

CHAPTER 12. OFFENSES AND PENALTIES

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CHAPTER 12
OFFENSES AND PENALTIES
ARTICLE 1. OFFENSES AGAINST PUBLIC PEACE.

SEC. 12.01.001. PEACE DISTURBANCE.

A. A person commits the crime of peace disturbance if:

1. He/She unreasonably and knowingly causes alarm to another person or persons not physically on the same premises by:

a. loud and unusual noise; or

b. personally abusive language addressed in a face-to-face manner to a specific individual and uttered under circumstances such that the words have a direct tendency to cause an immediate violent response by a reasonable recipient; or

c. threatening to commit an offense against persons upon a person present under circumstances that would cause a reasonable person to conclude that the offense against persons was imminent and likely; or

d. fighting; or

e. creating a noxious or offensive odor.

2. He/She is in a public place or on private property of another without consent and unreasonably and knowingly causes alarm to another person or persons by:

a. loud and unusual noise; or

b. personally abusive language addressed in a face-to-face manner to a specific individual and uttered under circumstances such that the words have a direct tendency to cause an immediate violent response by a reasonable recipient; or

c. threatening to commit an offense against persons upon a person present under circumstances that would cause a reasonable person to conclude that the offense against persons was imminent and likely; or

d. fighting; or

e. creating a noxious or offensive odor.

3. He/She is in a public place or on the private property of another without consent and purposely caused inconvenience to another person or persons by unreasonably and physically obstructing:

a. vehicular or pedestrian traffic; or

b. the free ingress and egress to or from public or private places.

SEC. 12.01.002. DISTURBING A JUDICIAL PROCEEDING.

A person commits the crime of disturbing a judicial proceeding if, with purpose to intimidate a judge, attorney, juror, party or witness, and thereby to influence a judicial proceeding, that person 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 the 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.

SEC. 12.01.003. ASSAULT.

A. A person commits the crime of assault if (1) that person attempts to cause or recklessly causes physical injury to another person; or (2) with criminal negligence, causes physical injury to another person by means of a deadly weapon or dangerous instrument; or (3) purposely places another person in apprehension of immediate physical injury; or (4) recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or (5) knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

B. When conduct is charged to constitute an offense because it causes or threatens physical injury, consent to that conduct or to the infliction of the injury is a defense only if (1) the physical injury consented to or threatened by the conduct is not serious physical injury; or (2) the conduct and the harm are reasonably foreseeable hazards of (a) the victim's occupation or profession; or (b) joint participation in a lawful athletic contest or competitive sport; or (3) the consent established a defense of justification.

C. No person shall intentionally commit any of the acts described in subsection A above with the intent to intimidate another person by reason of race, ancestry, religion, color, sex, marital status, age, national origin or handicap.

D. Any person found guilty of a violation of subsection A above shall be subject to a fine of up to Five Hundred Dollars (\$500.00) and to incarceration for a term not to exceed six months, except if a person is convicted under provision (3) or (5) of subsection A above, the maximum term of incarceration shall be 15 days and the maximum fine shall be Three Hundred Dollars (\$300.00). Any person found guilty of a violation of subsection C shall be subject to a fine of not less than Three Hundred Dollars (\$300.00) and incarceration for a term not less than 15 days.

SEC. 12.01.004. DISORDERLY CONDUCT.

Any person who, with intent to provoke a breach of the peace or to cause violence to persons or property, commits any of the following acts shall be deemed to have committed the offense of disorderly conduct:

1. Acts in a violent or tumultuous manner toward another, placing such person in fear of safety of life, limb or health.
2. Acts in a violent or tumultuous manner toward another, whereby property of any person is placed in danger of being destroyed or damaged.
3. Endangers lawful pursuits of another by acts of violence, angry threats and abusive conduct.

4. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another.
5. Assembles or congregates with another or others for the purpose of causing, provoking or engaging in any fight or brawl.
6. Jostles or roughly crowds or pushes any person in any public place.
7. Frequents any public place with intent to obtain money from another by an illegal and fraudulent scheme, trick, artifice or device.
8. Assembles with another or others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the City, or to aid or abet therein.
9. Any male person accosts or attempts to force his company upon any female or attempts to pick up any female.
10. Uses "fighting words" directed towards another who becomes outraged and thus creates turmoil.
11. Assembles or congregates with another or others for the purpose of doing bodily harm to another.
12. Any person, by acts of violence, interferes with another's pursuit of a lawful occupation.
13. Congregates with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered by a peace officer or other lawful authority.
14. Congregates with others on a public street and refuses to move on when ordered by the police.
15. By actions taken causes a crowd to collect, except when lawfully addressing such crowd.
16. Takes up a position on the public streets or follows pedestrians for the purpose of soliciting alms, or who solicits alms on the public streets unlawfully.
17. Causes a disturbance in any bus or other public conveyance by running through it, climbing through windows or upon the seats, or otherwise annoying passengers or employees therein.
18. Stands on sidewalks or street corners and makes insulting remarks to or about passing pedestrians or annoys such pedestrians.
19. Wanders, prowls, or loiters upon the private property of another and peeks or peers in the door or window or attempts to open any door or window of any habitable building or structure located thereon, without any visible or lawful business with the owners or occupants thereof.

SEC. 12.01.005. LOITERING.

It shall be unlawful to loiter in such manner as to disturb the peace, of any person, or to obstruct free passage of pedestrians or vehicles, or to obstruct, molest, or to interfere with any person lawfully in any public place, by conduct including making remarks which are personally abusive, addressed in a face-to-face manner to a specific individual and uttered under circumstances such that the words have a direct tendency to cause an immediate violent response by a reasonable recipient.

SEC. 12.01.006. PLAYING IN THE STREETS

No person shall throw, kick, or knock any ball or play any games on any public thoroughfare as to cause disruption of the traffic flow. No person shall knowingly or negligently allow violation of this section if such person is the parent or custodian of a minor who is playing in the street.

SEC. 12.01.007. UNLAWFUL ASSEMBLY.

A. A person commits the crime of unlawful assembly by knowingly assembling with six or more other persons and agreeing with such persons to violate any of the criminal laws of this State, the United States, or of Chapter 12 of the ordinances of the City of Independence with force or violence.

SEC. 12.01.008. RIOTING.

A person commits the crime of rioting by knowingly assembling with six or more other persons and agreeing with such persons to violate any of the criminal laws of this State, the United States, or of Chapter 12 of the ordinances of the City of Independence with force or violence, and thereafter, while still so assembled, does violate any of said laws with force or violence.

SEC. 12.01.009. REFUSAL TO DISPERSE.

A person commits the crime of refusal to disperse if, being present at the scene of an unlawful assembly, or at the scene of a riot, such person 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.

SEC. 12.01.010. SOUND AMPLIFYING EQUIPMENT PROHIBITED.

A. No person shall use, or cause to be used, sound amplifying equipment or other machine or device used for the amplification of the human voice, music or any other sound for the purpose of casting human voices, music, or other sounds upon the public streets of the City of Independence, Missouri.

B. Sound amplifying equipment as set out in Subsection A shall not be construed as including standard automobile radios when used and heard only by the occupants of the vehicle or building in which they are installed. Warning devices on vehicles or buildings used only for traffic safety police or security purposes shall not be included in the definition of sound amplifying equipment.

C. Persons or groups desiring to use such devices set out in Subsection A above for noncommercial use may file a request for the issuance of a Special Event Permit with the City Manager. Such request shall include the name and address of the applicant, time, date, and place for use of the sound amplifying equipment, the purpose for which such use is intended, and the approximate maximum distance such equipment is possible of projecting the amplified sound. Such person shall not be deemed in violation of Subsection A when using such devices pursuant to and in accordance with the terms of such permit granted by the City Manager.

SEC. 12.01.011. RESERVED.

SEC. 12.01.012. URINATING IN PUBLIC.

It shall be unlawful for any person within the City to urinate in or upon any street, park, any public place open to the public or private place open to public view other than in the restroom facilities provided for such activity.

SEC. 12.01.013. HARASSMENT.

It is unlawful for any person, for the purpose of frightening or disturbing another person:

1. To communicate in writing, by telephone or by any electronic communication, a threat to commit an offense against persons upon the person under circumstances that would cause a reasonable person to conclude that the offense against persons was imminent and likely; or
2. To make a telephone call, to communicate in writing or electronically, using any coarse language offensive to one of average sensibility; or
3. To make a telephone call or electronic communication anonymously with the intent to frighten, intimidate or cause emotional distress; or
4. To make repeated unwanted telephone calls or electronic communications to another.

SEC. 12.01.014. DISRUPTING A PUBLIC MEETING.

A. For purposes of this section, a public meeting shall be defined to mean any meeting of a public governmental body, as defined in Chapter 610, RSMo., whether that meeting is open or closed.

B. It shall be unlawful for any person to purposely disrupt a public meeting by:

1. Using or threatening violence, force or other physical interference or obstacle;
2. Causing an excessive, unnecessary or unusually loud noise which unreasonably interferes with the conduct of the public meeting; or
3. Creating a noxious or offensive odor.

SEC. 12.01.015. RESTRICTIVE USE OF LASER POINTERS.

A. For purposes of this section, the words "laser pointer" shall mean any device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

B. It shall be unlawful for any person to focus, shine or otherwise direct the beam of a laser pointer directly or indirectly on another person or animal in such a manner as to harass, annoy or injure said person or animal.

C. It shall be unlawful for any person to sell a laser pointer to a person under the age of eighteen.

D. It shall be unlawful for any person under the age of eighteen to possess a laser pointer unless that person is under the direct supervision of a parent, guardian, or other adult person having control of said person under the age of eighteen.

SEC. 12.01.016. FIREWORKS PROHIBITED.

A. It is unlawful for any person to possess, manufacture, store, sell, handle and/or use fireworks, except as provided in Section 9.01.003.

B. Every person shall comply with all provisions of the Fire Code, Chapter 9 of the Independence City Code and all permit requirements of the Fire Department.

SEC.12.01.017. HARASSMENT OF A BICYCLIST, PEDESTRIAN OR WHEELCHAIR OPERATOR.

No person shall, for the purpose of frightening, disturbing, or injuring any person riding a bicycle, walking, running, or operating a wheelchair:

1. Throw an object at or in such person's direction; or
2. Threaten such person; or
3. Shout or otherwise direct loud or unusual sounds toward such person; or
4. Knowingly place such person in apprehension of immediate physical danger; or
5. Knowingly engage in conduct that creates a risk of death or serious physical injury to such person.

SEC. 12.01.018. FUNERAL PROTESTS PROHIBITED.

A. Every citizen may freely speak, write and publish the person's sentiments on all subjects, being responsible for the abuse of the right, but no person shall picket or engage in other protest activities, nor shall any association or corporation cause picketing or other protest activities to occur within three hundred (300) feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one (1) hour before or one (1) hour after the conducting of any actual funeral or burial service at that place.

B. As used in this Section, "other protest activities" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

C. As used in this Section, "funeral" and "burial service" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this Section does not apply to processions while they are in transit beyond any three hundred (300) foot zone that is established under Subsection (A) above.

SEC. 12.01.019 - 12.01.999 RESERVED.

ARTICLE 2. CONTROLLED SUBSTANCES

SEC. 12.02.001. DEFINITIONS.

For the purposes of this Article, the following terms and their derivations shall have the meaning given herein:

ADMINISTER means to apply a drug or controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

- (a) a practitioner (or, in his/her presence, by an authorized agent), or
- (b) the patient or research subject at the direction and in the presence of the practitioner.

CONTROLLED SUBSTANCE means drug, substance or immediate precursor in Schedules 1 through V of the Uniform Controlled Substances Act found in Chapter 195, of the Missouri Statutes Annotated; including, but not limited to:

- (a) Cocaine and its derivatives.
- (b) Opiates and opium derivatives such as heroin, codeine, pethidine, and morphine.
- (c) Hallucinogenic substances including lysergic acid diethylamide, marijuana (*Cannabis sativa* L.), including seeds of mature plants, mescaline, psilocybin, and various types of methoxyamphetamines.
- (d) Stimulants such as amphetamines and methamphetamines.
- (e) Barbiturates and other depressants such as amobarbital, secobarbital, pentobarbital, phenobarbital, methaqualone, phencyclidine, and diazepam.

DELIVER OR DELIVERY means the actual, constructive or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance whether or not there is an agency relationship, and includes sale.

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

DISTRIBUTE means to deliver other than by administering or dispensing a drug or controlled substance.

DRUG means:

1. Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States or Official National Formulary or any supplement to any of them;
2. Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;
3. Substances other than food, intended to effect the structure or any function of the body of humans or animals; and

4. Substances intended for use as a component of any article specified in this definition. It does not include devices or their components, parts or accessories.

DRUG PARAPHERNALIA means all equipment, products, substances and materials of any kind which are used or intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or imitation controlled substance in violation of Chapter 195, RSMo. It includes, but is not limited to:

1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;
3. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substances;
4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;
5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;
7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;
9. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;
10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;
11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;
12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bonges;
- m. Ice pipes or chillers;

13. Substances used or intended for use, or designed for use in the manufacture of a controlled substance.

In determining whether an object is Drug Paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled substance or imitation controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this Article.
4. The proximity of the object to controlled substances or imitation controlled substances;
5. The existence of any residue of controlled substances or imitation controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom she/he knows, or should reasonably know, intend to use the object to facilitate a violation of this Article; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Article shall not prevent a finding that the object is intended for use, or designed for use as Drug Paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.
15. The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material.

IMITATION DRUG OR IMITATION CONTROLLED SUBSTANCE means a substance that is not a drug or a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representation made, would lead a reasonable person to believe that the substance is a drug or a controlled substance. In determining whether the substance is an imitation drug or an imitation controlled substance the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

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

LICENSE OR LICENSED means persons required to obtain annual registration as issued by the State Division of Health as provided by Section 195.030 RSMo.

MANUFACTURE means the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance either directly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance by an individual for personal use or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

1. By a practitioner as an incident to administering or dispensing of a controlled substance in the course of his/her professional practice; or

2. By a practitioner or by an authorized agent under his/her supervision for the purpose of, or as an incident to research, teaching or chemical analysis or by a pharmacist and not for sale.

MARIJUANA means all parts of the plant genus Cannabis, in any species or form thereof, including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americana, Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

NARCOTIC DRUG means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

1. Opium, opiate, and any derivative of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;
2. Cocaine or any salt, isomer, or salt of isomer thereof;
3. Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;
4. Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs 1 and 2 of this subdivision.

PERSON means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

PHARMACIST means a licensed pharmacist as defined by the laws of this State, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in this Article shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted by the pharmacy laws of this State.

PRACTITIONER means a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this State to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice and research in this State, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research..

PRODUCTION includes the manufacture, planting, cultivation, growing or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance.

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

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

WHOLESALE means a person who supplies drug paraphernalia or controlled substances or imitation controlled substances not produced or prepared by that person, on official written orders, but not on prescription.

SEC. 12.02.002. CONTROLLED SUBSTANCES.

A. No person shall sell, give away, manufacture, use or possess for any purpose whatever any controlled substance, except as provided herein.

B. Distribution by Licensed Practitioners is permitted under the following conditions:

1. **PRACTITIONERS.** A licensed practitioner shall be permitted to dispense or distribute controlled substances and drugs to a person in the course of his professional practice only; and such licensed practitioner shall not be permitted to possess controlled substances for any other purpose.
2. **PHARMACISTS.** A licensed pharmacist shall be permitted to dispense or distribute controlled substances and drugs to persons under and in pursuance of written prescriptions issued by any licensed practitioner; and such licensed pharmacist shall not be permitted to possess controlled substances for any other purpose.
3. **RECORD OF DISTRIBUTION.** All instances of professional distribution of controlled substances and drugs as provided for herein shall be recorded in suitable form and filed and preserved in a manner so as to be readily accessible for inspection by any law enforcement officer of the City.
4. **RENEWAL PROHIBITED.** No prescription for controlled substances shall be renewed or refilled.

C. Any person shall be permitted to possess controlled substances distributed or dispensed under the provisions of this section, but such possession and use must be in accordance with the prescription and prescribed treatment.

D. A person who is a licensed manufacturer, warehouseman, or wholesaler of controlled substances shall be permitted to possess controlled substances for the purposes of wholesale delivery, compounding, preparation, and manufacture only; and the same shall only be resold to other persons permitted by this section to resell, or dispense or distribute controlled substances in the course of a licensed manufacturing or wholesale business, a licensed professional practice, or a licensed pharmaceutical business. A licensed manufacturer or wholesaler permitted to possess controlled substances in this subsection (D) may also be a licensed pharmacist and may dispense or distribute narcotic drugs upon written prescription as provided herein, but shall not consume or permit to be consumed any controlled substances except upon written prescription as herein provided.

E. All drug or controlled substances or imitation drugs or imitation controlled substances in the possession of any person convicted of a violation of this Article, shall be seized by, confiscated by, and forfeited to the Chief of Police, who shall make proper disposition thereof.

F. This section shall not apply to the administering or distributing or dispensing of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation in one avoirdupois ounce, not more than one grain of codeine or any of its salts. Provided that the preparation administered or distributed or dispensed shall contain some drug or drugs of medicinal qualities in addition to those possessed by the controlled substance alone. Such preparation shall be administered, distributed, or dispensed in good faith and not for the purpose of evading this subsection. However, no person shall administer, dispense, or sell, under the exemption of this section, any preparation included in this subsection, when he/she knows, or can by reasonable diligence ascertain, that such administering, dispensing, or selling, will provide the person to whom or for whose use such preparation is administered, dispensed, or sold, within any forty-eight (48) consecutive hours, with more than four (4) grains of codeine or any of its salts.

G. The provisions of this section restricting the possession and control of controlled substances shall not apply to common carriers or warehousemen engaged in lawfully transporting or storing such controlled substances, or to any employee of such common carriers or warehousemen, or to public officers or employees in the performance of official duties requiring possession or control of controlled substances, or to persons aiding such officers or employees in performance of such duties.

SEC. 12.02.003. POSSESSION OF DRUG PARAPHERNALIA.

It is unlawful for any person to use, or to possess drug paraphernalia as defined in this Article.

SEC. 12.02.004. MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA.

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, as defined in this Article, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or imitation controlled substance.

SEC. 12.02.005. DELIVERY OF DRUG PARAPHERNALIA TO A MINOR.

It is unlawful for any person 18 years of age or over to deliver drug paraphernalia, as defined in this Article, to a person under 18 years of age.

SEC. 12.02.006. DELIVERY OF A SIMULATED DRUG OR SIMULATED CONTROLLED SUBSTANCE TO ANY PERSON.

It is unlawful for any person to deliver any imitation drug or imitation controlled substance to another person.

SEC. 12.02.007. GLUE SNIFFING - UNLAWFUL - PENALTIES.

A. As used in this section, the term "model glue" shall mean any glue or cement of the type commonly used in the building of model airplanes, boats, and automobiles, containing toluene, acetone, or other solvent of chemical having the property of releasing toxic vapors.

B. No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system, intentionally smell or inhale the fumes from any model glue; provided, however, that this section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

C. No person shall for the purpose of violating or aiding another to violate any provision of this section intentionally possess, buy, sell, transfer possession, or receive possession of any model glue.

D. Except as provided in subsection (E)(2) hereof and also subsection (E), no person under 18 years of age shall possess or buy any model glue.

1. Except as provided in subsection (D)(2) hereof and also subsection (E), no person shall sell or transfer possession of any model glue to another person under 18 years of age.

2. Provided, however, a person may sell or transfer possession of model glue to a person under 18 years of age for model building or other lawful use where said minor has and exhibits the written consent of his/her parent or guardian.

E. A person making a sale or transfer of possession of model glue to a person under 18 years of age who exhibits the written consent of his/her parent or guardian, shall record the name, address, sex, and age of the minor and the name and address of the consenting parent or guardian. All data required by this subsection shall be kept in a permanent type register available for inspection by the City Health Officer, Chief of Police, and other appropriate official for a period of at least one year.

1. All model glue as herein defined shall be kept in a place within the business establishment in such a manner that the same shall not be obtainable without the personal dispensing by the store owner or an agent, servant, and/or employees.

F. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Persons not having obtained the age of seventeen (17) violating any of the provisions of this section shall be dealt with in accordance with juvenile laws and procedures of the State of Missouri.

SEC. 12.02.008. CONSPIRACY.

A. It shall be unlawful for any person to agree with any other person to engage in conduct which constitutes an offense under this Chapter 12, Article 2 when the purpose of such agreement is to promote or facilitate the commission of the offense.

B. A person shall be convicted of conspiracy to commit an offense only if an overt act in pursuance of such conspiracy is alleged and proved to have been done by him/her or by a person with whom he/she conspired. A person may not be convicted of conspiracy if, after conspiring to commit the offense, he/she prevented the accomplishment of the objectives of the conspiracy under circumstances manifesting a renunciation of said criminal purpose and has either advised those with whom he/she has conspired of his/her abandonment, or has informed the law enforcement authorities of the existence of the conspiracy and his/her participation in it.

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

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

E. For the purpose of any applicable statute of limitations, a conspiracy is a continuing course of conduct which terminates when the offense or offenses which are its object are committed or the agreement that they be committed is abandoned by the defendant and by those with whom he/she conspired.

F. In determining whether any person is guilty of conspiracy a court or other authority may consider, in addition to all other logically relevant factors, whether the individual charged:

1. Provided materials necessary for the commission of any offense under Chapter 12, Article 2, with the knowledge or intent that they would be used in the commission of such offense..
2. Rented or otherwise provided premises to any person with the knowledge or intent that such premises would be used in committing an offense under Chapter 12, Article 2.
3. Placed any newspaper, magazine, handbill or other publication, or posted, or distributed in any public place, any advertisement or solicitation with the knowledge that the purpose of the advertisement or solicitation is to promote activities which would constitute an offense under Chapter 12, Article 2 of this Code.

SEC. 12.02.009. SEVERABILITY.

If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

SEC. 12.02.010 - 12.02.999. RESERVED

ARTICLE 3. SAFE STREETS REGULATIONS

SEC. 12.03.001. PROHIBITION AGAINST POSSESSION OF WEAPONS BY MINORS

A. It shall be unlawful for any minor under the age of 17 years to possess in public, firearms, or any deadly weapon within the corporate limits of the City of Independence, unless under the safe supervision and in the presence of a parent, guardian, or the designee, over the age of 21, of a parent or guardian. As used in this section, the expression "deadly weapon" means a knife with a blade of over four inches, brass knuckles, nunchucks, blackjacks, nightsticks, explosive weapon, projectile weapon or any other instrument designed to inflict physical injury or serve as a weapon and/or any instrument actually used to inflict or threaten to inflict physical injury. Nothing in this section shall be construed as prohibiting the safe transport of unloaded rifles or shotguns through the City of Independence by minors under the age of 17 years for the purpose of hunting, target shooting, or attending organized firearms safety training activities.

B. It shall be unlawful for any parent or legal guardian to knowingly furnish a firearm to a minor under the age of 17 years for possession or use within the City of Independence without the minor having been first instructed in the safe handling of same in accordance with standards published by the National Rifle Association or an equivalent program. The burden shall be on the parent or guardian to prove compliance with this requirement.

C. It is unlawful for any person to possess any firearm or deadly weapon upon any school grounds, within any park, playground or public building or public facility within the corporate limits of the City of Independence unless such person is otherwise permitted by law to do so.

D. Any employee of a public governmental body who has actual knowledge of the possession of a firearm or deadly weapon by any other person upon school grounds or within any park, playground, public building, or public facility within the corporate limits of the City of Independence has an affirmative duty to report same to the Independence Police Department. Any failure to report such known possession is unlawful.

E. Any person found in violation of any of the prohibitions set out hereinabove shall be punished as set forth in this chapter of the City Code of Independence. For the purposes of this section, each day during which the prohibited conduct occurs or continues shall be deemed as a separate offense.

F. Nothing contained herein shall be read or construed as preventing law enforcement officials from, in proper circumstances, foregoing commencement of proceedings under this section when, in the judgment of those officials, it would be appropriate to institute a proceeding under relevant state criminal law.

SEC. 12.03.002. PROHIBITED WEAPONS.

A person commits a crime if he or she knowingly possesses, manufacturers, transports, repairs, sells, or displays a switchblade knife or knuckles.

SEC. 12.03.003. UNLAWFUL USE OF WEAPONS.

A. A person commits the crime of unlawful use 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. Discharges a firearm, projectile weapon or explosive weapon or sets a spring gun; or
3. Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle, or any building or structure used for the assembling of people; or

4. Exhibits, in the presence of one 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, 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. Subdivisions “1”, “3”, “4”, “6”, “7”, “8”, “9” and “10” of Paragraph A of this Section shall not apply to or effect any of the following:

1. All State, County and Municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to State law, and 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 on or off duty, and whether such officers are within or outside of the law enforcement agency’s jurisdiction, 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 a crime;
3. Members of the armed forces or national guard while performing their official duty;
4. Those person 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 corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under Section 84.340, RSMo; and
9. Any coroner, deputy coroner, medical examiner, or assistant medical examiner.

C. Subdivisions “1”, “5”, “8” and “10” of Paragraph A of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision “1” of Paragraph A of this section does not apply to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this State. Subdivision “10” of Paragraph 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. Subdivisions “1”, “8” and “10” of paragraph A of this Section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to State law or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

E. Subdivisions “3”, “4”, “5”, “6”, “7”, “8”, “9” and “10 of Paragraph A of this Section shall not apply to persons who are engaged in a lawful act of defense pursuant to State law.

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. The prohibition on discharging a firearm in subdivision 2 of Paragraph A of this Section shall not apply to the discharge of firearms on property owned by the person discharging the firearm or by the invitees of the owner provided that a Special Event Permit has been issued, the property is zoned R -A (Residential — Agricultural), exceeds 20 acres in size, is at least one mile from a school, the firearm is not discharged within 300 feet of a neighboring property or roadway, and that the projectiles from the firearm does not leave the property where they are discharged.

SEC. 12.03.004. FIREARMS IN CITY BUILDINGS.

A. No person who has been issued a concealed carry endorsement by the Missouri Director of Revenue under Section 571.094 RSMo. or who has been issued a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state, shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building or any park owned, leased or controlled by the City.

B. Signs shall be posted at each entrance of a building entirely owned, leased or controlled by the City and at park entrances stating that entry while carrying firearms is prohibited. Where the City owns, leased or controls only a portion of a building, signs shall be posted at each entrance to that portion of the building stating that carrying of firearms is prohibited.

C. This section shall not apply to buildings owned by the City but leased in their entirety to a non-public entity or operated by a management company under contract with the City, unless said entity or management company chooses to prohibit firearms and posts signs at the entrance of the building stating that the carrying of firearms is prohibited.

SEC. 12.03.005. UNLAWFUL TRANSFER OF WEAPONS.

A person commits the crime of unlawful transfer of weapons if he or she (1) knowingly sells, leases, loans, gives away or delivers a knife, rifle, shotgun, or blackjack to a person less than twenty-one (21) years old without the consent of the child's custodial parent or guardian, or recklessly sells, leases, loans, gives away, or delivers any other firearm to a person less than twenty-one (21) years old; provided that this does not prohibit the delivery of such weapons to any peace officer or member of the Armed Forces or National Guard of performing for the performance of his or her duty; or (2) recklessly sells, leases, loans, gives away or delivers a firearm or ammunition for a firearm to a person who is intoxicated.

SEC. 12.03.006. GUN DEALERS.

A. Every secondhand dealer, pawnbroker, or other person engaged in the sale, lease, exchange, or delivery of any weapons shall keep a record of each firearm purchased, sold, leased, exchanged, or delivered at retail.

1. The record required herein shall be made at the time of the transaction in a book kept for that purpose, and shall include the name of the person to whom such weapon is sold or from whom such weapon is purchased; his or her age, physical description, occupation, residence and, if residing in a municipality, the street and number where he or she resides; the make, caliber, and finish of the firearm, together with the number or serial letter thereon, if any; the date of the transaction involving such weapon; and the name of the employee or other person making such purchase, sale, lease, exchange, or delivery.

2. Every secondhand dealer, pawnbroker, or other person engaged in the sale, rental, or exchange of any weapons shall deliver weekly reports to the Chief of Police of every such purchase, sale, lease, exchange, or delivery. The report shall be on forms provided by the Chief of Police, and shall set forth the name in full, the residence, age, and physical description, and the occupation of the person to whom or from whom such gun, pistol, firearm or other dangerous or deadly weapon has been purchased, sold, leased, exchanged, or delivered.

B. Any person in violation of this section shall be subject upon repeated violations to the revocation of his or her business or occupational license.

SEC. 12.03.007. PHYSICIANS TO REPORT.

A. Every physician or surgeon duly admitted to the practice of medicine in the State of Missouri, who has occasion to treat any person in the City for a wound inflicted by a dangerous or deadly weapon of any kind, shall notify the City Police Department within one hour of the time such professional service is rendered.

SEC. 12.03.008. DEFINITIONS FOR CRIMES INVOLVING WEAPONS.

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

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

FIREARM means any weapon that is designed or adapted to expel a projectile by the action of an explosive.

INTOXICATED means substantially impaired mental or physical capacity resulting from introduction of any substance into the body.

KNIFE means any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this chapter, "knife" does not include any ordinary pocket knife with no blade more than four inches in length.

KNUCKLES means any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.

PROJECTILE WEAPON means any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.

SWITCHBLADE KNIFE means any knife which has a blade that folds or closes into the handle or sheath, and:

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

SEC. 12.03.009. CURFEW; PARENTAL RESPONSIBILITY.

A. It is unlawful for a minor under the age of seventeen (17) years to be upon the streets or public ways of the City of Independence between the hours of 10:00 p.m. and 6:00 a.m. on any ordinance Sunday, Monday, Tuesday, Wednesday, or Thursday or between the hours of 12:00 midnight and 6:00 a.m. on any Friday or Saturday or on the nights of the eves of the principal U.S. holidays, which are as follows: New Year's Eve, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas. It shall also be unlawful for any minor subject to compulsory school attendance to be upon the streets or public ways, or to be at any public place, between the hours of 8:30 a.m. and 1:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday when school is in session for that minor. Provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor or to a minor who is upon an emergency errand directed by his or her parent, guardian, or other adult person having the care and custody of this minor.

B. It is unlawful for any legal guardian or any person having custody of a minor under the age of seventeen (17) years to knowingly fail or otherwise neglect to provide proper care or supervision for the minor, to encourage, condone, or approve the commission of delinquent acts and/or to knowingly allow the minor to be endangered or exposed to the potential of abuse or exploitation of others. The presence of a minor under the age of seventeen (17) years upon the streets or in any public place within the City limits during hours as set forth in the preceding paragraph shall constitute reasonable suspicion that a violation of this section has occurred. All law enforcement officers are authorized to extend protective intervention services to any minor believed to be at risk of harm as set out herein and conduct such further investigation as may be viewed as appropriate under the circumstances. Such an investigation shall cease if it is ascertained that the presence of the minor is due to his or her traveling to or from work, any bona fide recreational or educational program sponsored by any governmental, civic, religious or community organization, or travel to or from any duly licensed provider of medical, dental, or psychiatric or related care.

C. As used herein, the expression "protective intervention services" shall mean the stopping, questioning, non-punitive detention and transport of a minor to his or her home for the purpose of determining whether the minor has been the victim of unlawful neglect or whether his or her apparent delinquency has been encouraged, condoned, or approved by his or her parent or legal guardian.

D. Any parent or guardian found to be in violation of the neglect provisions of this Section shall be punished as set out in this Chapter. **PROVIDED, HOWEVER,** that no such sanction shall be imposed upon any parent or legal guardian who enrolls the child at risk in a voluntary curfew program sponsored by the Independence Police Department and/or such parent or legal guardian also enrolls and actively participates in an organized parenting program sponsored by any governmental, church, civic, or community organization.

E. Each day during which conduct prohibited by this section occurs or continues shall constitute a separate offense.

F. Nothing contained herein shall be read or construed as superseding the right of law enforcement officials to, in proper instances, forego institution of any charge or violation of this section when, in the judgment of said officials, it would be appropriate to initiate action against an adult for violation of State law prohibiting adults from contributing to the delinquency of a minor, or for criminal child abuse and/or child neglect.

SEC. 12.03.010. PROHIBITION AGAINST LINGERING.

A. It is unlawful for any person to linger within 100 feet of any business. It is also unlawful for any person to linger in any other place, at any time or in any manner under circumstances that warrant justifiable and reasonable alarm or immediate concern that the person seeks to possess, buy, sell, or distribute any deadly weapon, illegal intoxicant or otherwise commit any crime or offense or attempt to entice others to do so.

B. As used herein, the expression "linger" means remaining outdoors in any location in which the individual does not have an ownership interest or leasehold interest or permission from the owner or lessee while (1) repeatedly stopping or attempting to stop or interfere with the free passage of others, (2) repeatedly engaging in or attempting to engage others in conversation and/or (3) repeatedly stopping or attempting to stop motor vehicles, by any one or more of these activities with the purpose of possessing, buying, selling, or distributing any deadly weapon, controlled substance, illegal intoxicant or for committing or attempting to commit any crime or offense or enticing others to do so.

C. Among the circumstances which may be considered in determining whether alarm or immediate concern as set forth in subsection "A" is warranted is whether a person takes flight upon the appearance of a law enforcement officer, refuses to provide identity, or endeavors to conceal himself, herself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern by requesting that the person provide identity, explain his or her presence and conduct, and demonstrate that he or she is unarmed. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern which gave rise to the initial intervention by law enforcement.

D. Any person found guilty of unlawful lingering hereunder shall be punished as set out in this Chapter.

SEC. 12.03.011. PROHIBITION AGAINST MAINTAINING NUISANCES.

A. It shall be unlawful for any owner, occupant, or other person or legal entity with a lawful right to the use and enjoyment of any property to knowingly fail to abate any illegal activity upon, or nuisance related to, the property so owned, occupied or to which such a legal right exists.

B. As used herein, the expression "illegal activity upon, or nuisance related to" any property means (1) any activity which can cause hurt, inconvenience or damage or otherwise interfere with the enjoyment of life or property or cause danger to the public by any person upon the property, (2) possession, sale or distribution of unlawful substances, products or services upon the property by any person upon the property, (3) knowing failure to report the unlawful possession, sale or distribution of drugs or alcohol by third parties upon the property, (4) possession, storage, sale or other transfer of stolen property or other contraband within the property by any person upon the property, or (5) any other activity classified as a violation, misdemeanor, or felony under any applicable municipal, county, state, or federal law by any person upon the property.

C. Upon receipt of written notice from law enforcement authorities that a specified unlawful activity or nuisance has occurred upon the property, the owner, occupant or other person or legal entity with a right to the use and possession of that property shall cooperate with law enforcement officials by immediately taking such steps as are detailed in the written notice aimed at abatement of the nuisance or unlawful activity so described, including, but not limited to, the institution of legal process to evict wrongdoer tenants, the posting of the property against trespassers, or such other actions as are necessary, efficient or prudent. Refusal to cooperate with a valid law enforcement request for assistance shall constitute knowing failure to abate the nuisance or unlawful activity upon the property as prohibited in Subsection "A".

D. Nothing contained herein shall be read or construed as preventing law enforcement officials from foregoing commencement of action under this section when, in the judgment of such officials, it would be more appropriate to commence action under relevant State criminal or civil law.

E. In addition to the remedies set out hereinabove, the City Counselor is authorized to bring and maintain a civil proceeding in the name of the City of Independence in any court of competent jurisdiction to permanently enjoin the maintenance of a nuisance or the continuation of unlawful activity upon any property within the corporate limits of the City of Independence and/or for condemnation. In the event an action for condemnation is commenced, the City Counselor may cause the actual cost of nuisance abatement activities by law enforcement to be introduced at trial as an offset against fair market value of the property as provided by law.

F. In addition to the public remedies as set out hereinabove, any person adversely affected by such prohibited activities may, in addition to any other remedy available in law or equity, apply to any court of competent jurisdiction for any order permanently enjoining the continued maintenance of a nuisance or of unlawful activity upon any property within the corporate limits of the City of Independence.

SEC. 12.03.012. GRAFFITI.

A. Definitions. Whenever the following terms are used in this section, they shall have the following meanings:

AEROSOL PAINT CONTAINER means any aerosol container that is adapted or made for spray paint or other substances capable of defacing property.

AIRBRUSH means an atomizer used for applying by compressed air a fine spray of a pigmented liquid.

BROAD-TIPPED MARKER means any felt tip indelible marker or similar implement surface that, at its broadest width, is greater than one-fourth inch (1/4") that dispenses pigmented liquid that is not water soluble.

ETCHING EQUIPMENT means any tool, device, or substance that can be used to mark natural or man-made surfaces.

GRAFFITI ABATEMENT PROCEDURE means a procedure which identifies graffiti, issues notice to the landowner to abate the graffiti, and provides remedies in the absence of a response.

GRAFFITI means the defacing, damaging, or destroying by scratching or carving, or by the spraying of paint or marking of ink, chalk, dye, or other similar substances in the form of drawings, inscriptions, figures or marks on public and private buildings, structures, and places, without the prior consent of the owner.

GRAFFITI IMPLEMENT means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush, or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

PAINT GUN is any device loaded with paint or dye, deliverable by pressure which demonstrates an ability to spray paint.

PAINT STICK OR GRAFFITI STICK means any device containing a solid form of paint, or similar substance capable of being applied to a surface, by pressure with a tip of at least one eighth inch (1/8") width.

PRIVATE CONTRACTOR means any person with whom the City shall have duly contracted to remove graffiti.

B. Graffiti Prohibited. Graffiti is a public nuisance and it shall be unlawful for any person to write, paint, scratch or carve, or draw any graffiti upon any wall, rock, bridge, building, fence, gate, other structure, tree, or other real or personal property, either publicly or privately owned.

C. Removal.

1. Whenever the Chief of Police determines that graffiti exists on any public and private buildings, structures, and places which are visible to any person utilizing any public right-of-way in this City, be this road, parkway, alley, or otherwise, and that seasonal temperatures permit the painting of exterior surfaces, the Chief of Police shall cause a notice to be issued to abate such nuisance. The property owner shall have two (2) business days after the date of the notice to remove the graffiti, or the conditions will be subject to abatement by the City.

2. The notice to abate graffiti pursuant to this Section will be a written notice. The notice required by this Section may be served in any one of the following manners:

- a. By personal service on the owner, occupant, or person in charge or control of the property.
- b. By registered or certified mail addressed to the owner at the owner's last known address. If this is unknown, the notice will be sent or posted to the property address.
- c. By posting in a conspicuous place in or about the premises.

3. The notice shall be substantially in the following form:

NOTICE OF INTENT TO REMOVE GRAFFITI
Date:

NOTICE IS HEREBY GIVEN that you are required by law at your expense to remove or paint over the graffiti located on the property located at _____, Independence, Missouri, which is visible to public view, within two business days after the date of this notice; or if the graffiti is not removed or painted over, City employees or private contractors employed by the City will enter upon your property and abate the public nuisance by removal or painting over the graffiti. The cost of the abatement by the City employees or its private contractors will be assessed upon your property and such costs, if not paid by you within thirty (30) days of the abatement, will constitute a lien upon the land until paid.

4. That upon failure of person(s) to comply with the notice by the designated date, the Chief of Police is authorized to cause the graffiti to be abated by City employees or private contract, and the City or its private contractor is expressly authorized to enter upon the premises for such purposes. All reasonable efforts to minimize damage from such entry shall be taken by the City. If City employees accomplish the removal of the graffiti or other inscribed material, they shall not authorize nor undertake to provide for the painting or repair of any more extensive area than that where the graffiti or other inscribed material is located.

5. When graffiti is of racial or ethnic defamation and is inflammatory to the community or may incite violence, the City shall give immediate notice to the owner as provided above. If the graffiti is not removed or painted over within two (2) business days after notice is sent, the City may enter onto the property to remove or paint over the graffiti.

6. Collection Procedures:

a. The Chief of Police shall keep an itemized account of the expenses incurred in the removal of any graffiti done pursuant to this Section. Upon the completion of the removal, said Chief shall prepare, file, and certify with the Finance Director a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the work was performed, and the names and addresses of the persons entitled to notice pursuant to this Code.

b. Thereafter, the Finance Director shall cause a bill to be issued to the property owner seeking payment of the removal costs. If, after 30 days, the bill is not paid in full, then the Finance Director shall cause the certified costs to be included in a special tax bill for the property as hereafter provided.

c. A special tax bill shall be an assessment which is a lien against the lot or parcel of land assessed. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens, except for State, County and Municipal taxes, with which it shall be on a parity. The lien shall continue until the assessment and all interest due and payable are paid.

d. Copies of the assessment shall be given to the Jackson County Tax Collection Division, which shall add the amount of the assessment to the next regular tax bill levied against the parcel for Municipal purposes.

e. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected; and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to this assessment.

f. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the Finance Director who shall credit the same to the appropriate fund.

D. Possession of Graffiti Implements

1. By Minors at or near school facilities. It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, grounds, facility, building,

or structure, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provision of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

2. In designated public places. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty feet (50') of an underpass, bridge abutment, storm drain, or similar types of infrastructure, unless otherwise authorized by the City.

E. Sale and Display of Aerosol Spray Paint

1. No person other than a parent, guardian, or other adult person acting in their place shall sell or otherwise provide aerosol spray paint to any person under 18 years of age and no person under the age of 18 years shall buy or attempt to buy any aerosol spray paint. A driver's license, an identification card issued to a member of the Armed Forces, or an identity card issued by the State of Missouri shall be prima facie proof of age.

2. Any person who owns, manages or operates a place of business wherein aerosol spray paint is sold shall conspicuously post at or near the aerosol spray paint display, in clear public view, a sign stating: 'GRAFFITI IS A CRIME. THE DEFACTING OF PUBLIC OR PRIVATE PROPERTY IS PUNISHABLE BY A FINE OR IMPRISONMENT'.

F. Penalties.

1. Any person found guilty of a violation of this section shall be subject to a fine of up to Five Hundred Dollars (\$500.00) and to incarceration for a term not to exceed six months.

2. Restitution. In addition to any punishment specified in this Section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, parents or legal guardian shall be ordered jointly and severally liable with the minor to make the restitution.

3. Community Service. In lieu of, or as part of, the penalties specified in this Section, a minor or adult may be required to perform community service as described by the court based on the following minimum requirements:

- a. the minor or adult shall perform at least thirty (30) hours of community service.
- b. at least one parent or guardian of the minor shall be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

SEC. 12.03.013. HUNTING.

A. The provisions of this Article shall apply to archery hunting of deer on ~~a~~ privately owned contiguous tracts of land five (5) acres or larger that are zoned agricultural, industrial, or residential, with provisions for controlled hunting on public land, subject to the following conditions:

1. Hunters must have all required State permits and abide by all State hunting regulations.
 2. Hunters must carry written permission from the property owner or owners and display that written permission at the request of a law enforcement officer. If hunting on contiguous tracts owned by multiple property owners, hunters must secure written permission of all property owners of the contiguous tracts.
 3. It shall be unlawful to discharge a bow or crossbow within one hundred (100) yards of a dwelling house, a building or structure used for the assembly of people, a street or a park.
- No field dressing shall be allowed within one hundred feet (100') of the property line.

SEC. 12.03.014 - 12.03.999 RESERVED.

ARTICLE 4. INTERFERENCE WITH ADMINISTRATION OF JUSTICE.

SEC. 12.04.001. FALSE REPORTS.

A. A person commits the crime of making a false report if that person knowingly: (1) gives false information to a law enforcement officer for the purpose of implicating another person in a crime; or (2) makes a false report to a law enforcement officer that a crime has occurred or is about to occur; or (3) makes a false report or causes a false report to be made to a law enforcement officer, security officer, fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response, has occurred.

B. It is a defense to a prosecution under subsection A 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.

SEC. 12.04.002. FALSE IMPERSONATION.

A. A person commits the crime of false impersonation if that person (1) falsely represents himself/herself to be a public servant with the purpose to induce another to submit to such pretended official authority or to rely upon such pretended official acts, and (a) performs an act in that pretended capacity; or (b) causes another to act in reliance upon such pretended official authority; or (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 the State of Missouri with purpose to induce another person 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.

B. No person may wear or otherwise display upon his or her person any uniform, insignia, or other device or parts thereof which indicate or tend to indicate that the wearer is a law enforcement officer, possesses an official capacity, or is licensed to practice a particular profession when that person is not so licensed nor possesses such an official authority.

C. Upon arrest for a violation of Section B, all uniforms or parts thereof, insignia, badges, or other identification shall be retained by the Police Department pending trial of said violation and upon conviction after the time for appeal therefrom has passed, said articles shall be destroyed by order of the presiding judge of the Municipal Court by the Police Department so as to prevent their further wrongful and unlawful use.

SEC. 12.04.003. INTERFERENCE WITH THE POLICE DEPARTMENT.

A. No person shall knowingly and willfully obstruct, resist, endanger or interfere with any police officer, any member of the police department, or any person duly empowered with police authority, while in the discharge of the duties of such authority.

B. No person shall offer, aid, or attempt to assist or aid any person in the custody of or confined under the authority of the City to escape from jail, place of confinement, or custody.

C. It shall not be a violation of this Article for a person to engage in speech protected by the First Amendment to the United States Constitution.

SEC. 12.04.004. ESCAPE OF PRISONERS.

A. While a prisoner in the City jail or in any other place where prisoners are confined, or otherwise in custody of and confined by the City, no person shall escape or attempt to escape from such custody or confinement.

- B. A person who knowingly or intentionally violates a home detention order or intentionally removes an electronic monitoring device or GPS tracking device ordered by a judge commits the offense of escape from confinement as included in subsection (A) of this section.

SEC. 12.04.005. FAILURE TO ASSIST THE POLICE.

Any police officer of the City is hereby authorized, whenever deemed necessary, to call upon any person or number of persons needed to aid in making arrests; and every person who, upon being so summoned by a police officer, shall neglect or refuse to aid in making any arrest shall be guilty of the crime of failing to assist the police.

SEC. 12.04.006. TAMPERING WITH A WITNESS - TAMPERING WITH A VICTIM.

A. A person commits the offense of tampering with a witness if, with the purpose to induce a witness or 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, such person:

1. Threatens or causes harm to any person or property; or
2. Uses force, threats or deception; or
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;
3. Arresting or causing or seeking the arrest of any person in connection with such victimization.

C. Any person found guilty of tampering with a witness or a victim under the terms of this section shall be subject to a fine of up to Five Hundred Dollars (\$500.00) and to incarceration for a term not to exceed six months.

SEC. 12.04.007. VIOLATION OF AN ORDER OF PROTECTION.

A. It shall be unlawful for any person to violate the terms or conditions of a full order of protection entered by a court of the State of Missouri or by any other state, territory or possession of the United States, the Commonwealth of Puerto Rico or the District of Columbia.

B. A certified copy of the full order of protection shall be prima facie evidence of the existence and validity of the full order of protection.

C. Refusal of the person for whose benefit the full order of protection was issued to sign a complaint or to testify shall not be a defense to a violation of a full order of protection.

SEC. 12.04.008. HARASSMENT OF A POLICE DOG.

A person commits the crime of harassment of a police dog if that person purposely engages in conduct that serves no legitimate purpose and causes alarm, distress or injury to a dog used in law enforcement, whether that dog is on duty or not.

SEC. 12.04.009. ELECTRONIC MONITORING DEVICES

- A. For purposes of this section, the term “electronic monitoring device” includes any electronic or GPS device that is used to track the location of a person upon order of a judge.
- B. A judge may require as a condition of bond or as a result of conviction of a city ordinance; the electronic monitoring of any person defined in subsection (D) below.
- C. A judge may mandate any person required to wear an electronic monitoring device to pay for the expense of monitoring the device.
 1. The judge will stipulate the method and frequency of payment(s) to the person mandated to participate in electronic monitoring
 2. The total payment to be paid by the person participating in the electronic monitoring program will not exceed the actual cost of monitoring the device
 3. Persons required to pay for the monitoring of a judge ordered electronic monitoring device who fail to comply with the order may be found in contempt of court; or to have violated the conditions of bond, pre-trial release, probation, parole, or court mandated supervision
 4. All monies collected by the Municipal Court as a result of this subsection (D) will be forwarded to the Police Department for the sole purpose of funding the electronic monitoring program
- D. It is unlawful for any person to knowingly and without authority remove, destroy, circumvent the operation of, or violate the judge assigned conditions or an electronic monitoring device that is being used for the purpose of monitoring a person who is:
 1. Complying with a house arrest program;
 2. Wearing an electronic monitoring device as a condition of bond or pre-trial release;
 3. Wearing an electronic monitoring device as a condition of probation;
 4. Wearing an electronic monitoring device as a condition of parole; orWearing an electronic monitoring device as a condition of post-release supervision

SEC. 12.04.010 - 12.04.999 RESERVED.

ARTICLE 5. OFFENSES AGAINST PROPERTY

SEC. 12.05.001. PROPERTY DAMAGE.

A person commits the crime 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.

SEC. 12.05.002. UNLAWFUL USE OF HANDBILLS.

A. It shall be unlawful for any person, firm or corporation to throw, place, scatter, distribute or in any manner deposit upon any street, alley, sidewalk or other place in the City, any handbill, placard, poster, dodger or other notice of advertisement.

B. It shall be unlawful for any person to paste, fasten or in any manner affix to any curb or sidewalk of any public street in the City any drawing, writing, handbill, placard, poster, dodger or notice of advertisement.

C. Notwithstanding the provisions of this section, any business properly licensed under the provisions of this Code engaged in the occupation of distributing advertising materials, may distribute said materials without having obtained prior approval from any such persons so owning or in charge, custody or control of property upon which said materials are to be distributed if said advertising materials are bundled together in a container displaying the firm name, address and telephone number of the business distributing said materials; provided, however, that it shall be unlawful for said business to continue to distribute said materials on property owned by, or belonging to, or in charge of another person when said person requests said business to refrain from distributing said materials; and, provided, further, that said business shall not distribute said materials upon vacant or abandoned property in such fashion as to allow said materials to accumulate in violation of any other section or this Article.

SEC. 12.05.003. SCATTERING RUBBISH.

No person shall throw, deposit, or scatter or permit to be deposited or scattered upon any sidewalk, alley, street, bridge, or public passageway, or upon private property, any waste or other material of any kind.

SEC. 12.05.004. TAMPERING WITH PUBLIC PROPERTY.

A. No person shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm mechanism, topographical survey monument, barrier, warning light, or other personal property erected or placed by the City.

B. No person shall fasten in any way any show card, poster, or other advertising device, or sign upon public property in the City unless legally authorized to do so.

C. No person shall place or erect upon any public way or passageway to any building an obstruction of any type; provided that this section shall not prevent the duly authorized or required placing of temporary barriers or warning signs for the purpose of safeguarding the public.

D. No person shall move, disturb, or take away any earth, stone, or other material from any public property.

SEC. 12.05.005. THEFT OR TAMPERING WITH UTILITY EQUIPMENT OR UTILITY SERVICE.

A. In this section, unless the context required otherwise:

CUSTOMER means the person or persons in whose name the utility service is provided.

DIVERT means to change the intended course or path of electricity, water, gas, telephone, cable, or other utility service without authorization or consent of the utility.

PERSON means any individual, partnership, corporation or other association.

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

TAMPER means to rearrange, damage, injure, alter, interfere with or otherwise prevent from performing a normal or customary function.

UTILITY SERVICE means the provision of electricity, water, gas, telephone, or cable or other utility service.

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

1. Divert, or cause to be diverted, utility service by any means whatsoever.
2. Make, or cause to be made, any connection or reconnection with property owned or used by a utility or provide utility service without the authorization or consent of the utility.
3. Prevent any utility meter, or other device used in determining the charge for utility service, from accurately performing its measuring function by tampering or by any other means.
4. Tamper with any property owned or used by the utility to provide utility service.
5. Use or receive the direct benefit of all, or a portion, of the utility service with knowledge of, or reason to believe that, the diversion, tampering, or unauthorized connection existed at the time of use, or that the use or receipt was without the authorization or consent of the utility.
6. Advertise, manufacture, distribute, sell, use, rent, or offer for sale, rental or use any device of any description, or any plan or kit, designed to obtain utility service, in violation of this section.
7. Obtain utility service by means of false representations, or fraudulent or deceptive actions, designed to avoid the payment of any outstanding lawful charges for any utility service.
8. Avoid the lawful charges, in whole or in part, for any utility service, by the use of any fraudulent or deceptive scheme, device, means or method.

C. It is prima facie evidence that a violation of this section exists if, on the premises controlled by the customer or by the person using or receiving the direct benefit of utility service, there is either or both of the following:

1. Any instrument, apparatus or device primarily designed to be used to obtain utility service without paying the full lawful charge therefore.
2. Any utility equipment that has been altered, tampered with or bypassed so as to cause no measurement or inaccurate measurement of utility service.

SEC. 12.05.006. CLAIM OF RIGHT.

A person does not commit an offense of damaging, tampering with, operating, riding in or upon, making connection with property of another if the act is done under a claim of right and that person has reasonable grounds to believe he/she has such a right.

SEC. 12.05.007. UNLAWFUL ENTRY.

A person commits the crime of unlawful entry if that person (1) enters or attempts to enter any building or habitable structure without lawful authority, or (2) knowingly remains unlawfully in such building or habitable structure against the will of the lawful occupant after being requested to leave by the lawful occupant.

SEC. 12.05.008. TRESPASSING.

A person commits the offense of trespassing if, without lawful authority, that person knowingly:

- A. Enters upon real property of another without consent of the owner, occupant or person lawfully in charge thereof, and the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or notice against trespassing is given by actual communication to the actor or is posted in a manner reasonably likely to come to the attention of intruders.
- B. Refuses to leave the real property of another upon demand of the owner, occupant or person lawfully in charge thereof.

SEC. 12.05.009. POSSESSION OF BURGLAR'S TOOLS.

A person commits a crime of possession of burglar's tools if that person possesses any tool, instrument or other article adapted, designed or commonly used for committing or facilitating offenses involving forcible entry into premises, with a purpose to use a knowledge that some person has the purpose of using the same in the commission of an offense of such character. Upon conviction under this section, all such tools become the property of the Independence Police Department.

SEC. 12.05.010. STEALING.

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

B. A person commits the crime of stealing services if: (1) he/she purposely obtains services which he/she knows are available only for compensation; or (2) having control over the disposition of services of others, to which he/she is not entitled, he/she knowingly diverts such services to his/her own benefit or to the benefit of another not entitled thereto.

Stealing of services includes stealing by means of deception, threat, stealth, false token or slug, use of any mechanical or electronic device, tampering with the other person's equipment, or refusal to Pay compensation without a claim or right. Where compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay gives rise to a presumption that the service was obtained by deception as to intention to pay.

C. For purposes of this section the following terms are defined:

APPROPRIATE means to take, obtain, use, transfer, conceal or retain possession of.

COERCION means a threat, however communicated, to: commit any crime; inflict physical injury on the person threatened or another; accuse any person of any crime; expose any person to hatred, contempt, or ridicule; harm the credit or business repute of any person; or inflict any other harm which would not benefit the actor.

DECEIT means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies.

DEPRIVE means to withhold property from the owner permanently; restore property only upon payment of reward or compensation; or use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

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

D. A person does not commit an offense under Section 12.05.010 if, at the time of the appropriation, he/she (1) acted in the honest belief that he/she had the right to do so; or (2) acted in the honest belief that the owner, if present, would have consented to the appropriation.

SEC. 12.05.011. RECEIVING STOLEN PROPERTY.

A. A person commits the crime of receiving stolen property if for the purpose of depriving the owner of lawful interest therein, he/she receives, retains, or disposes of property of another knowing that it has been stolen, or believing that it has probably been stolen. Evidence of the following is admissible in any criminal prosecution under this section to prove the requisite knowledge or belief of the alleged receiver:

1. That he/she was found in possession or control of property stolen on separate occasions from two or more persons.
2. That he/she received stolen property in another transaction within the year preceding the transaction charged.
3. That he/she acquired the stolen property for a consideration which he/she knew was far below its reasonable value.

B. A person commits the crime of receiving stolen property if he/she consumes services, as defined in Section 12.05.010 of this Chapter, which he/she knows or reasonably believes, have been obtained for, or diverted to, his/her use without compensation. In determining whether the alleged receiver has the requisite knowledge or belief, the court may consider, along with all other relevant factors, the following:

1. Whether the alleged receiver owns, occupies or otherwise is in possession of premises to which services have been diverted or appropriated; without appropriate compensation to the provider of the service.
2. Whether the alleged receiver benefits from the services which have been obtained or diverted without appropriate compensation to the provider of the services.

SEC. 12.05.012. OBTAINING AND ACCEPTING TRANSPORTATION BY FALSE PRETENSES.

A. It shall be unlawful for any person to obtain and accept transportation in or on any common carrier vehicle, bus, or taxicab with the intent to defraud the owner or driver thereof.

B. Proof that transportation was obtained by false pretense or false representations, or by failing or refusing to pay for such transportation on demand, or that the defendant left the vehicle without paying or offering to pay for such transportation shall be prima facie proof of the intent to defraud.

SEC. 12.05.013. FRAUDULENT USE OF A CREDIT DEVICE.

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

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

B. For purposes of this section, a "credit device" or "debit device" means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

SEC. 12.05.014. TAMPERING WITH A MOTOR VEHICLE.

It shall be unlawful for any person to operate or occupy an automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner thereof.

SEC. 12.05.015. IDENTITY THEFT.

A. It shall be unlawful for any person to knowingly and with the intent to deceive or defraud, obtain, possess, transfer, use, or attempt to obtain, transfer or use, one or more means of identification not lawfully issued for his or her use.

B. The term “means of identification” as used in this section includes, but is not limited to, the following:

1. Social Security numbers;
2. Drivers license numbers;
3. Checking account numbers;
4. Savings account numbers;
5. Credit card numbers;
6. Debit card numbers;
7. Personal identification (PIN) code;
8. Electronic identification numbers;
9. Digital signatures;
10. Any other numbers or information that can be used to access a person’s financial resources;
11. Biometric data;
12. Fingerprints;
13. Passwords;
14. Parent’s legal surname prior to marriage;
15. Passports; or
16. Birth certificates.

SEC. 12.05.016. FORGERY.

It shall be unlawful for any person, with the purpose to defraud, to:

1. Make, complete, alter or authenticate any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact the case or with different terms or by authority of one who did not give such authority; or
2. Erase, obliterate or destroy any writing; or
3. Make or alter anything other than a writing, including receipts and universal product codes, so that it purports to have a genuineness, antiquity, rarity, ownership or authorship which it does not possess; or
4. Use as genuine, or possess for the purpose of using as genuine, or transfer with the knowledge or belief that it will be used as genuine, any writing or other thing, including receipts and universal product codes, which the person knows has been made or altered in the manner described in this section.

SEC. 12.05.017 - 12.05.999 RESERVED.

ARTICLE 6. OFFENSES INVOLVING MORALS AND PUBLIC POLICY

SEC. 12.06.001. PROSTITUTION.

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

SEC. 12.06.002. PATRONIZING PROSTITUTION.

A person commits the crime of patronizing prostitution if the person patronizes prostitution.

SEC. 12.06.003. DEFINITIONS.

PROSTITUTION - a person commits "prostitution" if that person engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third person;

PATRONIZING PROSTITUTION - a person "patronizes prostitution" if:

1. pursuant to a prior understanding a person gives something of value to another person as compensation for that person or a third person having engaged in sexual conduct with that first person or with another; or
2. a person gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third person will engage in sexual conduct with that first person or with another; or
3. a person solicits or requests another person to engage in sexual conduct with that first person or with another, or to secure a third person to engage in sexual conduct with that first person or with another, in return for something of value;

SEXUAL CONDUCT occurs when there is:

1. "Sexual intercourse" which means any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results; or
2. "Deviate sexual intercourse" which means any sexual act involving the genitals of one person and the mouth, tongue or anus of another person; or
3. "Sexual contact" which means any touching, manual or otherwise, of the anus or genitals of one person by another, done for the purpose of arousing or gratifying sexual desire of either party;
4. "Something of value" means any money or property, or any token, object or article exchangeable for money or property.

SEC. 12.06.004. PROSTITUTION AND PATRONIZING PROSTITUTION: NO DEFENSE.

A. In any prosecution for prostitution or patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that (1) both parties 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.

SEC. 12.06.005. PROSTITUTION HOUSES DEEMED PUBLIC NUISANCES.

A. Any room, building or other structure regularly used for any unlawful prostitution activity prohibited by the City Code or State law is a public nuisance.

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

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 unlawful prostitution activity anywhere within the jurisdiction of the Court.

SEC. 12.06.006. INDECENT EXPOSURE.

A. A person commits the crime of indecent exposure if he/she knowingly exposes his/her genitals or buttocks or a female exposes her breasts or is clothed in such a manner under circumstances in which he/she knows his/her conduct will reasonably cause alarm or embarrassment to other persons.

SEC. 12.06.007. WINDOW PEEPING.

No person shall look, peer, or peep into, or loiter around or within view of any window within a building occupied as a residence of another with the intent of watching or looking through said window to observe any person undressed, or in the act of dressing or undressing.

SEC. 12.06.008. RESERVED.**SEC. 12.06.009. UNLAWFUL TRANSACTIONS WITH A CHILD.**

A. A person commits the crime of unlawful transactions with a child if (1) being a pawn broker, junk dealer, dealer in secondhand goods, or any employee of such person, that person with criminal negligence buys or receives any personal property other than agricultural products from an unemancipated minor, unless the child's custodial parent or guardian has consented in writing to the transaction; or (2) that person knowingly permits a minor child to enter or remain in a place where illegal activity in controlled substances as defined in Chapter 195 of the Revised Statutes of Missouri, is maintained or conducted; or (3) that person with criminal negligence sells blasting caps, bulk gun powder, or explosives to a child under the age of seventeen, or fireworks as defined in Section 320.110 of the Revised Statutes of Missouri to a child under the age of fourteen, unless the child's custodial parent or guardian has consented in writing to the transaction. Criminal negligence as to the age of the child is not an element of this crime; or (4) that person employs any child under the age of sixteen years to labor in any smelter, mill, mine, factory, or in or about any business or employment whatever within the City during the school hours of any school day; or (5) that person shall tattoo or body pierce any minor under the age of eighteen years; or (6) that person shall procure for any minor any article which the minor is forbidden by law to purchase.

SEC. 12.06.010. UNLAWFUL ACTS BY MINORS PROHIBITED.

A. It shall be unlawful for a minor to make false statements, or to furnish or present any fictitious or false registration card, identification card, or note or document, or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same, for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift, or delivery of prohibited articles.

B. It shall be unlawful for a minor to engage or utilize the services of any other person, whether for remuneration or not, to procure for such minor any article which the minor is forbidden by law to purchase.

C. It shall be unlawful for any minor to hang onto any moving vehicle.

SEC. 12.06.011. MOLESTING CHILDREN.

It shall be unlawful for any person to knowingly: indulge in any obscene, degrading, lewd, immoral, lascivious, indecent or vicious actions or practices, in the presence of any minor; or expose his or her genitals or person to any minor in an obscene, degrading, lewd, immoral, lascivious or indecent manner or touch the genitals or person of any minor in an obscene, degrading, lewd, immoral, lascivious, or indecent manner; or suggest or refer to an obscene, degrading, lewd, immoral, lascivious, or indecent act, by language, signs, or touching, in the presence of any minor; or detain or divert any minor with the intent to perpetrate any of the aforesaid acts; or sell, offer to sell, give away, or exhibit to any minor any lewd picture, moving picture, or device whatsoever.

SEC. 12.06.012. ENDANGERING THE WELFARE OF A CHILD.

A. A person commits the crime of endangering the welfare of a child if that person: (1) Knowingly 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) knowingly encourages, aids or causes a child less than seventeen (17) years old to engage in any behavior or make associations that are injurious to his or her welfare or the welfare of others or to violate State or Federal Law or municipal ordinance; or (3) being a parent, guardian or person legally charged with the care or custody of a child less than seventeen (17) years old, recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent that child from entering a dwelling that is a public nuisance, from engaging in any behavior that is injurious to his or her welfare or the welfare of others, from violating State or Federal law or municipal ordinance, or while the child is under the age of sixteen (16) and subject to compulsory school attendance, from repeatedly and without justification being absent from school.

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

SEC. 12.06.013. PROMOTING PORNOGRAPHY.

A person commits the crime of promoting pornography if, knowing its content and character, that person (1) promotes or possesses with the purpose to promote any pornographic material for pecuniary gain; or (2) produces, presents, directs or participates in any pornographic performance for a pecuniary gain.

SEC. 12.06.014. FURNISHING PORNOGRAPHIC MATERIALS TO MINORS.

A person commits the crime of furnishing pornographic material to minors if, knowing its content and character, that person (1) furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or (2) produces, presents, directs or participates in any performance pornographic for minors which 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.

SEC. 12.06.015. EVIDENCE IN PORNOGRAPHY CASES.

A. In any prosecution under this chapter evidence shall be admissible to show: (1) what the predominant appeal of the material or performance would be for ordinary adults or minors; (2) literary, artistic, political or scientific value of the material or performance; (3) the degree of public acceptance in the City of Independence; (4) the appeal to prurient interest in advertising or other promotion of the material or performance; (5) the purpose of the author, creator, promoter, furnisher or publisher of the material or the performance.

B. Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of pornography shall be admissible.

SEC. 12.06.016. PUBLIC DISPLAY OF EXPLICIT SEXUAL MATERIAL.

A person commits the crime of public display of explicit sexual material if that person knowingly (1) displays publicly explicit sexual material; or (2) fails to take prompt action to remove such a display from property in his/her possession after learning of its existence.

SEC. 12.06.017. DEFINITIONS

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

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

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

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

MINOR means any person under the age of eighteen.

NUDITY means the showing of post-pubertal human genitals or pubic area, with less than a fully opaque covering.

PERFORMANCE means any play, motion picture film, dance or exhibition performed before an audience.

PORNOGRAPHIC means any material or performance is "pornographic" if, considered as a whole, applying contemporary community standards:

1. Its predominant appeal is to prurient interest in sex; and
2. It depicts or describes sexual conduct in a patently offensive way; and
3. It lacks serious literary, artistic, political or scientific value.

In determining whether any material or performance is pornographic, it shall be judged with reference to its impact upon ordinary adults.

PORNOGRAPHIC FOR MINORS means any material or performance is "pornographic for minors" if it is primarily devoted to description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, and

1. Its predominant appeal is to prurient interest in sex; and
2. It is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
3. It lacks serious literary, artistic, political, or scientific value for minors.

PROMOTE means 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.

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

SEXUAL CONDUCT means 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 EXCITEMENT means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

SEC. 12.06.018. EXHIBITION OR DISPLAY FOR SALE OF CERTAIN MATERIALS TO MINORS.

A. It shall be unlawful for any person to exhibit or display for sale in any place open to or used by persons seventeen (17) years old or younger any book, magazine, other printed matter, digitally stored material, film, motion picture, video recording, audio recording, slide, computer display or other visual representation or recording of any kind containing on its cover (or open to public view) pictures, figures, drawings, lithographs, engravings, photographs or other representations of the pubic area of the human body without fully opaque covering thereof or the female breasts with less than fully opaque covering of the portions thereof below the top of the complete nipple area, including the areola.

B. Any merchant found guilty under Part A of this section shall be subject to having his/her Business License suspended up to thirty (30) days. The minimum fine under this section is One Hundred Dollars (\$100).

SEC. 12.06.019 – RESESRVED (REPEALED ORD. 18751)

SEC. 12.06.020. ADULT ENTERTAINMENT BUSINESS BILLBOARDS PROHIBITED.

A. As used in this section the term “adult entertainment business” means any adult bookstore, adult cabaret, adult entertainment arcade, or adult entertainment facility as defined in Chapter 5 of this Code, whether or not such business is subject to licensing by the City.

B. No billboard or other exterior advertising sign for an adult entertainment business shall be located within one mile of any street or highway, except if such business is located within one mile of a street or highway then the business may display a maximum of two exterior signs on the premises of the business, consisting of one identification sign and one sign solely giving the notice required in Chapter 5. The identification sign shall be no more than forty (40) square feet in size and shall include no more than the following information: Name, street address, telephone number, and operating hours of the business and must conform to all requirements of Chapter 14.

C. Signs existing on August 28, 2005, which did not conform to the requirements of this section, may be allowed to continue as a nonconforming use, but should be made to conform within two years from August 28, 2005.

SEC. 12.06.021 - 12.06.999 RESERVED.

ARTICLE 7. BURGLARY, ROBBERY, FIRE AND EMERGENCY ALARM SYSTEMS.

Sec. 12.07.001. - DEFINITIONS.

ALARM ADMINISTRATOR means the Person designated by the Chief of Police to administer the provisions of this Chapter, and monitor, control and review alarm response procedures and Alarm Business activities.

ALARM BUSINESS means any individual, partnership, corporation or other entity which has as one of its principal business purposes the altering, installing, leasing, selling, maintaining, repairing or servicing an Alarm System or Fire Alarm System or which causes any of these activities to take place. Such term shall also include alarm servicing companies who engage in the activity of monitoring Alarm Systems.

ALARM MANAGEMENT COMPANY means the company contracted by the City to assist in the implementation of this Article.

ALARM SERVICING COMPANY means the Person who shall be responsible for determining that an Alarm System has been activated and notifying the Communications Center of the alarm activation and the need of an emergency response by law enforcement, fire or emergency medical Personnel.

ALARM SYSTEM means an assembly of equipment, devices or a single device arranged to signal the presence of a hazard requiring urgent attention and to which law enforcement, fire or emergency medical Personnel are expected to respond. The following devices shall not constitute an Alarm System:

1. Smoke alarms;
2. Other alarms designated to merely give internal on-premises notification of an alarm condition;
3. Alarm devices affixed to motor vehicles;
4. Hand-held Personal safety devices not connected to a central monitoring system or station;

ALARM SITE means a single fixed premises or location served by an Alarm System or systems. Each unit, if served by a separate Alarm System in a multi-unit building or complex, shall be considered a separate Alarm Site.

ALARM USER means any Person who has a functioning Alarm System on premises under the Person's control.

AUTOMATIC DIALING DEVICE means an Alarm System which automatically sends over regular telephone lines, by direct dialing or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation the Alarm System is designed to detect.

CHIEF OF POLICE means the Chief of Police of the City or a designated representative.

CITY means the City of Independence, Missouri.

CITY MANAGER means the City Manager of the City or a designated representative.

CITY FINANCE DIRECTOR means the Finance Director of the City or a designated representative.

COMMUNICATIONS CENTER means the Independence Communications Center.

DIRECT CONNECT means an Alarm System which has the capability of transmission and reception of Alarm System signals directly to the Communications Center.

EMERGENCY MEDICAL PERSONNEL means an ambulance or Fire Personnel dispatched from the Communications Center to provide emergency medical care.

FALSE ALARM means:

1) the activation of an Alarm System in the City resulting in an urgent response by law enforcement, fire or emergency medical Personnel when a situation requiring an urgent response does not, in fact, exist at the time of activation of the alarm; or

2) an Alarm System designed to be used to report a robbery or holdup, when used for any other purpose. A False Alarm may be the result of, but not limited to, mechanical or electronic failure, malfunction, improper installation, improper adjustment, accidental tripping, misoperation, misuse, defect or negligence of a Person. An alarm signal caused by violent conditions of nature or other circumstances not reasonably subject to control by the Alarm User or Alarm Business shall not be deemed a False Alarm for the purposes of this Chapter.

FIRE ALARM means an alarm to which Fire Personnel have been requested to be dispatched to respond.

FIRE ALARM SYSTEM means an Alarm System designed to signal the presence of a hazard requiring urgent attention and to which Fire Personnel are expected to respond.

FIRE CHIEF means the Chief of the Independence Missouri Fire Department or a designated representative.

FIRE PERSONNEL means an employee of the Independence Fire Department.

GOVERNMENTAL BUILDING ALARM SYSTEM means any Alarm System installed in any location owned or used by the United States government, the state and its political subdivisions, the City of Independence or any agencies thereof.

LAW ENFORCEMENT PERSONNEL means any Person vested by law with a duty to maintain public order or to make arrests for violations of the laws of the state or ordinances of the City and includes regular and reserve Personnel of the Independence Police Department.

MEDICAL ALARM SYSTEM means an Alarm System designed to signal the presence of a hazard requiring urgent attention and to which emergency medical Personnel are expected to respond.

PERSON means any Person, firm, partnership, association, corporation, company or organization of any kind.

SECURITY ALARM means an alarm to which Law Enforcement Personnel have been requested to be dispatched to respond.

SECURITY ALARM SYSTEM means an Alarm System designed to signal the presence of a hazard requiring urgent attention and to which Law Enforcement Personnel are expected to respond.

Sec. 12.07.002. – BUSINESS LICENSE REQUIRED.

It is unlawful for any Person to engage in the operation of an Alarm Business within the City without having first obtained a business license to operate such a business from the City of Independence.

Sec. 12.07.003. –ALARM USER REGISTRATION PERMIT FEE.

- (a) All Alarm Users shall obtain a permit not later than 30 days after the installation of the Alarm System.
- (b) False Alarms reported, or caused to be reported, within the first thirty (30) days following installation of the Alarm System shall not be considered for any purposes by the Communications Center.

Sec. 12.07.004. – ANNUAL REGISTRATION RENEWAL BY ALARM USER.

- (a) It shall be the responsibility of the Alarm User to annually register the alarm with the Alarm Administrator.
- (b) The City approved Alarm Management Company shall notify the Alarm User of the necessity to renew the alarm registration.
- (c) Alarm registrations shall expire one year after the date of issuance.
- (d) The Alarm User shall verify that all contact and monitoring information on file with the Alarm Administrator is correct. The Alarm User shall update all contact and monitoring information as is necessary.
- (e) It is unlawful for any Alarm User or the owner of any premises with a monitored Alarm System to operate or use a monitored Alarm System or allow operation or use of an alarm without the monitored alarm being registered. A False Alarm Fee shall be assessed against the Alarm User for failure to register a monitored alarm or renew the registration of the system after being notified by the City approved Alarm Management Company of the need to re-register the alarm.

Sec. 12.07.005. – DUTIES OF ALARM USERS.

It shall be the responsibility of the Alarm User to:

- (a) Maintain the premises and Alarm System in a manner that will reduce or eliminate False Alarms;
- (b) Respond or cause a representative to respond to the Alarm System's location within 30 minutes upon notification of the need to deactivate a malfunctioning Alarm System, to provide the right of entry to the premises or to provide alternative security for the premises; and
- (c) Ensure that an alarm is not manually activated by the Alarm User or any other Person for any reason other than an occurrence of an event that the Alarm System was intended to report;

Sec. 12.07.006. – DUTIES AND AUTHORITY OF THE ALARM ADMINISTRATOR.

The Alarm Administrator shall:

- (a) Establish procedures for the notification to an Alarm User of a False Alarm including the date and time emergency Personnel respond to False Alarms.
- (b) Communicate with an Alarm User and the designated contact for the alarm installation company and/or servicing company responsible for the repair or monitoring of the Alarm System to review the circumstances of each False Alarm.
- (c) Create and implement an on-line Alarm User Awareness Class. The class shall inform Alarm Users of the problems created by False Alarms and teach Alarm Users how to avoid generating False Alarms. Providing that the Alarm User does not have outstanding fees owed to the City of Independence, a passing test score on the on-line test may be used to satisfy fees incurred for one False Alarm per registration year. The class must be completed by the Alarm User within 30 days of receiving notification or assessment of a second (2) False Alarm fee.
- (d) Maintain statistics, records and reports which may be utilized to determine the effectiveness of this Article in reducing False Alarms. Such records shall include the number of registered Alarm Systems, the increase or decrease of registered Alarm Systems from the previous year, the number of False Alarms each year, the decrease or increase in the number of False Alarms and the total of all False Alarm fees assessed and the amount of False Alarm fees collected each year.
- (e) Provide the Alarm User, at the time of lease or installation of the Alarm System, a written copy of the City of Independence False Alarm penalties and procedures.

Sec. 12.07.007. – DUTIES OF ALARM BUSINESSES.

Each Alarm Business licensed under this Article shall:

- (a) Provide to the Alarm Administrator the Alarm Business name, address and business license number.
- (b) Provide to the Alarm Administrator a phone number at which it can be contacted twenty-four hours a day every day.
- (c) Provide to the Alarm User at the time of initial lease or installation written instructions on how to operate system and any user maintenance which may be required.
- (d) Attempt, at the time of an alarm, to contact the Alarm User by telephone or other electronic means to verify that the alarm is valid.

Sec. 12.07.008. – FALSE ALARM FEE.

(a) Except as otherwise provided in this Chapter, an Alarm User to which law enforcement, fire and emergency medical Personnel are requested to respond to a False Alarm, shall be charged a False Alarm fee. The Alarm User shall be assessed such fees as are set forth in the Schedule of Fees for each False Alarm, provided that no fee shall be assessed:

- i. For the first False Alarm, regardless of type, each registration year, provided that the Alarm User, at the time of the False Alarm;
- ii. When it is reasonable to assume that the alarm was due to violent conditions of nature including an electrical storm which have been verified by the National Weather Service to have been in the area where the Alarm System is located at the time of the activation;
- iii. When there has been a cable, line or power failure which has been specifically verified by the appropriate utility company serving the alarm location;
- iv. When the Communications Center is notified within four minutes of receipt of notification of the alarm that emergency medical, law enforcement or Fire Personnel are not required;

- v. When the alarm results from an emergency situation requiring an urgent response by law enforcement, fire or emergency medical Personnel as verified by a report filed by such Personnel ;
- vi. When the alarm is from a Medical Alarm System; or
- vii. When the alarm is from a Governmental Building Alarm Systems.

(b) If an alarm is received by the Communications Center from an Alarm System which has not been registered or registration has expired, an administrative penalty shall be assessed against the Alarm User for having failed to renew the registration of a monitored system. Such penalty shall be in addition to the False Alarm charges assessed to the Alarm User.

(c) Should a disagreement arise over whether any particular False Alarm fee or administrative penalty should be assessed, the facts surrounding the circumstances of the alarm activation shall, within 30 days of the date of the first invoice for the alarm, be presented in writing by the Alarm User or Alarm Business. The Alarm Administrator shall promptly forward the written fee dispute to the Chief of Police or for Fire Alarms, the Chief of the Independence Fire Department. The Chief of Police or the Fire Chief shall, after consideration of all the information presented, determine whether a False Alarm fee should be assessed.

(d) If disagreement still exists after consideration by the Chief of Police or the Fire Chief, the facts surrounding the alarm activation shall be presented to the City Manager who shall, after consideration of all the information presented, determine whether a False Alarm fee should be assessed. All such disagreements must be presented in writing by the Alarm User or Alarm Business to the City Manager within 30 days after the date of notification of the Chief of Police's or Fire Chief's determination that a False Alarm fee is due as a result of the particular alarm being questioned; otherwise the determination that the fee is due shall be deemed correct.

(e) In making the determinations required by subsections (c) and (d) of this Section, the Chief of Police, Fire Chief or the City Manager shall give consideration to the following, if presented, in addition to all other information presented:

- (1) The purpose of this Chapter;
- (2) The Alarm User's history of valid and False Alarms;
- (3) Violent conditions of nature, including electrical storms, existing at the time of the activation;
- (4) Other circumstances not reasonably subject to control by the Alarm User or Alarm Business;
- (5) Information from utility companies concerning cable, line or power failures or problems;
- (6) Information from law enforcement, fire or emergency medical Personnel who responded to the alarm activation; and
- (7) The presence or absence of any direct or indirect evidence that a situation requiring an urgent response existed at the time of the alarm activation.

(f) The False Alarm fee under this Section shall be due and payable to the City of Independence or a designated representative within 30 days after receipt of notification that such fee is due. Further, if the fee is not paid within 60 days of such notification, a late fee per alarm call shall be added to the amount due. An additional late fee will be assessed on each False Alarm fee which remains unpaid 90 days following notification. After 90 days, following notice to the Alarm User, the account may be turned over for collection. The City Attorney is authorized to use any legal means to recover the administrative penalties and fees assessed by this Chapter.

Sec. 12.07.009. – DIRECT CONNECTION PROHIBITED.

All Direct Connections, direct-dials, or automatic-dialing devices of Alarm Systems to the Communications Center shall be prohibited except governmental building Alarm Systems.

Sec. 12.07.010. – AUTOMATIC DIALING DEVICE—DIRECT DIALING PROHIBITED.

It is unlawful for any Person to use an Automatic Dialing Device to dial directly into the Communications Center whether by dialing 911 or otherwise. Every Person who is convicted of violating this Section shall be guilty of a misdemeanor.

Sec. 12.07.011. – LOCAL ALARM SYSTEMS – LENGTH OF ALARM.

- (a) Local Alarm System located within an area zoned residential or within five hundred feet (500') of an area zoned residential shall automatically discontinue emitting an audible sound within fifteen (15) minutes of activation. An Alarm System which emits an intermittent signal shall discontinue emitting any audible sound within fifteen (15) minutes of activation. However, an Alarm System installed prior to the effective date of this Article, which does not have the capability to automatically discontinue the audible alarm sound within fifteen (15) minutes of activation shall not be subject to the requirement of this subsection. Nevertheless, said Alarm System shall be subject to the provision of Section 12.07.008.
- (b) Local Alarm Systems located within an area not zoned residential and not within five hundred feet (500') of an area zoned residential shall automatically discontinue emitting an audible sound within thirty (30) minutes of activation. An Alarm System which emits an intermittent signal shall discontinue any audible sound within thirty (30) minutes of activation. However, an Alarm System installed prior to the effective date of this Article, which does not have the capability to automatically discontinue the audible alarm sound within thirty (30) minutes of activation shall not be subject to the requirements of this subsection. Nevertheless, said Alarm System shall be subject to the provisions of Section 12.07.008.

Sec. 12.07.012. – LOCAL ALARM SYSTEMS – NUISANCE.

- (a) A local Alarm System regulated by Section 12.07.011(a) which fails to discontinue emitting an audible sound within fifteen (15) minutes of activation is declared to be a nuisance. A local Alarm System regulated by Section 12.07.011(b) which fails to discontinue emitting an audible sound within thirty (30) minutes of activation is declared to be a nuisance.
- (b) Employees of the City of Independence, Missouri, are authorized to take necessary and reasonable steps to abate the nuisance declared by this section. These steps shall be limited to the exterior of the buildings or other structures.
- (c) A notice shall be sent to the permit holder within a reasonable time following abatement of the nuisance.
- (d) This section is remedial, not punitive.

Sec. 12.07.013- 12.07.999 RESERVED.

ARTICLE 8. OFFENSES AND PENALTIES IN GENERAL.

SEC. 12.08.001. PENALTIES.

A. Any person found guilty of a violation of this chapter of the City Code shall be subject to a fine of up to Five Hundred Dollars (\$500.00) and to incarceration for a term not to exceed six months.

SEC. 12.08.002. ATTEMPTS TO COMMIT A MUNICIPAL ORDINANCE VIOLATION.

A. A person is guilty of an attempt to commit a municipal ordinance violation when with the purpose of committing the offense, that person does any act which is a substantial step towards the commission of the offense.

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

SEC. 12.08.003. AIDING IN THE COMMISSION OF A MUNICIPAL ORDINANCE VIOLATION.

A person is guilty of aiding in the commission of a municipal ordinance violation when he or she knowingly counsels, abets, or aids another in the commission of a municipal ordinance violation.

SEC. 12.08.004. LIABILITY OF CORPORATIONS AND UNINCORPORATED ASSOCIATIONS.

A. A corporation is guilty of an offense if:

1. The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or
2. The conduct constituting the offense is engaged in by an agent of the corporation while acting within the scope of his or her employment and in behalf of the corporation; or
3. The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of his or her employment and in behalf of the corporation.

B. An unincorporated association is guilty of an offense if:

1. The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on the association by law; or
2. The conduct constituting the offense is engaged in by an agent of the association while acting within the scope of his or her employment and in behalf of the association.

C. As used in this section:

AGENT means any director, officer or employee of a corporation or unincorporated association or any other person who is authorized to act in behalf of the corporation or unincorporated association; and

HIGH MANAGERIAL AGENT means an officer of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

SEC. 12.08.005 - 12.08.999 RESERVED.