solid waste at any facility or location which is not approved by the City and the Missouri Division of Health.
4. Engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City without a permit from the City, or operate under an expired permit, or operate after a permit has been suspended or revoked.

#### **Section 230.080. Bonds.**

The Board may require performance or payment bonds of any solid waste collection agency prior to issuing permits to so operate.

#### **Section 230.090. Service Charges.**

A. There is hereby imposed for the collection and disposal of solid wastes and for the improvement of the general public and environment a service charge for each dwelling unit to which such service shall be provided under the provisions of this Chapter. Said service charge shall be that amount set by the City's agreement with any contractor providing solid waste disposal services.

B. The system of services established by the provisions of this Chapter hereof is designated as an integral part of the City's program of health, sanitation and general welfare to be operated as an adjunct to the City's system for providing all manner of utilities services. The City may enforce collection of such charges by bringing proper legal action against the occupant of the premises which has received such services to recover any sums due for such services plus a reasonable attorney's fee to be fixed by the court plus the cost of such action.

C. The service charge herein provided for is hereby imposed upon the occupant of each occupied dwelling unit and the billing therefor shall be made to the person contracting for City utilities of any kind to each such dwelling unit. In the event a dwelling unit is not serviced by City utilities or in the absence of information that such person is neither the owner or the tenant of such dwelling unit, then billing therefor shall be made to the owner. Service charges shall be payable to the City of Clever, Missouri.

D. The City shall include the foregoing service charge on its utility bill as a separate charge, which

shall be paid on or before the fifteenth (15th) of the following month.

E.The City shall provide any contractor hereunder with a monthly statement showing the number of dwelling units, together with all additions and deletions.

## **Chapter 235**

### **PARK USE**

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#### **Section 235.010. Destruction, Etc., of Park Property Prohibited.**

**[Ord. No. 266 §I, 4-12-1999; Ord. No. 413 §II, 9-19-2011]**

It shall be unlawful for any person to deface, injure or destroy any playground equipment, shrubs, trees, picnic tables, buildings or any other park-associated property in any City park, with the exception allowed for maintenance crews.

#### **Section 235.020. Presence in City Park Prohibited During Certain Hours.**

**[Ord. No. 266 §II, 4-12-1999; Ord. No. 413 §III, 9-19-2011]**

It shall be unlawful for any person to be inside the premises of any City park in Clever, Missouri, between the hours of thirty (30) minutes before sunset and thirty (30) minutes after sunrise of any day.

#### **Section 235.030. Motor Vehicles to Be Operated Only on Roadways Provided for Same.**

**[Ord. No. 266 §III, 4-12-1999; Ord. No. 413 §IV, 9-19-2011]**

It shall be unlawful for any person, except maintenance crews, to operate any motorized vehicle in any part of any City park in Clever, Missouri, except on a roadway so provided therefore.

#### **Section 235.035. Parking.**

**[Ord. No. 413 §V, 9-19-2011]**

No vehicle shall be parked on park property except in designated parking areas.

#### **Section 235.040. Animal Control.**

**[Ord. No. 266 §IV, 4-12-1999; Ord. No. 413 §VI, 9-19-2011]**

Unauthorized horseback riding is prohibited on City park grounds. Dogs in the park must be tied with a chain or controlled by a leash.

**Section 235.050. Littering Prohibited.**

**[Ord. No. 266 §V, 4-12-1999; Ord. No. 413 §VII, 9-19-2011]**

It shall be unlawful for any person to place any litter or debris any place in any City park, except in trash/litter containers so provided therefore.

**Section 235.060. Alcoholic Beverages.**

**[Ord. No. 266 §VI, 4-12-1999; Ord. No. 413 §VIII, 9-19-2011]**

It shall be unlawful for any person to bring into or have in their possession or consume in any City park in Clever, Missouri, any alcoholic beverage as defined by State Statute.

**Section 235.070. Conduct.**

**[Ord. No. 266 §VII, 4-12-1999; Ord. No. 413 §VIII, 9-19-2011]**

- A. It shall be unlawful for any person while on park property or at a park function to:
1. Conduct oneself in a loud, disturbing or harassing manner.
  2. Interfere with any patron peacefully using park property or attending park function.
  3. Throw any rocks, sticks, bottles or other similar items by hand or other device.
  4. Mark upon, tear up, injure, deface, cut, dig or in any other way intentionally injure or impair the usefulness of structures, grass, trees, shrubs or plants, pavement, sidewalks or roadways.
  5. To attach wires, ropes, placards, notices or other contrivances to any structure, tree, shrub or plant. No advertisements shall be placed on any park property without prior written approval by the Board of Aldermen.
  6. Remove any property of the parks.
  7. Erect any type of structure, including tents and booths, without prior written permission of the City Clerk.
  8. Conduct any organized activity or event involving more than thirty (30) persons without prior written consent of the City Clerk.
  9. Start a fire in any portion or place in the park property not so designated.
  10. Solicit business, sell or offer to sell goods, merchandise or services, post any commercial signs, advertisements or circulars without the written permission of the Board of Aldermen.
  11. Interfere with the duties and responsibilities of a City employee while said employee is working in his/her capacity for the City.
  12. It shall be unlawful for any person to be upon bicycles, roller skates or skateboards, or riding in or

by means of any coaster, toy, vehicle, motorized scooter, motorized play vehicle, or similar device while in or upon any portion of any park premises unless specifically designated therefor; provided, however, this provision shall not apply to a show, exhibition, demonstration or other activity which is a part of a special event being sponsored on park premises, nor shall this provision apply to child-carrying devices such as baby strollers, carriages or wagons, or to a disabled person. **[Ord. No. 438 §I, 8-20-2013]**

**Section 235.080. Firearms.**

**[Ord. No. 266 §VIII, 4-12-1999; Ord. No. 413 §IX, 9-19-2011]**

It shall be unlawful for any person to carry, possess or discharge any firearm, pellet gun or pistol, BB gun or other similar device, bow and arrow, crossbow or any other device capable of projecting a missile able to inflict harm to persons or animals or to injure property. Law Enforcement Officers in the performance of their duty are exempt from this probation. Employees of the City may use any such devices or giving exhibitions or holding competitions in the use thereof.

**Section 235.090. Penalties.**

**[Ord. No. 413 §X, 9-19-2011]**

A. Any person found in violation of rules of the park may be subject to a fine of up to five hundred dollars (\$500.00) and/or banned from park property and events for a period of one (1) week for a first (1st) offense. Second (2nd) and subsequent offenses will be subject to a fine and/or possible permanent expulsion from park property and events.

B. Any City employee or official may remove any person/persons from the park that they find in violation of this Chapter. They will then notify the Chief of Police of the violation. Chief of Police has the authority to ban any person in violation of rules of the park. Chief will notify in writing and person may be banned from park property and events for a period of one (1) week for a first (1st) offense. Second (2nd) and subsequent offenses will be subject to a possible permanent expulsion from park property and events.