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TITLE II. PUBLIC HEALTH, SAFETY AND WELFARE

CHAPTER 201. POLICE DEPARTMENT

SECTION 2.1 CREATION

The previously established Police Department for the City of Lone Jack, Missouri, is hereby continued and shall consist of the Chief of Police and such other Police Officers found by the Board of Aldermen to be necessary for the good government of the City.

SECTION 2.2 APPOINTMENTS

The Chief of Police shall be appointed by the Mayor, with consent and approval of the Board of Aldermen. All other appointments to the Department shall be made by the Chief of Police subject to approval of the Mayor and Board of Aldermen.

SECTION 2.3 RANK

The Chief of Police shall be the head of the Department and have supervision over all Officers and members thereof.

SECTION 2.4 DUTIES OF CHIEF

The Chief of Police shall be the keeper of the City Jail when one be provided and shall have custody of all persons incarcerated therein. He/she shall keep such records and make such reports concerning the activities of his/her Department as may be required by Statute or by the Board of Aldermen. The Chief shall be responsible for the performance by the Police Department of its functions and all persons who are members of the Police Department shall serve subject to the orders of the Chief of Police. The Chief of Police's supervisor shall be the Mayor, and further job duties may be established by the Mayor or Board of Aldermen.

SECTION 2.5 DUTIES

It shall be the duty of the members of the Police Department to see to the enforcement of all of the ordinances of the City and all Statutes applicable therein and to preserve order and prevent infractions of the law and arrest violators thereof.

SECTION 2.6 CONDUCT OF MEMBERS

It shall be the duty of every member of the Police Department to conduct himself/herself in a proper and law abiding manner at all times. Each member of the Department shall obey the orders and directions of his/her superior.

SECTION 2.7 WITNESS FEES

Every member of the Police Department shall appear as witness whenever this is necessary in a prosecution for a violation of an ordinance or of any State or Federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the City is a party and

fees paid for such services shall be turned over to the Chief who shall deposit the same with the City Clerk.

CHAPTER 202. OFFENSES

ARTICLE I. GENERAL PROVISIONS

SECTION 2.8 DEFINITIONS

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

AFFIRMATIVE DEFENSE: Has the meaning specified in Section 556.056, RSMo.

BURDEN OF INJECTING THE ISSUE: Has the meaning specified in Section 556.051, RSMo.

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.

CONFINEMENT:

1. A person is in confinement when he/she is held in a place of confinement pursuant to arrest or order of a court and remains in confinement until:
 - (a) A court orders his/her release;
 - (b) He/she is released on bail, bond or recognizance, personal or otherwise; or
 - (c) A public servant having the legal power and duty to confine him/her authorizes his/her release without guard and without condition that he/she return to confinement.
2. A person is not in confinement if:
 - (a) He/she is on probation or parole, temporary or otherwise; or
 - (b) He/she is under sentence to serve a term of confinement which is not continuous or is serving a sentence under a work-release program and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport him/her 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;
2. It is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or
3. It is induced by force, duress or deception.

CRIMINAL NEGLIGENCE: Has the meaning specified in Section 562.016, RSMo.

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

DANGEROUS FELONY: The felonies of arson in the first degree, assault in the first degree, forcible rape, forcible sodomy, kidnapping, murder in the second degree and robbery in the first degree.

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.

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, blackjack or metal knuckles.

FELONY: Has the meaning specified in Section 556.016, RSMo.

FORCIBLE COMPULSION: Means either:

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

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

INFRACTION: Has the meaning specified in Section 556.021, RSMo.

INHABITABLE STRUCTURE: Has the meaning specified in Section 569.010, RSMo.

KNOWINGLY: Has the meaning specified in Section 562.016, RSMo.

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: Has the meaning specified in Section 556.016, RSMo.

OFFENSE: Any felony, misdemeanor or infraction.

PHYSICAL INJURY: Physical pain, illness or any impairment of physical condition.

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 he/she has the object on his/her person or within easy reach and convenient control. A person has constructive possession if he/she 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.

PUBLIC SERVANT: Any person employed in any way by a government of this State who is compensated by the government by reason of his/her 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: Has the meaning specified in Section 562.016, RSMo.

RECKLESSLY: Has the meaning specified in Section 562.016, RSMo.

RITUAL OR CEREMONY: An act or series of acts performed by two (2) or more persons as part of an established or prescribed pattern of activity.

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.

SEXUAL CONDUCT: 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.

SEXUAL CONTACT: Any touching of the genitals or anus of any person or the breast of any female person or any such touching through the clothing for the purpose of arousing or gratifying sexual desire of any person.

SEXUAL PERFORMANCE: Any performance or part thereof, which includes sexual conduct by a child who is less than seventeen (17) years of age.

VOLUNTARY ACT: Has the meaning specified in Section 562.011, RSMo.

ARTICLE II. OFFENSES AGAINST THE PERSON

SECTION 2.9 ASSAULT

A person commits the offense of assault if:

1. The person attempts to cause or recklessly causes physical injury to another person;
2. With criminal negligence the person causes physical injury to another person by means of a deadly weapon;
3. The person purposely places another person in apprehension of immediate physical injury;
4. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;
5. The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or
6. The person knowingly causes physical contact with an incapacitated person, as defined in Section 475.010, RSMo., which a reasonable person, who is not incapacitated, would consider offensive or provocative.

SECTION 2.10 DOMESTIC ASSAULT

A person commits the offense of domestic assault if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in Section 455.010, RSMo.; and

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

SECTION 2.11 VIOLATION OF AN ORDER OF PROTECTION

- A. It shall be unlawful for any person to violate the terms or conditions of a served full order of protection or temporary order of protection entered by a court of the State of Missouri or by any other State, territory or possession of the United States, commonwealth of Puerto Rico or the District of Columbia.
- B. A certified copy of the full order of protection or temporary order of protection shall be prima facie evidence of the existence and the validity of the served order of protection.
- C. Refusal of the person for whose benefit the order of protection was issued to sign a complaint or to testify shall not be a defense to a violation of an order of protection.

SECTION 2.12 ASSAULT OF A LAW ENFORCEMENT OFFICER

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

1. He/she attempts to cause or recklessly causes physical injury to a Law Enforcement Officer;
2. With criminal negligence he/she causes physical injury to a Law Enforcement Officer by means of a deadly weapon;
3. He/she purposely places a Law Enforcement Officer in apprehension of immediate physical injury;
4. He/she recklessly engages in conduct which creates a grave risk of death or serious physical injury to a Law Enforcement Officer; or

5. He/she knowingly causes or attempts to cause physical contact with a Law Enforcement Officer without the consent of the Law Enforcement Officer.

SECTION 2.13 HARASSMENT

A person commits the offense of harassment if for the purpose of frightening or disturbing another person he/she:

1. Communicates in writing or by telephone a threat to commit any felony;
2. Makes a telephone call or communicates in writing and uses coarse language offensive to one of average sensibility;
3. Makes a telephone call anonymously; or
4. Makes repeated telephone calls.

SECTION 2.14 FALSE IMPRISONMENT

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

SECTION 2.15 ENDANGERING THE WELFARE OF A CHILD

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

1. He/she 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;
2. He/she knowingly encourages, aids or causes a child less than seventeen (17) years old to engage in any conduct which causes or tends to cause the child to come within the provisions of Paragraph (d) of Subdivision (2) of Subsection (1) or Subdivision (3) of Subsection (1) of Section 211.031, RSMo.;
3. Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen (17) years old, he/she 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. He/she 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 195.130, 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 2.16 LEAVING A CHILD UNATTENDED IN A MOTOR VEHICLE

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

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

INJURY: Physical harm to the body of a person.

MOTOR VEHICLE: Any automobile, truck, truck-tractor or any motorbus 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 ten (10) years of age or less 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.

ARTICLE III. OFFENSES CONCERNING ADMINISTRATION OF JUSTICE

SECTION 2.17 CONCEALING AN OFFENSE

A person commits the offense of concealing an offense if:

1. He/she 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. He/she 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 2.18 HINDERING PROSECUTION

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

1. Harbors or conceals such person;
2. Warns such person of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring another into compliance with the law;
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 2.19 REFUSAL TO IDENTIFY AS A WITNESS

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

SECTION 2.20 DISTURBING A JUDICIAL PROCEEDING

A person commits the offense of disturbing a judicial proceeding if, with purpose to intimidate a judge, attorney, juror, party or witness and thereby to influence a judicial proceeding, he/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 2.21 TAMPERING WITH A WITNESS—TAMPERING WITH A VICTIM

- A. A person commits the offense of tampering with a witness if, with purpose to induce a witness or a prospective witness in an official proceeding to disobey a subpoena or other legal process or to absent himself/herself or avoid subpoena or other legal process or to withhold evidence, information or documents or to testify falsely, he/she:
 1. Threatens or causes harm to any person or property;
 2. Uses force, threats or deception;
 3. Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
 4. Conveys any of the foregoing to another in furtherance of a conspiracy.
- B. A person commits the offense of "victim tampering" if, with purpose to do so, he/she 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:
 1. Making any report of such victimization to any Peace Officer or State, local or Federal Law Enforcement Officer or prosecuting agency or to any judge;
 2. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof; or

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

SECTION 2.22 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 2.23 FALSE IMPERSONATION

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

1. Falsely represents himself/herself to be a public servant with purpose to induce another to submit to his/her pretended official authority or to rely upon his/her pretended official acts and
 - (a) Performs an act in that pretended capacity; or
 - (b) Causes another to act in reliance upon his/her pretended official authority.
2. Falsely represents himself/herself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this State with purpose to induce another to rely upon such representation and
 - (a) Performs an act in that pretended capacity; or
 - (b) Causes another to act in reliance upon such representation.

SECTION 2.24 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 a crime or offense;
2. Makes a false report to a Law Enforcement Officer that a crime or 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 actor retracted the false statement or report before the Law Enforcement Officer or any other person took substantial action in reliance thereon.

- C. The defendant shall have the burden of injecting the issue of retraction under Subsection (B) of this Section.

SECTION 2.24.1 DECEIVING A LAW ENFORCEMENT OFFICIAL

- A. A person commits the offense of deceiving a Law Enforcement Officer if he/she shall knowingly deceives a Law Enforcement Officer for the following purposes:
 - 1. To prevent discovery of any offense or crime which has been or is being committed by any person; or
 - 2. To prevent or hinder investigation, apprehension, prosecution, conviction or punishment of any person for conduct constituting an offense under the ordinances of the City of Lone Jack or the laws of the State of Missouri.
- B. It is a defense to a prosecution under this Section that the actor retracted the false information or removed the deception, but this defense shall not apply if the retraction or removal was made after.
 - 1. The falsity of the information or the deception was exposed; or
 - 2. Any Law Enforcement Officer took substantial action in reliance on the false information or deception.
- C. The defendant shall have the burden of injecting the issue of retraction or removal under Subsection (B) of this Section.

SECTION 2.25 RESISTING OR INTERFERING WITH ARREST, DETENTION OR STOP

- A. A person commits the offense of resisting or interfering with arrest, detention or stop if, knowing that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle or the person reasonably should know that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:
 - 1. Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or
 - 2. Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.
- B. This Section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.
- C. A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person 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 that person.

- 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 2.26 ESCAPE OR ATTEMPTED ESCAPE FROM CUSTODY

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

SECTION 2.26.1 INTERFERING WITH A PRISONER OR AIDING ESCAPE OF A PRISONER

A person commits the offense of interfering with a prisoner or aiding escape of a prisoner if he/she:

1. Introduces into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of facilitating the escape of any prisoner confined therein, or of facilitating the commission of any other crime; or
2. Assists or attempts to assist any prisoner who is being held in custody or confinement for the purpose of effecting the prisoner's escape from custody or confinement; or
3. Gives away or sells, or attempts to give away or sell, to any person confined in any City detention facility or in custody of any Law Enforcement Officer in the City anything whatsoever without the consent of the person in charge of such jail or person having such custody.

SECTION 2.26.2 ELUDING A LAW ENFORCEMENT OFFICIAL

A person commits the crime of eluding a law enforcement official if such person:

1. Operates a motor vehicle after receiving a clearly visible flashing or revolving light and an audible signal, such as a red light and a siren, from a law enforcement official driving a motor vehicle, directing the person to bring the motor vehicle to a stop where such law enforcement official has a reasonable suspicion that a law or local ordinance has been violated; and
2. Purposely increases the speed of the motor vehicle or extinguishes the lights of the motor vehicle for the purpose of eluding such law enforcement official; or
3. Purposely attempts in any other manner to elude the law enforcement official; or

4. Does elude such law enforcement official.

ARTICLE IV. OFFENSES CONCERNING PUBLIC SAFETY

SECTION 2.27 ABANDONMENT OF AIRTIGHT OR SEMI-AIRTIGHT CONTAINERS

- A. A person commits the offense of abandonment of airtight icebox if he/she abandons, discards or knowingly permits to remain on premises under his/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 (1½) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.
- B. 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, warehouseman or repairman.
- C. The defendant shall have the burden of injecting the issue under Subsection (B) of this Section.

SECTION 2.28 LITTERING

- A. A person commits the offense of littering if he/she throws or places or causes to be thrown or placed any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse or rubbish of any kind, nature or description on the right-of-way of any public road or State highway or on or in any of the waters in this City or on the banks of any stream or on any land or water owned, operated or leased by the State, any board, department, agency or commission thereof or on any land or water owned, operated or leased by the Federal Government or on any private real property owned by another without his/her consent.
- B. Unless otherwise permitted by law, it shall be unlawful for any person to:
 1. Place any box, barrel, rubbish, or other obstruction in any part of the City's roadway, except by written approval of the Street & Sewer Superintendent ; or
 2. Place any object, obstruction, thing or substance (including snow) that creates a dangerous condition in any part of the City's right-of-way, whether improved or unimproved, except by written approval of the Public Works Director; or
 3. Maintain any platform or other structure in or over any street or sidewalk, except such temporary obstructions as are necessary in erecting improvements and in making repairs and are approved by the Street & Sewer Superintendent , or his designee.

4. Such person shall be liable to the City for all costs and damages on account thereof.

SECTION 2.29 LITTERING VIA CARCASSES

- A. If any person or persons shall put any dead animal, carcass or part thereof, the offal or any other filth into any well, spring, brook, branch, creek, pond or lake, every person so offending shall, on conviction thereof, be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).
- B. If any person shall remove or cause to be removed and placed in or near any public road or highway or upon premises not his/her own or in any river, stream or watercourse any dead animal, carcass or part thereof or other nuisance to the annoyance of the citizens of this City or any of them, every person so offending shall, upon conviction thereof, be fined for every offense not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), and if such nuisance be not removed within three (3) days thereafter, it shall be deemed a second (2nd) offense against the provisions of this Section.

SECTION 2.30 CORRUPTING OR DIVERTING WATER SUPPLY

Whoever willfully or maliciously poisons, defiles or in any way corrupts the water of a well, spring, brook or reservoir used for domestic or municipal purposes or whoever willfully or maliciously 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 their use, shall be adjudged guilty of an ordinance violation and punished by a fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or by imprisonment in the City or County Jail not exceeding ninety (90) days or by both such fine and imprisonment, and shall be liable to the party injured for three (3) times the actual damage sustained, to be recovered by suit at law.

SECTION 2.31 ABANDONING MOTOR VEHICLE

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

SECTION 2.32 SKATEBOARDS PROHIBITED

All skateboards are hereby prohibited from all City property.

ARTICLE V. OFFENSES CONCERNING PUBLIC PEACE

SECTION 2.33 PEACE DISTURBANCE

A person commits the offense of peace disturbance if:

1. He/she unreasonably and knowingly disturbs or alarms another person or persons by:
 - (a) Loud noise;
 - (b) Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient;
 - (c) 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;
 - (d) Fighting; or
 - (e) Creating a noxious and offensive odor.
2. He/she is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
 - (a) Vehicular or pedestrian traffic; or
 - (b) The free ingress or egress to or from a public or private place.

SECTION 2.34 PRIVATE PEACE DISTURBANCE

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

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

SECTION 2.35 PEACE DISTURBANCE DEFINITIONS

For the purposes of Sections 2.33 and 2.34, the following words shall have the meanings set out herein:

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

PROPERTY OF ANOTHER: Any property in which the actor does not have a possessory interest.

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

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

SECTION 2.35.1: DISORDERLY CONDUCT

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

1. Uses offensive, disorderly, threatening, abusive or insulting language, conduct or behavior.
2. Acts in such a manner as to annoy, disturb, interfere with, obstruct or be offensive to others or to any lawful assemblage.
3. Shouts or makes a noise either outside or inside a building during the nighttime to the annoyance or disturbance of any considerable number of persons.
4. Causes a disturbance in any railroad car, omnibus or other public conveyance by running through it, climbing through windows or upon the seats, or otherwise annoying passengers or employees therein.
5. Wanders, prowls or loiters upon the private property of another, in the nighttime, and peeks or peers in the door or window of any building or structure located thereon which is inhabited by human beings, without any visible or lawful business with the owners or occupants thereof.

SECTION 2.36 DISCHARGE OF FIREARMS

A. It shall be unlawful for any person within the limits of the City to shoot or discharge any wrist rocket gun, revolver, air rifle, air gun, pistol, or Taser, or firearm of any description as follows:

1. Into a dwelling house, boat, aircraft or motor vehicle, or any building or structure that may be used for the assembling of people; or
2. While intoxicated; or
3. Within five hundred yards of any building used for governmental, school, church or day-care purposes; or

4. From a motor vehicle; or
5. At any person; or
6. In any manner that constitutes a nuisance or in any way endangers persons or property.

B. This Section shall not apply to:

1. Legally qualified sheriffs or police officers; persons whose bona fide duty is to execute process, civil or criminal; wardens, superintendents and keepers of prisons, penitentiaries, jails or other institutions for the detention of persons accused or convicted of crime; persons participating in training courses or seminars sponsored by accredited educational institutions; persons coordinating an educational sponsored sporting event by discharging a starter pistol; members of the armed forces, National Guard, or nationally recognized veterans associations while performing their official duty; Civil War historical re-enactment ceremonies sponsored by the Lone Jack Park and History Board, any person reasonably exercising his right to protect livestock.
2. Persons participating in an activity or business specifically permitted and authorized by the Board of Aldermen with conditions that the Board of Aldermen deems appropriate for the health, safety and general welfare of the community. The Board of Aldermen may revoke the permit granted at any time, at its discretion, where the discharge of firearm or weapon under the permit granted, in its opinion, constitutes a nuisance or in any way endangers persons or property.

SECTION 2.37 UNLAWFUL TRANSFER OF WEAPONS—PENALTY

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 2.37.1 BRANDISHING A WEAPON

A. A person commits the offense of brandishing a weapon when he/she shall exhibit any deadly or dangerous weapon in a rude, angry or threatening manner to any person in the City.

B. For the purpose of this Section, the term "*deadly or dangerous weapon*" shall include, but not be limited to, any firearm, knife, dirk or dagger.

C. Provided that the provisions of this Section shall not apply to Law Enforcement Officers and other officers or persons whose duty it is to execute process or warrants or to make arrests.

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SECTION 2.37.2 UNLAWFUL USE OR POSSESSION OF WEAPONS

A. A person commits the crime of unlawful use or possession of weapons if he or she knowingly:

1. Carries concealed upon or about his or 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 into a dwelling house, a railroad train, boat, aircraft or motor vehicle as defined in Section 302.010, RSMo., or any building or structure used for the assembling of people; or
4. Exhibits, in the presence of one (1) or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or
5. Possesses or discharges a firearm or projectile weapon while intoxicated; or
6. Discharges a firearm within one hundred (100) yards of any occupied schoolhouse, courthouse or church building; or
7. Discharges or shoots a firearm at a mark, at any object or at random on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or
8. Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the Federal Government, State Government or political subdivision thereof; or
9. Discharges or shoots a firearm at or from a motor vehicle, as defined in Section 301.010, RSMo., discharges or shoots a firearm at any person or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or
10. Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of 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.

- B. Subparagraphs (1), (3), (4), (6), (7), (8), (9) and (10) of Subsection (A) of this Section shall not apply to or affect any of the following:
1. All State, County and Municipal Peace Officers possessing the duty and power of arrest for violation of the general criminal laws of the State or for violation of ordinances of Counties or municipalities of the State, whether such officers are within or outside their jurisdictions or on or off duty, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 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 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;
 7. Any State Probation or Parole Officer, including supervisors and members of the Board of Probation and Parole;
 8. Any coroner, deputy coroner, medical examiner or assistant medical examiner.
- C. Subparagraphs (1), (5), (8) and (10) of Subsection (A) 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. Subparagraph (1) of Subsection (A) of this Section does not apply to any person twenty-one (21) years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this State. Subparagraph (10) of Subsection (A) 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.

- D. Subparagraphs (1), (8) and (10) of Subsection (A) of this Section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo., or a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision of another State.
- E. Subparagraphs (3), (4), (5), (6), (7), (8), (9) and (10) of Subsection (A) 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 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.
- G. Any person knowingly aiding or abetting any other person in the violation of Subparagraph (9) of Subsection (A) of this Section shall be subject to the same penalty as that prescribed by this Section for violations by other persons.
- H. Although a concealed carry endorsement issued pursuant to State Statutes or a concealed carry endorsement or permit issued by another State or political subdivision of another State shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the State, no such endorsement or permit shall authorize any person to carry concealed firearms into:
1. The Lone Jack Police Department facility, 401 N. Bynum Road, without the consent of the Chief Law Enforcement Officer in charge of that facility. Possession of a firearm in a vehicle on the premises of the 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;
 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;
 4. Any courthouse or room or office wherein any of the courts or offices of the Lone Jack Municipal Division of the Jackson County Circuit Court are permanently or temporarily conducting any business within the jurisdiction of such courts or

offices, and such other locations in such manner as maybe specified by Supreme Court rule pursuant to the Statutes of the State of Missouri. Nothing in this Subparagraph shall preclude those persons listed in Subparagraph (1) of Subparagraph (B) of Section 2.37.2 while within their jurisdiction and on duty, those persons listed in Subparagraphs (2) and (4) of Subparagraph (B) of Section 2.37.2, or such other persons who serve in a Law Enforcement capacity for a court as may be specified by Supreme Court Rule pursuant to State Statutes from carrying a concealed firearm within any of the areas described in this Subparagraph. Possession of a firearm in a vehicle on the premises of any of the areas listed in this Subparagraph shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

5. Any meeting of the governing body of the City of Lone Jack. 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 portion of a building owned, leased or controlled by the City of Lone Jack so long as any building or portion of a building in which the carrying of concealed firearms is prohibited or limited is clearly identified by 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 with said sign or signs posted at the entrance to the restricted building or area (portion of the building). Persons violating this Subparagraph shall be denied entrance to the building, shall be ordered to leave the building and if employees of the City of Lone Jack, be subjected to disciplinary measures for violation of the provisions of this provision;
7. Any establishment licensed to dispense intoxicating liquor or non-intoxicating beer 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 Subparagraph shall not apply to the licensee of said establishment. The provisions of this Subparagraph 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 Subparagraph 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 Subparagraph authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;
8. Any place where the carrying of a firearm is prohibited by Federal law;

9. 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. 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;
 10. Any portion of a building used as a child care facility without the consent of the manager. Nothing in this Subparagraph shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a driver's license or non-driver's license containing a concealed carry endorsement;
 11. 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;
 12. 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 endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry 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 endorsement from carrying a concealed firearm in vehicles owned by the employer. Employees of the City of Lone Jack, other than those so permitted under Subparagraph (B), subparagraphs (1), (2), (4) and (5) of Section 2.37.2, are prohibited from carrying a concealed firearm in vehicles owned by the City of Lone Jack.
- I. Carrying of a concealed firearm in a location specified in Subsection (I) of this Section by any individual who holds a concealed carry endorsement issued pursuant to the Statutes of the State of Missouri shall not be a criminal act but may subject the person to denial of access 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 infraction by that Peace Officer or other person authorized to issue said citation, which shall require said person to appear before a Judge of the Lone Jack

Municipal Court where said court, upon a finding that a person holding a concealed carry endorsement refused to leave said premises and a Police Officer was summoned, may impose a fine for an amount not to exceed one hundred dollars (\$100.00) for the first (1st) offense. If a second (2nd) citation for a similar violation occurs within a six (6) month period, such person shall be fined an amount not to exceed two hundred dollars (\$200.00) and his or her endorsement to carry concealed firearms shall be subject to be suspended by the State for a period of one (1) year. If a third (3rd) citation for a similar violation is issued within one (1) year of the first (1st) citation, such person shall be fined an amount not to exceed five hundred dollars (\$500.00) and be subject to have his or her concealed carry endorsement revoked by the State and such person may not be eligible for a concealed carry endorsement for a period of three (3) years. Upon conviction of charges arising from a citation issued pursuant to this Subsection, the Court shall notify the Sheriff of the County which issued the certificate of qualification for a concealed carry endorsement and the Department of Revenue.

- J. In any instance in this Section where it states that possession of a firearm in a vehicle on the premises of a stated area 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, it shall be unlawful to remove the firearm from the vehicle and brandish said firearm while still on the premises with the vehicle.

SECTION 2.38 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 2.39 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 2.40 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.

ARTICLE II. OFFENSES CONCERNING PROPERTY

SECTION 2.41 TAMPERING

- A. A person commits the offense of tampering if he/she:
 - 1. Tamperers with property of another for the purpose of causing substantial inconvenience to that person or to another;

2. Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle;
 3. Tamperers or makes connection with property of a utility; or
 4. Tamperers 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 paragraph (4) of Subsection (A), 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 paragraph (4) of Subsection (A), shall be sufficient to support an inference which the Trial Court may submit to the trier of fact from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

SECTION 2.42 PROPERTY DAMAGE

A person commits the offense of property damage if:

1. He/she knowingly damages property of another; or
2. He/she damages property for the purpose of defrauding an insurer.

SECTION 2.43 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.

SECTION 2.44 RESERVED

SECTION 2.45 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 2.46 TRESPASS IN THE SECOND DEGREE

- A. A person commits the offense of 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.

SECTION 2.47 TRESPASS OF A SCHOOL BUS

A person commits the offense of trespass of a school bus if he/she knowingly and unlawfully enters any part of or unlawfully operates any school bus.

SECTION 2.48 RECKLESS BURNING OR EXPLODING

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

SECTION 2.49 NEGLIGENT BURNING OR EXPLODING

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

SECTION 2.50 STEALING

- A. A person commits the offense of stealing if he/she appropriates property or services of another with the purpose to deprive him/her thereof, either without his/her consent or by means of deceit or coercion.
- B. Evidence of the following is admissible in any prosecution pursuant to this Section on the issue of the requisite knowledge or belief of the alleged stealer that:
1. He/she failed or refused to pay for property or services of a hotel, restaurant, inn or boarding house;
 2. He/she gave in payment for property or services of a hotel, restaurant, inn or boarding house a check or negotiable paper on which payment was refused;
 3. He/she left the hotel, restaurant, inn or boarding house with the intent to not pay for property or services; or
 4. He/she surreptitiously removed or attempted to remove his/her baggage from a hotel, inn or boarding house; or

5. He/she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits or reproduces a retail sales receipt, price tag or universal price code label or possesses, with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

SECTION 2.51 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 570.030, RSMo., 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 2.52 RECEIVING STOLEN PROPERTY

- A. A person commits the offense of receiving stolen property if, for the purpose of depriving the owner of a lawful interest therein, he/she receives, retains or disposes of property of another knowing that it has been stolen or believing that it has been stolen.
- B. Evidence of the following is admissible in any criminal prosecution pursuant to this Section to prove the requisite knowledge or belief of the alleged receiver that:
 1. He/she was found in possession or control of other property stolen on separate occasions from two (2) or more persons;
 2. He/she received other stolen property in another transaction within the year preceding the transaction charged; or
 3. He/she acquired the stolen property for a consideration which he/she knew was far below its reasonable value.

SECTION 2.53 FINANCIAL EXPLOITATION OF THE ELDERLY AND DISABLED

- A. A person is guilty of the offense of financial exploitation of an elderly or disabled person if such person stands in a position of trust and confidence with the elderly or disabled person and such person knowingly and by deception or intimidation obtains control over the elderly or disabled person's property with the intent to permanently deprive the elderly or disabled person of the use, benefit or possession of his/her property thereby benefiting such person or detrimentally affecting the elderly or disabled person.

Financial exploitation of an elderly or disabled person is a misdemeanor if the value of the property is less than two hundred fifty dollars (\$250.00).

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

DECEPTION: A misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly or disabled person or to the existing or pre-existing condition of any of the property involved in such contract or agreement or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly or disabled person to enter into a contract or agreement.

"*Deception*" includes:

1. Creating or confirming another person's impression which is false and which the offender does not believe to be true.
2. Failure to correct a false impression which the offender previously has created or confirmed.
3. Preventing another person from acquiring information pertinent to the disposition of the property involved.
4. 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.
5. 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.

DISABLED PERSON: A person who suffers from a physical or mental impairment resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of avoiding or preventing the commission of an offense.

ELDERLY PERSON: A person sixty (60) years of age or older who is suffering from a disease or infirmity associated with advanced age and manifested by physical, mental or emotional dysfunction to the extent that such person is incapable of avoiding or preventing the commission of the offense.

INTIMIDATION: The communication to an elderly or disabled person that he/she will be deprived of food and nutrition, shelter, prescribed medication or medical care and treatment.

- C. For purposes of this Section, a person stands in a position of trust and confidence with an elderly or disabled person when such person:

1. Is a parent, spouse, adult child or other relative by blood or marriage of the elderly or disabled person;
 2. Is a joint tenant or tenant in common with the elderly or disabled person with knowledge of such relationship;
 3. Has a legal or fiduciary relationship with the elderly or disabled person; or
 4. Has a relationship with the elderly or disabled person as a health care or personal care worker.
- D. Nothing in this Section shall be construed to limit the remedies available to the victim pursuant to any State law relating to domestic violence.
- E. 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 or disabled person in the management of his/her property, but through no fault of his/her own has been unable to provide such assistance.
- F. 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 or disabled person has become accustomed at the time of such actions.
- G. It shall not be a defense to financial exploitation of an elderly or disabled person that the accused reasonably believed that the victim was not an elderly or disabled person.

SECTION 2.54 FRAUDULENT USE OF A CREDIT OR DEBIT DEVICE

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

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

SECTION 2.55 DECEPTIVE BUSINESS PRACTICE

A person commits the offense of deceptive business practice if in the course of engaging in a business, occupation or profession he/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 or exposes 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/she furnishes the weight or measure;
4. Sells, offers or exposes for sale adulterated or mislabeled commodities; or
5. Makes a false or misleading written statement for the purpose of obtaining property or credit.

SECTION 2.56 ALTERATION OR REMOVAL OF ITEM NUMBERS WITH INTENT TO DEPRIVE LAWFUL OWNER

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 2.57 FAILURE TO RETURN RENTED PERSONAL PROPERTY— ENFORCEMENT PROCEDURE—PENALTY—VENUE

- A. A person commits the offense of failing to return leased or rented property if, with the intent to deprive the owner thereof, he/she purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property. In addition, any person

who has leased or rented personal property of another who conceals the property from the owner or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the offense of failing to return leased or rented property. The provisions of this Section shall apply to all forms of leasing and rental agreements including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this Section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

- B. It shall be prima facie evidence of the offense of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten (10) days after proper notice following the expiration of the lease or rental agreement, except that if the motor vehicle has not been returned within seventy-two (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 failing to return leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two (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 ten (10) 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.
- C. 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.
- D. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.

- 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 shall be guilty of property damage pursuant to Section 210.300 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 2.58 PASSING BAD CHECKS

- A. A person commits the offense of passing a bad check when:
 - 1. With purpose to defraud, the person makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee; or
 - 2. The person makes, issues or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in that account and fails to pay the check or sight order within ten (10) days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee.
- B. As used in Subparagraph (2) of Subsection (A) 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 (10) day period during which the instrument may be paid and that payment of the instrument within such ten (10) day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

**SECTION 2.59 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 un-purchased 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 un-purchased 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.

ARTICLE III. OFFENSES CONCERNING PROSTITUTION AND MORALS

SECTION 2.60 ARTICLE DEFINITIONS

As used in this Article, the following terms mean:

PATRONIZING PROSTITUTION: A person patronizes prostitution if:

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

PROSTITUTION: A person commits prostitution if he/she engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third (3rd) person.

SEXUAL CONDUCT: Occurs when there is:

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

2. *Deviate sexual intercourse.* Any sexual act involving the genitals of one (1) person and the mouth, hand, tongue or anus of another person.
3. *Sexual contact.* Any touching, manual or otherwise, of the anus or genitals of one (1) person by another, done for the purpose of arousing or gratifying sexual desire of either party.

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

SECTION 2.61 PROSTITUTION

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

SECTION 2.62 PATRONIZING PROSTITUTION

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

SECTION 2.63 PROSTITUTION AND PATRONIZING PROSTITUTION—SEX OF PARTIES NO DEFENSE, WHEN

In any prosecution for prostitution or patronizing a prostitute, the sex of the two (2) parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial and it is no defense that:

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

SECTION 2.64 PROSTITUTION HOUSES DEEMED PUBLIC NUISANCES

- A. Any room, building or other structure regularly used for sexual contact for pay as defined in Section 210.430 or any unlawful prostitution activity prohibited by this Article is a public nuisance.
- B. The City Prosecuting Attorney or City Attorney may, in addition to all other sanctions, prosecute a suit in equity to enjoin the nuisance. If the Court finds that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for sexual contact for pay or unlawful prostitution activity, the Court may order that the premises shall not be occupied or used for such period as the Court may determine, not to exceed one (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 sexual contact for pay or unlawful prostitution activity anywhere within the jurisdiction of the Court.

SECTION 2.65 PUBLIC INDECENCY

- A. A person who knowingly or intentionally in a public place to include, but not be limited to, indoor and outdoor entertainment establishments, restaurants, theaters, bars, bookstores and places of public accommodation where one (1) or more other persons is present:
1. Engages in sexual intercourse;
 2. Engages in deviate sexual conduct;
 3. Appears in a state of nudity; or
 4. Fondles the genitals of himself/herself or another person commits the unlawful act of public indecency and is subject to punishment as for a violation of this Section.
- B. "*Nudity*" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola, or the showing of the covered male genitals in a discernible turgid state.

ARTICLE IV. OFFENSES CONCERNING PORNOGRAPHY

SECTION 2.66 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 under the age of eighteen (18).

NUDITY: The showing of post-pubertal human genitals or pubic area with less than a fully opaque covering.

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

1. Applying contemporary community standards, its predominant appeal is to prurient interest in sex;
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 is pornographic for minors 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;
2. The material or performance depicts or describes nudity, sexual conduct, sexual excitement 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 2.67 PROMOTING PORNOGRAPHY

A person commits the offense of promoting pornography for minors or obscenity if, knowing its content or character, he/she:

1. Promotes or possesses with the purpose to promote any obscene materials for pecuniary gain;
2. Produces, presents, directs or participates in any obscene performance for pecuniary gain;

3. Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain;
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 2.68 FURNISHING PORNOGRAPHIC MATERIALS TO MINORS

A person commits the offense of furnishing pornographic material to minors if, knowing 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;
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.

ARTICLE V. OFFENSES CONCERNING ALCOHOL AND DRUGS

SECTION 2.69 POSSESSION OF MARIJUANA

Except as authorized by Sections 195.005 to 195.425, RSMo., it is unlawful for any person to possess or have under his/her control marijuana as defined in Section 195.010, RSMo.

SECTION 2.70 POSSESSION OR CONTROL OF A CONTROLLED SUBSTANCE

Except as authorized by Sections 195.005 to 195.425, RSMo., it is unlawful for any person to possess or have under his/her control a controlled substance as defined by Section 195.010, RSMo.

**SECTION 2.71 LIMIT ON OVER-THE-COUNTER SALE OF METHAMPHET-
AMINE — EXCEPTIONS**

- A. No person shall deliver in any single over-the-counter sale more than three (3) packages of any methamphetamine precursor drug or any combination of methamphetamine precursor drugs.
- B. This Section shall not apply to any product labeled pursuant to Federal regulation for use only in children under twelve (12) years of age or to any products that the State Department of Health and Senior Services, upon application of a manufacturer, exempts by rule from this Section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors.
- C. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine or phenylpropanolamine products are available for sale who violates Subsection (A) of this Section shall not be penalized pursuant to this Section if such person documents that an employee training program was in place to provide the employee with information on the State and Federal regulations regarding ephedrine, pseudoephedrine or phenylpropanolamine.

**SECTION 2.72 LIMITATIONS ON THE RETAIL SALE OF METHAMPHET-
AMINE 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. Any person holding a retail sales license pursuant to Chapter 144, RSMo., who knowingly violates Subsection (A) of this Section is guilty of a misdemeanor.
- C. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine or phenylpropanolamine products are available for sale who violates Subsection (A) of this Section shall not be penalized pursuant to this Section if such person documents that an employee training program was in place to provide the employee with information on the State and Federal regulations regarding ephedrine, pseudoephedrine or phenylpropanolamine.

SECTION 2.73 UNLAWFUL USE OF DRUG PARAPHERNALIA

It is unlawful for any person to use or to possess with intent to use, drug paraphernalia as defined by Section 195.010, RSMo., 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 as defined by Section 195.010, RSMo., or an imitation controlled substance as defined by Section 195.010, RSMo., in violation of Sections 195.005 to 195.425, RSMo.

SECTION 2.74 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 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; except that this Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

SECTION 2.75 INDUCING OR POSSESSION WITH INTENT TO INDUCE, SYMPTOMS BY USE OF SOLVENTS, PROHIBITED

- A. 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 of any solvent, particularly toluol.
- B. No person shall intentionally possess any solvent, particularly toluol, for the purpose of using it in the manner prohibited by Section 210.550 and this Section.

SECTION 2.76 POSSESSION OR PURCHASE OF SOLVENTS TO AID OTHERS IN VIOLATIONS, PROHIBITED—VIOLATIONS OF SECTIONS 210.550 TO 210.560—PENALTY

- A. No person shall intentionally possess or buy any solvent, particularly toluol, for the purpose of inducing or aiding any other person to violate the provisions of Sections 210.550 and 210.560 hereof.
- B. Any person who violates any provision of Sections 210.550—210.570 is guilty of an ordinance violation.

ARTICLE VI. OFFENSES CONCERNING MINORS

SECTION 2.77 DEFINITIONS

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

CRIMINAL ACT: An act which violates the Statutes of the United States, the Statutes of the State of Missouri or the ordinances of the City of Lone Jack, including curfew and moving traffic violations.

GUARDIAN: Guardian appointed by court of competent jurisdiction.

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

PARENT: The natural father or mother or the adoptive father or mother.

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 criminal act.

SECTION 2.78 RESERVED

SECTION 2.79 PARENTAL RESPONSIBILITY

- A. Whenever a minor shall be arrested or detained for the commission of any criminal act 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 Police 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 criminal act. 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 criminal act.
- 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).
- D. As used in this Section, "parent" shall mean the natural or adoptive parent of a person, as well as a legal guardian.

SECTION 2.79.1: CURFEW

A. *Definitions.* As used in this Section, the following words and terms shall have the meanings respectively ascribed:

- 1. *DAYTIME CURFEW HOURS*: Between the hours of 9:00 A.M. and 2:30 P.M. on a Monday, Tuesday, Wednesday, Thursday or Friday when schools are in session.

2. *EMERGENCY*: Shall include, but not be limited to, fire, natural disaster, an automobile accident or obtaining immediate medical care for another person.
3. *GUARDIAN*: Any person to whom custody of a minor has been given by a court order.
4. *MINOR*: Any person under seventeen (17) years of age and over six (6) years of age.
5. *PARENT*: A person who is the natural or adoptive parent of a person. As used herein, "*parent*" shall also include a court appointed guardian or other person eighteen (18) years of age or older, authorized by the parent, by a court order or by the court appointed guardian to have the care and custody of a person.
6. *PUBLIC PLACE*: Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office building, transport facilities and shops.
7. *SCHOOL OFFICIAL*: An administrator in the school in which the minor is enrolled or a supervisor of that administrator. In the case of a minor being educated in a home school, a parent or guardian of the minor shall be deemed a school official.

B. *Nighttime Curfew*. It shall be unlawful for any person sixteen (16) years of age or younger to be in or upon any public place or way within the City of Lone Jack between the hours of 1:01 a.m. and 5:00 a.m. The provisions of this Subsection 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.

C. *Daytime Curfew*.

1. No minor who is subject to compulsory education under the law of the State of Missouri shall remain in, on or upon any establishment's premises, public place or street during daytime curfew hours. This Section shall also apply to a minor whose enrollment status is under suspension or expulsion.
2. No parent or guardian shall knowingly permit, or by insufficient control, allow a minor to remain in, on or upon any establishment's premises, public place or street during daytime curfew hours. No parent or guardian shall refuse to take custody of the minor.

3. In addition to other relevant evidence, such parent or guardian shall be deemed to have knowledge of a minor's continued violation of daytime curfew hours as a result of having received initial notification of same from a Law Enforcement Officer or notification of unexcused, unexcused absences from a school official or a representative of a school official.

4. No operator of an establishment shall knowingly allow a minor to remain in, on or upon the establishment's premises during daytime curfew hours.

D. *Daytime Curfew--Exceptions.* Subsection (C) shall not apply to the minor, parent, guardian or operator of an establishment when the minor is:

1. Exempt or excluded from compulsory education, as provided by the laws of the State of Missouri, or is authorized to be absent from his or her school pursuant to the provisions of the laws of the State of Missouri;
2. Attending his or her school;
3. Accompanied by his or her parent or guardian, or other adult person having the care or custody of the minor;
4. On an errand as directed by his or her parent or guardian, or other adult person having the care or custody of a minor, without any detour or stop;
5. Lawfully engaged in a business, trade, profession, occupation or employment-related activity at the time, or going to or coming from a place of employment or the location of an employment-related activity which is connected with or required with respect to the business, trade, profession or occupation in which the minor is lawfully engaged, without any detour or stop;
6. Attending a public meeting or a school, religious, recreational or civic organization activity, event or function which is under the direction, supervision or control of an adult and which is organized, arranged or sponsored by the City, a local educational authority, a religious or civic organization or another similar entity that is taking responsibility for the minor; or going to or coming from that activity, event or function, without any detour or stop;
7. Carrying in his or her possession a valid, school-issued, off-campus permit or pass that authorizes the minor to leave his or her school campus for lunch, a school related activity or some other event approved by his or her school official;
8. Receiving medical or mental treatment or care; or is going to or coming from a medical or mental appointment, without any detour or stop;

9. Attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion;
10. Involved in an emergency such as a fire, natural disaster, automobile accident, a situation requiring immediate action to prevent serious bodily injury or loss of life or any unforeseen combination of circumstances or the resulting state which calls for immediate action;
11. In a motor vehicle, bus or train involved in interstate travel;
12. Not a resident of the City and the minor possesses a valid passport, visitor's visa or other form of identification which establishes that the minor is temporarily visiting within the City;
13. On a sidewalk abutting the minor's permanent residence; or
14. Is, or was, engaged in a lawful employment or volunteer work at a recognized charity institution or is going to or coming from such activity without detour or stop.

E. *Daytime Curfew--Exceptions--Operator.* Subsection (C)(4) shall not apply to the operator of an establishment, when the operator of an establishment promptly notifies the Lone Jack Police Department of the minor's presence on the establishment's premises during daytime curfew hours and that the minor has refused to leave.

F. *Enforcement--Penalties.*

1. Subsection (B) shall be punishable pursuant to Section 1.8.
2. Subsection (C) shall be enforced as follows:
 - a. Before taking any action to enforce the provisions of Subsection (C), a Law Enforcement Officer who has a reasonable suspicion based on articulable facts that the minor, parent, guardian or operator of an establishment is in violation of a provision contained in Subsection (C) shall ascertain:
 - (1) The minor's name, address, age;
 - (2) The name of the minor's parent or guardian;
 - (3) The reason or purpose for the minor's being in, on or upon the establishment, public place or street during the daytime curfew hours; and
 - (4) Any other information reasonably necessary to determine whether a violation exists.

b. A Law Enforcement Officer shall enforce the provisions of Subsection (C) by way of a written notice to appear or an arrest for an adult, and by way of a written notice to appear, a referral to the Jackson County Family Court Services Truancy Diversion Program or any procedure authorized under the Juvenile Code of the State of Missouri for a minor, when:

(1) The Law Enforcement Officer reasonably believes that an offense has occurred; and

(2) Based on any response or other circumstances, the minor, parent, guardian or operator of an establishment, who is accused of the violation, has failed to establish the existence of an exception set forth in Subsections (D) or (E).

3. When a minor is charged with a violation of Subsection (C), each violation shall constitute a separate offense and shall be punishable as an infraction punishable by up to forty (40) hours of community service for each offense. Whenever a minor shall have been summoned by written notice to appear for the violation of any provision of this Section, the parent(s) or guardian of such minor, if known, shall be summoned to appear and defend such minor.

4. When a parent or guardian is charged with a violation of Subsection (C), or when an operator of an establishment is charged with a violation of Subsection (C), each violation shall constitute a separate offense and shall be punishable as a misdemeanor as provided under Section 1.8.

Section 9. That should any sentence, clause, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

Section 10. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 11. That the repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.

ARTICLE VII. OFFENSES CONCERNING TOBACCO

SECTION 2.80 DEFINITIONS

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

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

MINOR: A person under the age of eighteen (18).

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 smoke able cigarette.

SAMPLE: A tobacco 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 samples.

TOBACCO PRODUCTS: Any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

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.

SECTION 2.81 UNLAWFUL TO SELL OR DISTRIBUTE TOBACCO PRODUCTS TO MINORS—VENDING MACHINE REQUIREMENTS

- A. It shall be unlawful for any person to sell, provide or distribute tobacco products to persons under eighteen (18) years of age.
- B. All vending machines that dispense tobacco products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen (18) years of age from purchasing any tobacco product from such machine or shall be equipped with a lock-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 eighteen (18) 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 (E) of this Section. A determination of non-compliance may be made by a local Law Enforcement Agency or the Division of Liquor 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 or rolling papers to any minor 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 Subsections (A), (B) or (C) of this Section or Section 210.650 of this Article shall be penalized as follows:
1. For the first (1st) offense, twenty-five dollars (\$25.00);
 2. For the second (2nd) offense, one hundred dollars (\$100.00); and
 3. For a third (3rd) and subsequent offense, two hundred fifty dollars (\$250.00).
- E. Any owner of the establishment where tobacco 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 tobacco sales to minors. Such training program must be attended by all employees who sell tobacco 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 to minors; and
 3. Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety (90) minutes in length, established by the Division of Liquor Control.
- 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 are available for sale if:
1. Four (4) or more violations per location of Subsection (C) of this Section occur within a one (1) 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 210.650, 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 to any individual less than eighteen (18) years of age in violation of Subsections (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:

1. Such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen (18) 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 2.82 MINORS PROHIBITED FROM PURCHASE OR POSSESSION OF TOBACCO—MISREPRESENTATION OF AGE

- A. No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products unless such person is an employee of a seller of cigarettes or tobacco products and is in such possession to effect a sale in the course of employment or an employee of the Division of Liquor Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.
- B. Any person less than eighteen (18) years of age shall not misrepresent his/her age to purchase cigarettes or tobacco products.
- C. Any person who violates the provisions of this Section shall be penalized as follows:
1. For the first (1st) violation, the person is guilty of an infraction and shall have any cigarettes or tobacco products confiscated;
 2. For a second (2nd) violation and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes or tobacco products confiscated, and shall complete a tobacco education or smoking cessation program, if available.

SECTION 2.83 RETAIL SALES TAX LICENSE REQUIRED FOR SALE OF TOBACCO PRODUCTS

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

SECTION 2.84 REQUIRED SIGN STATING VIOLATION OF STATE LAW TO SELL TOBACCO TO MINORS UNDER AGE EIGHTEEN—DISPLAY OF SIGN REQUIRED WHERE

The owner of an establishment at which tobacco 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 are sold and on every vending machine where tobacco 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 OR OTHER TOBACCO PRODUCTS TO BE SOLD OR OTHERWISE PROVIDED TO ANY PERSON UNDER THE AGE OF EIGHTEEN OR FOR SUCH PERSON TO PURCHASE, ATTEMPT TO PURCHASE OR POSSESS CIGARETTES OR OTHER TOBACCO 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 18".

SECTION 2.85 RESTRICTIONS ON SALES OF INDIVIDUAL PACKS OF CIGARETTES

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 2.86 PROOF OF AGE REQUIRED, WHEN DEFENSE TO ACTION FOR VIOLATION IS REASONABLE RELIANCE ON PROOF—LIABILITY

- A. A person or entity selling tobacco products or rolling papers or distributing tobacco 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 eighteen (18).
- B. The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo., 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 Liquor Control or any owner or employee of an establishment that sells tobacco for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least eighteen (18) years of age when such person desires to purchase or possess tobacco 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 a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars (\$1,000.00) and confinement for not more than one (1) year, or by both such fine and imprisonment.

- 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 210.620 of this Article. No person shall be liable for more than one (1) violation of Subsections (B) and (C) of Section 210.620 on any single day.

SECTION 2.87 SMOKING IN PUBLIC PLACES

- A. *Offenses.* The following shall be offenses under the ordinances of this community and shall be punishable as provided in Subsection (F) of this Section.

1. No person shall smoke in a public place or in a public meeting except in a designated smoking area.
2. No proprietor or other person in charge of a public place or public meeting shall permit, cause, suffer or allow a person to smoke in those areas where smoking is prohibited.

- B. *Duties Of Person Having Control Of Public Place.* The person having custody or control of a public place or public meeting shall:

1. Make reasonable efforts to prevent smoking in the public place or public meeting by posting appropriate signs indicating no-smoking or smoking area and arrange seating accordingly. These signs shall be placed at a height and location easily seen by a person entering the public place or public meeting and not obscured in any way;
2. Arrange seating and utilize available ventilation systems and physical barriers to isolate designated smoking areas;
3. Make a reasonable request of persons smoking to move to a designated smoking area;
4. Allow smoking in designated areas of theater lobbies only.

- C. *"Public Place" Defined.* A "public place" is any enclosed indoor area used by the general public or serving as a place of work including, but not limited to:

1. Any retail or commercial establishment;
2. Health care facilities, health clinics or ambulatory care facilities including, but not limited to, laboratories associated with health care treatment, hospitals, nursing homes, physicians' offices and dentists' offices;
3. Any vehicle used for public transportation including, but not limited to, buses, taxicabs and limousines for hire;
4. Restrooms;

5. Elevators;
6. Libraries, educational facilities, day care facilities, museums, auditoriums and art galleries;
7. All public areas and waiting rooms of public transportation facilities including, but not limited to, bus and airport facilities;
8. Any enclosed indoor place used for entertainment or recreation including, but not limited to, gymnasiums, theater lobbies, concert halls, arenas and swimming pools;
9. Any other enclosed indoor areas used by the general public including, but not limited to, corridors and shopping malls;

However, the following areas are not considered a public place:

1. An entire room or hall which is used for private social functions, provided that the seating arrangements are under the control of the sponsor of the function and not of the proprietor or other person in charge;
2. Limousines for hire and taxicabs, where the driver and all passengers agree to smoking in such vehicle;
3. Performers on the stage, provided that the smoking is part of the production;
4. A place where more than fifty percent (50%) of the volume of trade or business is carried on is that of the blending of tobaccos or sale of tobaccos, cigarettes, pipes, cigars or smoking sundries;
5. Any bar, any tavern, a restaurant that seats less than fifty (50) people, any bowling alley or any billiard parlor, provided such establishment conspicuously post at least two (2) signs stating that "Non-smoking Areas are Unavailable";
6. Private residences; and
7. Any enclosed indoor arena, stadium or other facility which may be used for sporting events and which has a seating capacity of more than fifteen thousand (15,000) persons.

D. *Other Definitions.* As used in this Section the following terms shall have these prescribed meanings:

BAR OR TAVERN: Any licensed establishment which serves liquor on the premises for which no more than ten percent (10%) of the gross sales receipts of the business are supplied by food purchases, either for consumption on the premises or elsewhere.

OTHER PERSON IN CHARGE: The agent of the proprietor authorized to give administrative directions to and general supervision of the activities within the public place, workplace or public meeting at any given time.

PROPRIETOR: The party who ultimately controls, governs or directs the activities within the public place, workplace or public meeting, regardless of whether he/she is the owner or lessor of such place or site. The term does not mean the owner of the property unless he/she ultimately controls, governs or directs the activities within the public place or public meeting. The term "proprietor" shall apply to a corporation, as well as an individual.

PUBLIC MEETING: A gathering in person of members of a governmental body, whether an open or closed session, as defined in Chapter 610, RSMo.

RESTAURANT: Any building, structure or area used, maintained or advertised as or held out to the public to be an enclosure where meals for consideration of payment are made available to be consumed on the premises.

SMOKING: Possession of burning tobacco in the forms of a cigarette, cigar, pipe or other smoking equipment.

- E. *Designated Smoking Area.* A smoking area may be designated by persons having custody or control of public places, except in places in which smoking is prohibited by the Fire Marshal or by other law ordinance or regulation.
1. *Restaurants.* A proprietor or other person in charge of a restaurant shall designate an area of sufficient size to accommodate usual and customary demand for non-smoking areas by customers or patrons.

CHAPTER 204. CITY PARKS

SECTION 2.88 RULES OF THE PARK

It shall be unlawful for any person in a city park to:

1. Willfully and maliciously mark on, deface, disfigure, tamper with or remove any park property.
2. Plant, cut, pick, damage in any way or remove any tree or other plant.
3. Solicit on park property without the approval of the Park and History Board.
4. Build or attempt to build and set a fire in any area not designated for such purpose.
5. Dump or deposit any trash or litter upon park property.

6. Camp on or remain overnight on park property without prior written approval from the Park and History Board.
7. Bring into, possess or drink alcoholic beverages in a park facility.
8. Use or possess fireworks of any kind on park property without written approval of the Park and History Board.
9. Use abusive language or conduct himself/herself in a disorderly manner so as to interfere with others.
10. Allow domestic animals to run loose in park facilities. All animals must be kept on a leash or adequately restrained by the owner.

SECTION 2.89 RESERVED

SECTION 2.90 RESERVED

SECTION 2.91 RESERVED

SECTION 2.92 RESERVED

SECTION 2.93 RESERVED