

Chapter 15

OFFENSES - MISCELLANEOUS

ARTICLE I

Miscellaneous Offenses

Section 15-1. Advertisements, Signs, Etc. — Affixing to Public Places. [Ord. No. 243 §28]

No person shall paint, post, place, hang, suspend or affix any advertisement, card, poster, sign, banner or streamer of any nature, or for any purpose, nor cause the same to be done, on or to any curbstone, flagstone or any other portion of any street or sidewalk, or upon any tree or lamp post standing or erected on any public street, alley or other public place, or upon any pole erected upon any public street, alley or other public place, which pole is used to carry telephone wires or cables, electric light wires or other electric conductors, or to any hydrant, bridge or other public structure within this City; provided, that nothing herein shall apply to any official notice required by law or ordinance to be posted by public officers.

Section 15-2. Aiding and Abetting. [Ord. No. 243 §6]

Any person who shall commit, attempt to commit, conspire to commit or aid or abet in the commission of any act declared in this Code to be in violation of the ordinances of the City, whether individually, or in connection with one (1) or more other persons, or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this Code is likewise guilty of such offense.

Section 15-3. Assault. [Ord. No. 243, §10; Ord. No. 571, §2.; Ord. No. 1779 §1, 8-17-2004]

A person commits the crime of assault if:

- (a) He knowingly causes, attempts to cause or recklessly causes physical injury to another person;
- (b) With criminal negligence, he causes physical injury to another person by means of a deadly weapon;
- (c) He purposely places another person in apprehension of an immediate physical injury;
- (d) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;
- (e) He knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or
- (f) He knowingly threatens or implies harm to an administrator, teacher, bus driver or other

employee of a school board while they are engaged in the performance of their duties.

Section 15-4. Passing Bad Checks. [Ord. No. 124, §2; Ord. No. 572, §2; Ord. No. 1641 §1, 9-17-2002; Ord. No. 2312 §1, 9-2-2014]

- (a) For purposes of this section, "notice in writing" means notice deposited as first class mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or to his last known address.
- (b) A person commits the crime of passing a bad check when, with the purpose to defraud or deny payment:
 - (1) He makes, issues, passes a check or similar sight order, or authorizes an electronic payment from a financial institution checking, savings or other transaction account for the payment of money, knowing that it will not be paid by the drawee or that there is no such drawee, or at any time during a contract period evidenced by a written contract, for which products or services have been tendered, stops payment on the check or revokes an electronic authorization.
 - (2) The person makes, issues or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in that account or that there is no such account or no drawee and fails to pay the check or sight order within ten (10) days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.
- (c) If the issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, this fact shall be prima facie evidence of his purpose to defraud and of his knowledge that the check or order would not be paid.
- (d) If the issuer has an account with the drawee, failure to pay the check or order within ten (10) days after notice in writing that it has not been honored because of insufficient funds or credit with the drawee is prima facie evidence of his purpose to defraud and of his knowledge that the check or order would not be paid.
- (e) The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.
- (f) The face amounts of any bad checks passed pursuant to one (1) course of conduct within any ten-day period may be aggregated in determining the grade of the offense.
- (g) Passing bad checks is a Class A Misdemeanor, unless:
 - (1) The face amount of the check or sight order or the aggregated amount is five hundred dollars (\$500.00) or more; or
 - (2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a Class D Felony.

Section 15-4.1. City Parks — Hours of Operation. [Ord. No. 466, §§1, 2; Ord. No. 530 §§1 to 4; Ord. No. 581, §§1 to 6; Ord. No. 1411 §1, 8-3-1999; Ord. No. 2171 §1, 5-3-2011]

- (a) The city owned and operated parks shall be closed to the public on a daily basis, as follows:

- (1) Bowlby Park, located at the southern end of Williams Drive, shall be closed daily at dusk and opened daily at dawn.
 - (2) Drewel Memorial Park, adjacent to the Shaws Garden Subdivision, shall be closed daily at dusk and opened daily at dawn.
 - (3) Hilltop Park, located in the Hilltop Village Subdivision, shall be closed daily at dusk, and opened daily at dawn.
 - (4) Kircher Park, located at the northern end of Williams Road, shall be closed daily at dusk and opened daily at 7:00 A.M. [Ord. No. 2268 §1, 8-6-2013]
 - (5) Lion's Park, located on Bald Hill Road, shall be closed daily at dusk, except by special written permit for recreational activities that have controlled city operated fixed lighting, and opened daily at dawn.
 - (6) Ruprecht Memorial Park shall be open on a twenty-four hour daily basis and not closed.
 - (7) Soetebier Park, located along Williams Road, shall be closed daily at dusk and opened daily at dawn.
 - (8) Berry Park, located along Forby Road, shall be closed daily at dusk and opened daily at dawn. Motor vehicles transporting school attendees shall be prohibited from parking within Berry Park. After-hours parking is permissible within Berry Park on such days that a Eureka High School Varsity Team athletic event is being held until one (1) hour following the official end of such event. [Ord. No. 2246 §1, 10-16-2012; Ord. No. 2275 §1, 10-15-2013; Ord. No. 2367 §1, 1-5-2016]
 - (9) Legion Park, located on Bald Hill Road, shall be closed daily at dusk and opened at dawn. [Ord. No. 2268 §2, 8-6-2013]
 - (10) West Frisco Park, located at Frisco Street and Virginia Avenue, shall be closed daily at 2:00 A.M. and opened at dawn. [Ord. No. 2268 §2, 8-6-2013]
 - (11) Forby Road Nature Trail, located on Forby Road west of Alt Road, shall be closed daily at dusk and opened at dawn. [Ord. No. 2268 §2, 8-6-2013]
 - (12) Flat Creek Trail shall be closed daily at dusk and opened at dawn. [Ord. No. 2268 §2, 8-6-2013]
- (b) The times established herein shall be determined by the United States Naval Observatory.
 - (c) In the event, in its discretion, the board of aldermen from time to time may deem it appropriate for the purposes of special events and/or various seasonal recreational activities, the board may, upon a recommendation from the park board or of its own volition, adjust on a temporary basis the closing and opening times of the city parks.
 - (d) Legible signs shall be posted at each entrance so such city parks, showing such hours when these parks are closed to the public and reciting that violators shall be subject to penalties.
 - (e) Persons violating the provisions of this section shall be punished by a fine not exceeding five hundred dollars or imprisonment for a period not exceeding six months or by both

such fine and imprisonment.

Section 15-4.1.A. City Parks — Rules and Regulations. [Ord. No. 790 §1; Ord. No. 1610 §1, 5-21-2002; Ord. No. 1724 §1, 10-7-2003; Ord. No. 1826 §1, 4-5-2005; Ord. No. 1855 §1, 9-6-2005; Ord. No. 2220 §1, 6-19-2012; Ord. No. 2231 §§1-2, 7-17-2012]

The following rules and regulations shall be applicable for all public parks within the City unless otherwise specified:

- (a) Fires are only allowed in barbecue pits.
- (b) All trash, rubbish and debris must be placed in proper containers.
- (c) The erection of any structure (tents, booths, posts, etc.) is prohibited unless special permission has been granted and a written permit is posted.
- (d) All pets must be on a leash pursuant to Sections 4-2, 4-12 and 4-12.1.
- (e) Pet owners are required to dispose of all waste created by their pets pursuant to Section 4-3(b)(1).
- (f) Horses shall be allowed only within Kircher Park, except in connection with an approved special event permit, subject to conditions imposed by the Board of Aldermen in conjunction with any such authority which may be granted. Horse trailers shall not be allowed in any City park.
- (g) It shall be unlawful for any person to use or possess a beverage bottle or beverage container made of glass, in whole or in part, within the City-owned and operated parks. Legible signs shall be posted at each entrance to such City parks, stating all glass beverage bottles or glass beverage containers are prohibited within the park grounds and reciting that violators shall be subjected to penalties.
- (h) Bands, DJ's and amusement rides are prohibited unless prior approval has been granted.
- (i) Amplified sound that can be heard from a distance greater than fifty (50) feet is prohibited.
- (j) Rollerblading, rollerskating, skateboarding, hockey, bicycling, the use of go-karts or scooters and any other activity which could deface or be destructive to the surface materials or any other components of recreational facilities are not permitted under the pavilions, on the tennis courts or near/on playground equipment.
- (k) Golfing is not allowed in any area of the parks.
- (l) Motor vehicles are prohibited from all grass areas and areas posted for pedestrian/bike use unless prior approval has been granted.
- (m) Pavilions are available for reservation and any group using a pavilion without a permit must vacate the pavilion if a group that has been permitted arrives.
- (n) No for-profit, business or retail activity will be allowed unless prior approval has been permitted. Public facilities cannot be used for personal profit.
- (o) No dual rear wheeled vehicles shall be allowed within Berry Park.

- (p) There shall be no parking of vehicles allowed in any City park when such park is closed to the public based on established hours of operation.
- (q) Commercial vehicles are prohibited at all times from parking in the area known as "West Frisco Park" at a location numbered 14 West Frisco Avenue.
- (r) Registered 501(c)(3), not-for-profit charitable organizations, are allowed to conduct fundraising events at pavilions with approval from the Board of Aldermen. [Ord. No. 2268 §3, 8-6-2013]
- (s) An individual or organization may reserve a pavilion for no more than four (4) weekend (Friday through Sunday) days per calendar year, unless approved by the Board of Aldermen. [Ord. No. 2268 §3, 8-6-2013]
- (t) A pavilion rental fee of twenty-five dollars (\$25.00) shall apply to all Eureka residents and Eureka-based not-for-profit organizations, and a rental fee of fifty dollars (\$50.00) shall apply to all non-residents and not-for-profit organizations not based in Eureka. [Ord. No. 2268 §3, 8-6-2013]
- (u) Cancellation of the pavilion rental agreement must be submitted no less than two (2) weeks prior to the rental date, otherwise the rental fee will be forfeited. [Ord. No. 2268 §3, 8-6-2013]
- (v) No sports team activities including any form of organized events, official games, unofficial games or team practices may be conducted within Berry Park. This sports team activity prohibition, includes, but is not limited to, baseball, softball, soccer, football, lacrosse and rugby. [Ord. No. 2385 § 1, 8-16-2016]

Section 15-4.1.B. Penalties for City Park Regulations. [Ord. No. 2231 §1, 7-17-2012]

Persons violating the provisions of Section 15-4.1.A. shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment.

Section 15-4.2. Fraudulent use of Credit or Debit Device. [Ord. No. 573, §1; Ord. No. 1643 §1, 9-17-2002]

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

- (a) Knowing that the device is stolen, fictitious or forged; or
- (b) Knowing that the device has been revoked or canceled; or
- (c) Knowing that for any other reason his use of the device is unauthorized.
- (d) Uses a credit device for the purpose of paying taxes, utilities, court fines and/or costs or membership fees to the City of Eureka, or any other governmental entity, and knowingly cancels said charges or payments without just cause. It shall be prima facie evidence of a violation of this Section if a person cancels said charge or payment after obtaining any service or membership card. [Ord. No. 2312 §2, 9-2-2014]

Fraudulent use of a credit or debit device is a class A misdemeanor unless the value of the property or services obtained or sought to be obtained within any thirty (30) day period is five hundred dollars (\$500.00) or more, in which case fraudulent use of a credit or debit device is a Class D Felony.

Section 15-5. Curfew — Persons Under Seventeen. [Ord. No. 48, §1]

It shall be unlawful for any minor under the age of seventeen years to loiter, idle, wander, stroll or to drive or ride in an automobile or other conveyance, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 11:00 P.M. and 6:00 A.M., of the following day, except on Fridays and Saturdays when the hours shall be 12:00 Midnight to 6:00 A.M. of the following day; provided, that the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor.

Section 15-6. Same — Responsibility of Parent, Guardian, Etc. [Ord. No. 48, §2]

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of seventeen years to knowingly permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 11:00 P.M. and 6:00 A.M., of the following day; provided, that the provisions of this section do not apply when the minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor, or when the minor is upon an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor.

Section 15-7. Same — Procedure Upon Violation of Section 15-5. [Ord. No. 48, §3]

Any police officer finding a child violating the provisions of section 15-5 shall warn the child to desist immediately such violation and take the child home to its parent or guardian. If such parent or guardian cannot be located he shall retain custody of such minor until such parent or guardian is located and the child delivered to him. The officer shall also report the violation to the city marshal who shall cause a written notice to be served upon such parent of such minor setting forth the manner in which the minor violated the provisions of such section. Any such parent or guardian receiving such notice who shall knowingly permit such child again to violate the provisions of such section shall be deemed guilty of a misdemeanor.

Section 15-8. Peace Disturbance. [Ord. No. 774, §2]

A person commits the crime of peace disturbance if:

- (a) He unreasonably and knowingly disturbs or alarms another person or persons by:
 - (1) Loud noise; or

- (2) Offensive and indecent language which is likely to produce an immediate violent response from a reasonable recipient; or
 - (3) Threatening to commit a crime against any person; or
 - (4) Fighting; or
 - (5) Creating a noxious and offensive odor;
- (b) He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
- (1) Vehicular or pedestrian traffic; or
 - (2) The free ingress or egress to or from a public or private place.

Section 15-9. Private Peace Disturbance. [Ord. No. 562, §2]

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

- (a) Threatening to commit a crime against any person; or
- (b) Fighting.

Section 15-10. Peace Disturbance Definitions. [Ord. No. 562, §2]

For the purposes of sections 15-8 and 15-9, the following words and phrases shall have the meanings respectively ascribed to them by this section:

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

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

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

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

Section 15-11. Dressed as Opposite Sex. [Ord. No. 243, §36]

No person in the city shall appear in public in the dress of the opposite sex.

Section 15-12. False Reports. [Ord. No. 243, §23; Ord. No. 393, §1; Ord. No. 574, §2; Ord. No. 1272 §1, 1-7-1997]

- (a) A person commits the offense of making a false report if he 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.
 - (d) It shall be unlawful for a person to make a false report as defined in this Section.

Section 15-12.1. False Declaration in Writing. [Ord. No. 1272 §1, 1-7-1997]

- (a) It shall be unlawful for any person to make a false declaration in writing for the purpose of misleading a Police Officer in the performance of his duty in the City, if he submits any written false statement which he does not believe to be true or submits or invites reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity, or any sample, specimen, map, boundary mark or other object which he knows to be false.
- (b) The falsity of the statement or the item under paragraph (a) above must be as to a fact which is material to the purposes for which the statement is made or the item submitted.
- (c) It is a defense to a prosecution herein that the actor retracted the false statement or item, but this defense shall not apply if the retraction was made after the falsity or the statement or item was exposed or the Police Officer took substantial action in reliance on such statement or item.
- (d) The defendant shall have the burden of injecting the issue of retraction herein.

Section 15-12.2. False Impersonation. [Ord. No. 1272 §1, 1-7-1997]

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

- (b) Causes another to act in reliance upon his pretended official authority.
- (b) It shall be unlawful for any person to commit an act of false impersonation.

Section 15-13. Firearms — Discharge. [Ord. No. 243, §22; Ord. No. 2121 §1, 6-1-2010; Ord. No. 2224 §1, 7-3-2012]

- (a) No person except the Chief of Police, a police officer or other officer while performing official duties, shall discharge or fire off any gun, pistol or firearms of any description within three hundred (300) yards of any dwelling, house, apartment building, church, school or any other occupied or habitable structure within the City with the following exceptions: [Ord. No. 2300 §1, 5-6-2014]
 - (1) Paintball guns operated by patrons of a City-approved paintball facility.
 - (2) Firearms of a type and caliber approved for discharge within a City-approved indoor firing range.
 - (3) Firearms of a type and caliber approved for discharge in connection with a City-approved outdoor military training facility.
- (b) No person except the Chief of Police, a police officer or other officer while performing official duties, shall discharge or fire off any gun, pistol or firearms projecting single or multiple solid projectiles anywhere in the City with the following exceptions: [Ord. No. 2300 §1, 5-6-2014]
 - (1) Paintball guns operated by patrons of a City-approved paintball facility.
 - (2) Firearms of a type and caliber approved for discharge within a City-approved indoor firing range.
 - (3) Firearms of a type and caliber approved for discharge in connection with a City-approved outdoor military training facility.
- (c) Nothing herein contained shall be construed as prohibiting the conduct of adequately supervised shooting matches or shooting concessions sponsored by athletic, civic, patriotic or charitable organizations, for which the Mayor has issued a written permit.

Section 15-13.1. Transporting of Firearms. [Ord. No. 2265 §1, 6-18-2013]

- (a) It shall be unlawful for any person to openly carry a firearm, or any other weapon readily capable of lethal use, across property containing or parking lots serving a gun shop, ammunition shop, firing range or other business that sells or allows the use of firearms within the City of Eureka. Any such weapons shall be transported into such businesses in an appropriate case or storage unit or shall be fully concealed on his or her person if he or she has a valid permit to carry a concealed firearm.
- (b) Nothing in this Section shall be construed to forbid United States marshals, sheriffs, constables and their deputies, and any regular, special or ex officio police officer, or any other law enforcement officer of the United States, the state, the county or the City, or the owners or authorized employees of such establishments set forth in Subsection (a) from wearing such weapons in an unconcealed state as shall be necessary in the performance of

their duties or employment.

- (c) A violation of this Section shall be punishable pursuant to general penalty provisions as set forth in Section 1-7 of the Municipal Code.

Section 15-14. Fireworks — Discharge. [Ord. No. 243, §30]

No person shall sell, use, manufacture, display or possess fireworks within the city at any time, except as provided in this section.

The term "fireworks," as used in this section, means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation and includes blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Dago bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. The term "fireworks" shall not include sparklers, colored flares, toy pistols, toy canes, toy guns or other devices using paper caps containing twenty-five hundredths grains or less of explosive mixture, the sale and use of which shall be permitted at all times.

The prohibitions of this section shall not apply to the sale or use of blank cartridges for theatrical purposes or for signal purposes in athletic or sports events nor to public demonstrations or displays of fireworks; provided, that such public demonstrations or displays of fireworks shall be conducted under the supervision of the chief of police and the police department after application is made in writing and presented to the mayor, and a permit issued by the mayor for such demonstration or display. The chief of police is hereby directed to prepare appropriate application and permit forms to fully effectuate the terms of this section.

Section 15-15. Hawkers and Peddlers — Hours of Sale. [Ord. No. 243, §14]

No person shall display, sell, offer to sell or advertise for sale by any means whatsoever any goods, wares, merchandise, refreshments or foodstuffs upon the streets and highways within the city between the hours of 8:00 P.M. and 8:00 A.M., of the following day.

No person shall operate, cause to be operated, use or cause to be used any vehicle upon the streets and highways within the city for the purpose of displaying, selling, offering to sell or advertising for sale by any means whatsoever any goods, merchandise, wares, refreshments and foodstuffs between the hours of 8:00 P.M. and 8:00 A.M., of the following day.

The provisions of this section shall not apply to any person engaged in the delivery of goods, wares, merchandise or other articles or things in the regular course of business to the premises of persons ordering or entitled to receive the same.

Section 15-16. Same — Uninvited Solicitations. [Ord. No. 243, §13.; Ord. No. 1781 §1, 8-17-2004; Ord. No. 1828 §3, 4-19-2005]

No person shall go upon any property for the purpose of soliciting orders for the sale of goods, wares, merchandise or services or for the purpose of disposing of or peddling or hawking the

same and without having first obtained a peddler's license as required pursuant to Chapter 12 of this Code.

Section 15-17. Gambling. [Ord. No. 243, §38]

No person shall set up or keep any gaming table or gambling device at which any game of chance is being or may be played for money or property.

No person shall at any such table or device or at any game of chance bet, win or lose any money or property either by the use of specie or by means of anything representing the same.

No person shall suffer any gaming table or gambling device at which any game of chance may be played to be set up or used on or in any premises in his or its possession or under his or its control.

Section 15-18. Hotels, Motels, Etc. — Obtaining Food, Lodging, Etc., With Intent to Defraud. [Ord. No. 243, §24]

No person shall obtain lodging, food, money, property or other accommodation at any hotel, inn, motel, restaurant, rooming house, boardinghouse or eating house or place of public accommodation with the intent to defraud the owner or keeper thereof.

Proof that lodging, food, money, property or other accommodations were obtained by any person by false pretense or false representation, or by false or fictitious show or pretense of any baggage or other property, or by failing or refusing to pay for the lodging, food, money, property or other accommodations on demand, or that any person gave in payment for such lodging, food, money, property or other accommodations a check or negotiable paper on which payment was refused, or that any person left the hotel, inn, motel, restaurant, boardinghouse or eating house without paying or offering to pay for such lodging, food, money, property or other accommodations or that any person surreptitiously removed or attempted to remove his baggage, or that any person registered under a fictitious name shall be prima facie proof of the intent of this person to defraud.

The provisions of this section shall not apply where there has been an agreement in writing for a delay in payment.

Section 15-18.1. Same — Registration Generally. [Ord. No. 243, §35.; Ord. No. 1747 §1, 3-2-2004]

The owner, proprietor, manager or other person in charge of any hotel, motel, lodginghouse, rooming house or other place where transients are accommodated shall, at all times, keep a standard hotel register in which shall be ascribed the names of all the guests or persons renting or occupying rooms in such house, which register shall be signed by the person renting a room or by someone under his direction. Such registration shall be made, and after the names are ascribed in the register, the manager of the house or his agent shall write the number of the room such guests or person is to occupy, together with the time when such room is rented so as to identify the room occupied by the person registering. All of the foregoing shall be done before any guest is permitted to occupy a room. Such register shall be at all times open to inspection by any guest of the house wherein such register is kept and by any executive, administrative or peace officer of the city, county or state.

Section 15-18.2. Same — Registration Under Fictitious Name. [Ord. No. 243, §35.; Ord. No. 1747 §1, 3-2-2004]

No person shall write or cause to be written, or knowingly permit to be written, in any register in any hotel, motel, lodging place, rooming house or other place whatsoever where transients are accommodated in the city, any other or different name or designation than the true name of the person so registered therein, or the name by which the person is generally known.

Section 15-18.3. Same — Occupancy of Room by Members of Opposite Sex. [Ord. No. 243, §35.; Ord. No. 1747 §1, 3-2-2004]

Persons of the opposite sex, except husband and wife, or parent and child, shall not jointly and privately occupy any room in any dwelling unit, apartment, lodginghouse, motel or any other place where transients are accommodated.

No proprietor, manager or other person in charge of such hotel, motel, lodginghouse, rooming house or other place where the transients are accommodated, shall rent or assign rooms for joint, private occupancy by persons of the opposite sex unless such persons shall be registered as husband and wife or as parent and child.

No proprietor, manager, or other person in charge of any hotel, motel, lodginghouse, rooming house or other place where transients are accommodated, shall rent or assign rooms to persons of the opposite sex for joint, private occupancy, if notwithstanding the lawful appearance of the registration, he has reasonable cause to believe that such persons are not husband and wife nor parent and child. If such transients are unknown to him, he shall not receive them as guests without first requiring some reasonable evidence of a lawful relationship.

Section 15-18.4. Same — Multiple Rentals per Night. [Ord. No. 243, §35.; Ord. No. 1747 §1, 3-2-2004]

No proprietor, manager or other person in charge of any place where transients are accommodated for sleeping or lodging purposes shall let any room more than once between the hours of 6:00 P.M. and 6:00 A.M. the next day, except to bona fide travelers with baggage.

Section 15-19. Amusement Rides; Passenger to Obey Rules; Prohibited Acts. [Ord. No. 1747 §1, 3-2-2004; Ord. No. 2097 §1, 9-1-2009]

A passenger on an amusement ride shall, at a minimum:

- (a) Obey the reasonable safety rules posted in accordance with RSMo., Sections 316.203 to 316.233 and oral instructions for an amusement ride issued by the amusement owner or such owner's employee or agent, unless:
 - (1) The safety rules are contrary to RSMo., Sections 316.203 to 316.233; or
 - (2) The oral instructions are contrary to RSMo., Sections 316.203 to 316.233; and
- (b) Refrain from acting in any manner that may cause or contribute to injuring such passenger or others, including:
 - (1) Interfering with the safe operation of the amusement ride;

- (2) Not engaging any safety devices that are provided;
- (3) Disconnecting or disabling a safety device except at the express instruction of the operator;
- (4) Altering or enhancing the intended speed, course or direction of an amusement ride;
- (5) Extending arms and legs beyond the carrier or seating area except at the express direction of the ride operator;
- (6) Throwing, dropping or expelling an object from or toward an amusement ride;
- (7) Getting on or off an amusement ride except at the designated time and area, if any, at the direction of the ride operator or in an emergency; and
- (8) Unreasonably controlling the speed or direction of such passenger or amusement ride that requires the passenger to control or direct himself or herself or a device.

Section 15-20. Glass Bottles and Containers Prohibited at City Events. [Ord. No. 2127 §1, 6-15-2010]

It shall be unlawful for any person to use or possess a beverage bottle or beverage container made of glass, in whole or in part, at any City event.

Section 15-21. Dogs Prohibited at City Events. [Ord. No. 2177 §1, 7-5-2011]

It shall be unlawful to bring a dog to an event the City is conducting or hosting, with the exception of City conducted or hosted events at which dogs are invited to participate, or a service animal assisting a disabled individual.

Section 15-22. Funeral Picketing, Protests and Demonstrations. [Ord. No. 1927 §1, 6-29-2006]

It shall be unlawful for any person to engage in picketing, protesting or demonstrating within three hundred (300) feet of the property line of any church, cemetery or funeral establishment, as defined by Section 333.011, RSMo., within one (1) hour prior to the commencement of any funeral and until one (1) hour following the cessation of any funeral. For purposes of this Section, "funeral" shall mean any visitation, ceremony, procession or memorial service held in connection with the viewing, burial or cremation of a deceased person. Each day on which a violation occurs shall constitute a separate offense. Violation of this Section shall be punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) or by imprisonment for a period not exceeding six (6) months and/or both such fine and imprisonment.

Section 15-23. Iceboxes, Refrigerators, Etc. — Leaving Abandoned on Premises. [Ord. No. 243, §33]

No person shall keep, place or cause to be placed on his land or premises, any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has airtight doors or locks which cannot be released for opening from the inside of the icebox, refrigerator or container.

No person shall keep, place or cause to be placed on his land or premises, any abandoned,

unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snap lock or other device thereon without first removing the doors from such icebox, refrigerator or container.

Section 15-24. Lewd and Immoral Conduct; Prostitution. [Ord. No. 243 §34]

(a) For the purpose of this section, the following terms have the meaning ascribed to them:

PROSTITUTION — The offering or receiving of the body for sexual intercourse or other physical sexual activity for hire as well as the indiscriminate or promiscuous offering or receiving of the body for sexual intercourse or other physical activity without hire.

LEWD OR LASCIVIOUS ACT — An appearance in the state of nudity. — An appearance in any indecent dress. — Exposure of the private parts of the body, which is wanton and committed in the presence of another or in any place open to the public view.

MERETRICIOUS DISPLAY — Any acts, signs, gesture or manifestations which allure, or which is calculated to allure, entices or is calculated to entice by a false show, gaudiness or tawdry ornamentation.

- (b) No person shall commit or offer or agree to commit a lewd or lascivious act or an act of prostitution or moral perversion.
- (c) No person shall secure or offer another for the purposes of committing a lewd or lascivious act or an act of prostitution or moral perversion.
- (d) No person shall be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd or lascivious act or an act of prostitution or moral perversion.
- (e) No person shall make a meretricious display in or near any public place, any place frequented by the public or any place open to the public view.
- (f) No person shall knowingly transport any person to any place for the purpose of committing a lewd or lascivious act or any act of prostitution or moral perversion.
- (g) No person shall knowingly receive, or offer or agree to receive, any person into any place or building for the purpose of performing a lewd or lascivious act, or an act of prostitution or moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose.
- (h) No person shall direct or offer to direct any person to any place or building for the purpose of committing any lewd or lascivious act or act of prostitution or moral perversion.
- (i) No female person shall frequent or loiter in any tavern, cabaret or nightclub, with the purpose of soliciting men to purchase drinks. No proprietor or operator of any such establishment shall allow the presence in such establishment of any woman who violates the provisions of this Section.

Section 15-25. Loitering; Interference with Business. [Ord. No. 243 §12]

No person shall loiter on the streets or at the corners thereof or in the vicinity of any place of

amusement, hotel, motel, restaurant, office building, shop or store, or any other place of business, or obstruct corridors, aisles, stairways or doorways, so as to prevent free access, passage or movement by members of the public, officers or employees.

No person shall by his/her presence, or by other means, either alone or in consort to others, interfere with or interrupt the conduct of business in offices, shops or stores.

Section 15-26. Officers — Impersonating. [Ord. No. 243 §15]

No person in this City shall falsely represent himself/herself to be an officer, agent, employee or a Police Officer of this City, of the County, or of the State or Federal Government; and no person, without being lawfully authorized, shall exercise or attempt to exercise any of the duties, functions or powers of any such officer.

Section 15-27. Resisting or Interfering With Officers. [Ord. No. 243 §15; Ord. No. 1325 §1, 11-18-1997; Ord. No. 1638 §1, 9-17-2002]

- (a) A person commits the crime of resisting or interfering with arrest, detention or stop if, knowing that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, or the person should know that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention he or she:
 - (1) Resists the arrest of himself/herself by using or threatening the use of violence or physical force or by fleeing from another such officer; or
 - (2) Interferes with the arrest of another person by using or threatening the use of violence, physical force or physical interference.
- (b) This Section applies to arrests with or without warrants and to arrests for any crime or ordinance violation.
- (c) A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.
- (d) It is no defense to prosecution under paragraph (a) of this Section that the Law Enforcement Officer was acting unlawfully in making the arrest. However, nothing in this Section shall be construed to bar civil suits for unlawful arrests.
- (e) Resisting, by means other than flight, or interfering with an arrest for a felony is a class D felony; otherwise, resisting or interfering with an arrest is a class A misdemeanor.
- (f) Resisting an arrest by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony; otherwise, resisting or interfering with an arrest, detention or stop is a class A misdemeanor.

Section 15-27.1. (Reserved) ¹

Section 15-28. Official Notices — Removal and Destruction. [Ord. No. 243 §29]

No person shall deface, destroy, tear down or remove any official notice or bulletin or any official sign or signal posted or placed in conformity with law or this Code or other ordinance, except an officer of the City, County or State in the proper discharge of his/her duties.

Section 15-29. Stealing. [Ord. No. 1025 §2, 5-19-1992; Ord. No. 1372 §1, 8-18-1998; Ord. No. 1628 §1, 9-3-2002]

- (a) A person commits the crime of stealing if he/she appropriates property or services of another with a purpose to deprive him/her thereof, either without his/her consent or by means of deceit or coercion when the value of the property or services appropriated is less than five hundred dollars (\$500.00), including but not limited to the following acts:
- (1) Transferring or accepting the transfer of any entry stamp or marking used for entrance into any amusement park or business establishment, without the consent of the owner;
 - (2) Presents or attempts to present the season pass of anyone other than the presenter with the intent to gain entry into any amusement park or business establishment; or
 - (3) Advertises or offers for sale or resale or sells or resells any ticket or other entry coupon for any amusement park or business establishment, without the consent of the amusement park or business establishment issuing said ticket or entrance coupon, for an amount greater than the amount paid to the amusement park or business establishment.
 - (4) Uses any City utility, including but not limited to water, sewer or trash service, without making full payment for said services, without just cause or excuse. [Ord. No. 2312 §3, 9-2-2014]
- (b) Evidence of the following is admissible in any municipal prosecution under this Section on the issue of the requisite knowledge or belief of the alleged stealer;
- (1) That he/she failed and refused to pay for property or services of a hotel, restaurant, inn, boarding house, amusement park or other business establishment;
 - (2) That he/she gave in payment for property or services of a hotel, restaurant, inn, boarding house, amusement park or other business establishment a check or negotiable paper on which payment was refused;
 - (3) That he/she left the hotel, restaurant, inn, boarding house, amusement park or other business establishment with the intent not to pay for property or services;
 - (4) That he/she surreptitiously removed or attempted to remove his/her baggage or possessions from a hotel, restaurant, inn, boarding house, amusement park or other business establishment;

¹. Editor's Note — Ord. no. 1638 §1, adopted September 17, 2002, repealed section 15-27.1 in its entirety. Former section 15-27.1 derived from ord. no. 1325 §2, 11-18-1997.

- (5) That he/she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits or reproduces a retail sales receipt, price tag, or universal price code label, or possesses, with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.
- (c) The value of property shall be ascertained as provided in Section 570.020 of the Revised Statutes of the State of Missouri, and this Section hereby incorporates by reference the definitions contained in Section 570.010, RSMo.
- (d) The violation of any provision of this Section shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a period not exceeding three (3) months, or by both such fine and imprisonment.

Section 15-29.1. Receiving Stolen Property. [Ord. No. 867 §1; Ord. No. 1642 §1, 9-17-2002]

- (a) A person commits the crime of receiving stolen property for the purpose of depriving the owner of a lawful interest therein if he receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen. Receiving stolen property is a Class A Misdemeanor, except when the property involved has a value of five hundred dollars (\$500.00) or more, or the person receiving the property is a dealer of goods of the type in question in which case receiving stolen property is a Class C felony.
- (b) Evidence of the following is admissible in any criminal prosecution pursuant to this Section to prove the requisite knowledge or belief of the alleged receiver:
 - (1) That he was found in possession or control of other property stolen on separate occasions from two (2) or more persons;
 - (2) That he received other stolen property in another transaction within the year preceding the transaction charged;
 - (3) That he acquired the stolen property for consideration which he knew was far below its reasonable value.

Section 15-29.2. Theft of Motor Fuel. [Ord. No. 1557 §1, 9-4-2001]

Anyone convicted of stealing motor fuel shall have their drivers license suspended pursuant to Section 570.030, RSMo. First (1st) offense — sixty (60) days with hardship after the first thirty (30) days; second (2nd) offense — ninety (90) days with hardship after the first sixty (60) days; third (3rd) or subsequent offense — one hundred eighty (180) days with hardship after the first ninety (90) days. The person has to drive a motor vehicle so as to cause it to leave the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle unless payment or authorized charge for the motor fuel dispensed has been made. This shall apply to anyone found guilty or who pleads guilty to stealing motor fuel pursuant to Section 570.030, RSMo. The suspension will begin on the date of the court's conviction. In addition to such driver's license suspension, anyone convicted of stealing motor fuel shall also be subject to any applicable theft-related penalties set forth in the Municipal Code.

Section 15-29.3. Theft of Cable Television. [Ord. No. 1639 §1, 9-17-2002]

- (a) A person commits the crime of theft of cable television service if he:
 - (1) Knowingly obtains or attempts to obtain cable television service without paying all lawful compensation to the operator of such service by means of artifice, trick, deception or device; or
 - (2) Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or
 - (3) Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or
 - (4) Knowingly sells, uses, manufactures, rents or offers for sale, rental or use of any device, plan or kit designed and intended to obtain cable television service in violation of this Section.
- (b) Theft of cable television service is a class A misdemeanor if the value of the service appropriated is five hundred dollars (\$500.00) or less.
- (c) Any cable television operator may bring an action to enjoin and restrain any violation of the provisions of this Section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict, the defendant may be entitled to reasonable attorney fees.
- (d) The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that the accused has committed the crime of theft of cable television service.
- (e) If a cable television company either:
 - (1) Provides unsolicited cable television service; or
 - (2) Fails to change or disconnect cable television service within ten (10) days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten (10) days after such written notice is received until the service is changed or disconnected.
- (f) Nothing in this Section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.
- (g) As used in this Section, the term "cable television service" includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment.

Section 15-30. Prisoner — Rescuing. [Ord. No. 243, §15]

No person shall attempt to rescue any person from the custody of a police officer of the city.

Section 15-31. Same — Escaping. [Ord. No. 243, §15]

No person, while being detained or imprisoned or held in custody by any officer of this city, shall break away, escape or attempt to escape from such officer or place of detainment or custody.

Section 15-32. Profane Language. [Ord. No. 243, §11]

No person in the city shall use vulgar, profane or indecent language on any public street or other public place or place of business open to public patronage.

Section 15-33. Property Damage. [Ord. No. 243, §20; Ord. No. 575, §2]

A person commits the crime of property damage if:

- (a) He knowingly damages property of another; or
- (b) He damages property for the purpose of defrauding an insurer.

Section 15-34. Public Drunkenness. [Ord. No. 1005 §1, 1-15-1991]

- (a) It shall be unlawful for any person or persons to enter any schoolhouse or courthouse within the City in a drunken or intoxicated condition, or to drink or to offer to drink any intoxicating liquor in any schoolhouse or courthouse within the City, and person or persons so doing shall be punishable as provided in Section 1-7 of this code.
- (b) It shall be unlawful for any person or persons to operate any aircraft, boat, machinery, firearm, or other equipment, while in a drunken or intoxicated condition or under the influence of alcohol, and any person or persons so doing shall be punishable as provided in Section 1-7 of this code.
- (c) A person shall be deemed in a drunken or intoxicated condition when the person has ten hundredths of one percent (.10%) or more by weight of alcohol in his blood. As used in this Section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundredth millimeters of blood and may be shown by chemical analysis of the person's blood, breath, saliva or urine.
- (d) A person who appears to be in a drunken or intoxicated condition may be taken by a Police Officer to the person's residence, to any available treatment service, or to any other appropriate local facility, which may if necessary include a jail, for custody not to exceed twelve (12) hours.
- (e) Any police officer detaining such person shall be immune from prosecution for false arrest and shall not be responsible in damages for taking action pursuant to Subsection (d) above, if the officer has reasonable grounds to believe the person is in a drunken or intoxicated condition by alcohol and providing that he does not use unreasonable excessive force to detain such person.

- (f) Such immunity from prosecution includes the taking of reasonable action to protect himself or herself from harm by the drunken or intoxicated person.

Section 15-35. Public Records — Removal, Destruction, Etc. [Ord. No. 243, §32]

No person shall, without proper authority, take or remove any record, document, book, paper or property of any kind of the city.

No person, without proper authority, shall mutilate or destroy any record, document, book or paper on file or kept on record in any public office of the city.

No person shall retain any records, documents, book, paper or property of the city after lawful demand for the return thereof has been made by an official or duly authorized agent of the city.

Section 15-36. Rockets, Missiles and Projectiles-Construction, Discharge, Etc. [Ord. No. 243, §31]

No person shall construct, use, discharge, fire, launch or explode rockets, missiles or other similar projectiles within the city unless a written permit for such specific purpose has been obtained from the board of aldermen. In granting any such permit, the board of aldermen may prescribe such conditions and regulations for the activity permitted as they may deem necessary for the preservation and the protection of the health and welfare of the inhabitants of the city.

Section 15-37. Rock, Lumber, Etc. — Storage Constituting Health Menace. [Ord. No. 243, §40]

No person shall store any lumber, wood, coal, rock or other material or substance upon any lot or premises within this city in such a manner as to endanger public health or safety.

Section 15-38. Stones, Etc. — Throwing. [Ord. No. 243, §25]

No person shall throw any stone or other missile upon or at any vehicle, building or other public or private property, or upon or at any person in any public street, alley or place, or enclosed or unenclosed ground.

Section 15-39. Summons — Failure to Answer. [Ord. No. 243, §18]

No person, who has been lawfully summoned to appear in the municipal court of the city to answer lawful charges for violation of this Code or any other ordinance of the city, shall fail to appear on the day and at the hour to which such person has been summoned.

Section 15-40. Telephone and Telegraph Companies — Removing, Raising, Etc., Wires. [Ord. No. 38, §6]

The person engaged in the business of supplying telephone or telegraph service shall, on the request of any person, remove, raise or lower its wires temporarily to permit the moving of houses or other structures, the expenses therefor shall be paid by the party requesting the same. The person making such adjustment or change may require such payment in advance should it elect to do so, and the person making such change shall be given not less than forty-eight hours advance notice to arrange for the same.

Section 15-41. Same — Authority to Trim Trees. [Ord. No. 38, §7]

Authority is hereby granted to any telephone or telegraph company to trim trees upon and overhanging streets, alleys, sidewalks and public places of the city, so as to prevent the branches of such trees from coming in contact with the wires and cables of such company, which trimming shall be effected under the supervision and direction of such city official to whom the duties have been or may be delegated.

Section 15-42. Trespassing. [Ord. No. 243, §19; Ord. No. 566, §2]

A person commits the crime of trespassing if he knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.

A person does not commit the crime of trespassing by entering or remaining upon real property unless the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to what notice against trespassing is given by:

- (a) Actual communication to the actor; or
- (b) Posting in a manner reasonably likely to come to the attention of intruders.

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

Section 15-43. Vagrancy. [Ord. No. 243, §26]

No person without visible means of support shall wander about from place to place without being able to give a satisfactory account of himself.

No person without visible means of support shall occupy, lodge or sleep in any vacant or unoccupied yard, lot or land, garage, shed, shop or other building or structure, or in any automobile, truck, railroad car or other vehicle who does not own the same or who does not have the permission of the owner or person entitled to possession of the same, and not be able to give a satisfactory account of himself.

No person without visible means of support shall wander about and beg nor shall any person without visible means of support go about from door to door of private homes or commercial and business establishments or place himself in or upon any public way or public place to beg or receive alms for himself.

No person without visible means of support or lawful business shall wander about the streets, alleys or other public ways or places or be found abroad at late or unusual hours at night and not be able to give a satisfactory account of himself.

Section 15-44. (Reserved) [Repealed by Ordinance No. 800, §1]

Section 15-44.1. Weapons Offenses — Definitions. [Ord. No. 792 §1]

As used in this chapter:

BLACKJACK — Any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, including but not by way of limitation any and all martial arts instruments, and which is readily capable of lethal use.

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

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

EXPLOSIVE WEAPON — Any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon.

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

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

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

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

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

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

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

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

RIFLE — Any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

SHORT BARREL — A barrel length of less than sixteen inches for a rifle and eighteen inches

for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than twenty-six inches.

SHOTGUN — Any firearm designed or adapted to be fired from the shoulder to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or single projectile through a smooth bore barrel by a single function of the trigger.

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

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

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

Section 15-44.2. Weapons Offenses — Unlawful Use. [Ord. No. 821, §2]

- (a) A person commits the crime of unlawful use of weapons if he knowingly:
 - (1) Carries concealed upon or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use including, but not limited to those weapons defined in Section 15-44.1; or
 - (2) Sets a spring gun; or
 - (3) Discharges or shoots a firearm or projectile weapon into a dwelling house, railroad train, boat, aircraft or motor vehicle, as defined in Section 302.010 of the Revised Statutes of Missouri, 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, including, but not limited to the weapons defined in Section 15-44.1 herein; or
 - (5) Possesses or discharges a firearm weapon while intoxicated; or
 - (6) Discharges a firearm or projectile weapon within one hundred (100) yards of any occupied schoolhouse, courthouse or church building; or
 - (7) Discharges or shoots a firearm or projectile weapon at a mark, at any object or at random on, along or across a public highway or discharges or shoots a firearm or projectile weapon 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 school, 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 into any public assemblage of persons met for any lawful purpose; or

- (9) Discharges or shoots a firearm or projectile weapon.
- (b) Paragraphs (1), (3), (4), (6), (7), (8), and (9), of subsection (a) of this section shall not apply to or affect any of the following:
 - (1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, except that such firearm may be discharged only in the line of duty, or any person summoned by such officer 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 crimes, while performing their official duty;
 - (3) Members of the armed forces or National Guard while performing their official duty;
 - (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the State; or
 - (5) Any person whose bona fide duty is to execute process, civil or criminal.
- (c) Paragraphs (1), (5) and (8) of subsection (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. Paragraph (1) of subsection (a) of this section does not apply when the actor is also in possession of an exposed firearm or projectile weapon in his dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceable through the state.
- (d) Paragraphs (1), (7), (8), and (9), of subsection (a) of this Section shall not apply to bows and arrows so long as the operation of such projectile weapon(s) is conducted as a supervised activity of the Rockwood School District or by Special Permit as approved by the Board of Aldermen.

Section 15-44.3. Firearms in City Buildings and Facilities. ² [Ord. No. 1726 §1, 10-21-2003]

- (a) No person who has been issued a concealed carry endorsement by the Missouri Director of Revenue under Sections 571.101 to 571.121, RSMo., or who has been issued a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision of another State shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the City of Eureka.
- (b) No person shall carry a concealed firearm into any Police facility or Police station without the consent of the Chief Law Enforcement Officer in charge of that office which shall be identified as the Chief of Police of the City of Eureka or his designee. Possession of a

2. State Law Reference — The provisions of L. 2003 H.B. et al, §571.094, were actually codified as §§571.101 to 571.121, RSMo., as amended.

firearm in a vehicle on the premises of the Police station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. No person shall carry concealed firearms at any meeting of the City Council. Possession of a firearm in a vehicle on the premises of City-owned property shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

- (c) This Section shall not apply to buildings used for public housing by private persons, highways or rest areas, firing ranges or private dwellings owned, leased or controlled by the City.
- (d) No City employee, except Police Officers, shall carry any weapon on City property or in any City vehicle.
- (e) Signs shall be posted at each entrance of any building entirely owned, leased or controlled by the City stating that carrying of firearms is prohibited. Where the City owns, leases or controls only a portion of a building, signs shall be posted at each entrance to that portion of the building stating that carrying of a firearm is prohibited.
- (f) No person who has been issued a certificate of qualification, which allows that person to carry a concealed firearm before the Director of Revenue begins issuing concealed carry endorsements in July of 2004, shall be authorized by that certificate or be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the City of Eureka.
- (g) Carrying of a concealed weapon in a location prohibited by this Section by any individual who holds a concealed carry endorsement shall not be a criminal act but may be denied entrance to the building or ordered removed from the building. If such a person refuses to leave the premises and a Police Officer is summoned, such person maybe issued a citation for an amount not to exceed one hundred dollars (\$100.00) for the first (1st) offense. If a second (2nd) citation for a similar violation occurs within a six (6) month period, such person shall be fined an amount not to exceed two hundred dollars (\$200.00). If a third (3rd) citation for a similar violation occurs within one (1) year of the first (1st) citation, such person shall be fined an amount not to exceed five hundred dollars (\$500.00). Upon sustaining the charge arising from a citation issued pursuant to this Subsection, the court shall notify the Sheriff and/or St. Louis County or the Sheriff that issued the certificate of qualification for a concealed weapon endorsement and the Department of Revenue of the State of Missouri.

Section 15-45. Tampering. [Ord. No. 1271 §1, 1-7-1997]

- (a) A person commits the crime of tampering if:
 - (1) For the purpose of causing a substantial interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, he damages or tampers with property or facilities of such a utility or institution, and thereby causes substantial interruption or impairment of service.
 - (2) He knowingly receives, possesses, sells, alters, defaces, destroys or unlawfully operates an automobile, airplane, motorcycle, motorboat or other motor-propelled

vehicle without the consent of the owner thereof.

- (3) Tamper with property of another for the purpose of causing substantial inconvenience to that person or to another.
 - (4) Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle.
 - (5) Tamper or makes connection with property of a utility.
 - (6) Tamper with, or causes to be tampered with, any meter or other property of an electric, gas, steam, water or cable television utility, the effect of which tampering is either:
 - (a) To prevent the proper measuring of electric, gas, steam, water or cable television service; or
 - (b) To permit the diversion of any electric, gas, steam, water or cable television service.
- (b) In any prosecution under Subparagraph (a)(6) of this Section, proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam, water or cable television service, with one (1) or more of the effects described in Subparagraph (a)(6) of this Section, shall be sufficient to support an inference which the municipal court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who used or received the direct benefit of the electric, gas, steam, water or cable television service.

Section 15-46. Window Peeping. [Ord. No. 243, §37]

No person in the city shall look, peer or peep into any window of a hotel, motel, lodging house or private residence not on his own property; nor shall any person in the city loiter around or in view of any such window not on his own property with the intent of watching or looking through such window.

Section 15-47. Offenses Concerning Drugs and Drug Paraphernalia. [Ord. No. 333, §1; Ord. No. 683, §1]

- (a) It is unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, distribute or compound any controlled or counterfeit substance, except as authorized in sections 195.010 to 195.320 of the Revised Statutes of Missouri.
- (b) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of chapter 195 of the Revised Statutes of Missouri.
- (c) It is unlawful for any person to deliver, possess with intent to deliver or manufacture with

intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of chapter 195 of the Revised Statutes of Missouri.

- (d) It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purposes of the advertisement, in whole or in part, is to promise the sale of objects designed or intended for use as drug paraphernalia.
- (e) It is unlawful for any person to use, or to possess with intent to use, an imitation controlled substance in violation of chapter 195 of the Revised Statutes of Missouri.
- (f) It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver or cause to be delivered any imitation controlled substance.
- (g) It is unlawful for any person to place in any newspaper, magazine, handbill or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of any imitation controlled substance.
- (h) All of the above described activities shall be unlawful and prohibited, except as authorized by the laws of the state or the laws of the United States.
- (i) It is hereby made the duty of all peace officers of the city and the city attorney to enforce all provisions of this section and to cooperate with all agencies charged with the enforcement of the laws of the United States, the state and the city relating to narcotic and controlled substances.

Section 15-47.1. Ephedrine and Pseudoephedrine Products. [Ord. No. 2112 §1, 2-16-2010]

It shall be illegal to sell, deliver or distribute ephedrine, pseudoephedrine, their salts, their optical isomers or salts of their optical isomers without a valid prescription written by a Missouri licensed physician and filled by a Missouri licensed pharmacist. The controls on these drugs shall not prohibit individual healthcare practitioners from issuing orders in their professional practices and licensed healthcare facilities.

Section 15-48. Forfeiture of Vehicles or Crafts that Transport Controlled Substances. [Ord. No. 777, §1]

- (1) Any vehicle, vessel or aircraft which has been used, or is being used in violation of any provision of section 195.025, shall be forfeited to the State of Missouri and any peace officer of the City of Eureka, upon making or attempting to make an arrest for a violation of this law, shall seize any such vehicle, vessel or aircraft. The officer seizing the vehicle, vessel or aircraft shall commence an action in the circuit court of the county in which the property is seized by filing a petition in the office of the clerk of the court in the name of the State of Missouri as plaintiff against the person from whom the vehicle, vessel or aircraft was seized as defendant, and there is a rebuttable presumption that the vehicle,

vessel or aircraft is the property of the defendant from whom it was seized. The petition shall describe the property seized and the circumstances of the seizure and shall pray the court to make an order, declaring the vehicle, vessel or aircraft to be a common nuisance and directing the seizing officer to sell the property at public or private sale, subject to the approval of the judge of the court. A summons shall be issued and process served on the defendant as in other civil suits. The defendant shall file his answer within thirty days after service of process upon him, whether such service is personal service, service by mail, or service by publication. After defendant's time for filing answer has expired, the court shall fix a day for hearing and the action shall be heard by the court without a jury and shall be conducted, except as otherwise provided in this law, as other cases under the code of civil procedure of the State of Missouri.

- (2) In addition to any other process provided by the civil code, the clerk of the circuit court shall cause to be published one time in some newspaper having a general circulation in the county where the action is pending, or if there is no newspaper of general circulation in the county, then in some newspaper of an adjoining county, a notice to all persons whom it may concern, that the petition has been filed in court, briefly describing the vehicle, vessel, or aircraft seized, the time and circumstances of the seizure, the person from whom seized, and stating that any person claiming any interest in the property may, upon his own request, be made a party to the action and assert any claim he may have thereto within thirty days after the publication of the notice.
- (3) Any person claiming any interest in the vehicle, vessel or aircraft may intervene in the action within thirty days after the publication of notice setting forth any claim he may have to the property.
- (4) The court shall render such judgment as to it seems meet and just, and if it appears that any person who has made claim to the vehicle, vessel or aircraft is the owner thereof and was ignorant of the illegal use thereof and the illegal use was without his connivance or consent, express or implied, or if the court finds that the property was not being illegally used at the time of seizure, the court shall relieve the property from forfeiture and restore it to the rightful owner, or if it appears that the claimant is the holder of a bona fide lien against the property, and that he was ignorant of the illegal use thereof, the court shall, if the lien so established is equal to or more than the value of the vehicle, vessel or aircraft, order the property to be delivered to the lienor. Or, if the vehicle, vessel or aircraft is valued at more than the established lien and all costs of proceedings and sale, an order shall be made for the sale of the property by the seizing officer at public or private sale, subject to the approval of the court, and out of the proceeds of the sale shall be paid storage, if any, the lien, the cost of the proceedings, and the residue, if any, shall be paid into the general revenue fund of the State of Missouri. If it is determined that no person, other than the defendant, has any interest in the property or that the person or persons having any interest in the property knew of or connived or gave consent, express or implied, to the illegal use thereof, and if it is found by the court that the material allegations of the petition are true, the vehicle, vessel or aircraft shall be declared to be forfeited to the State of Missouri, and the court shall order the officer who seized the property to sell the property at public or private sale, subject to the approval of the court, and out of the proceeds of the sale shall be paid the cost of storage, if any, the cost of the proceedings of the case, and the balance thereof shall be paid into the general revenue fund of the State of Missouri.

- (5) Officers who make seizures of vehicles, vessels or aircraft, as described herein, are authorized to call upon the prosecuting attorneys of the respective counties and the circuit attorney of the city of St. Louis and the attorney general of the State of Missouri to represent them in the proceedings contemplated by this section, and thereafter it is the duty of such prosecuting or circuit attorney or the attorney general to proceed on behalf of the officer making the call according to the provisions of this section.
- (6) Appeals shall be allowed from the judgment of the court as in other civil actions.
- (7) Under no circumstances shall the officer commencing the action on behalf of the state be liable for any costs or storage.
- (8) Nothing contained in this section shall be deemed to relieve anyone of the criminal liabilities imposed by this law.
- (9) The provisions of this section shall not operate to destroy any valid lien or any rights under any security agreement or title retention contract when the holder thereof is an innocent party.

Section 15-49. Activities Conducted Along Roadways. [Ord. No. 794 §§1 — 2; Ord. No. 1158 §§1 — 2, 4-18-1995; Ord. No. 1753 §1, 4-6-2004]

For purposes of this Section, roadway shall be defined as that portion of a highway or vehicular thoroughfare, typically delineated by curbing, painted boundary lines or the edge of pavement.

No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

Section 15-49.1. (Reserved) ³

Section 15-50. Harassment. [Ord. No. 830, §1]

- (a) A person commits the crime of harassment if for the purpose of frightening or disturbing another person, such person,
 - (1) Communicates in writing or by telephone a threat to commit any felony; or
 - (2) Makes a telephone call or communicates in writing and uses coarse language, offensive to one of average sensibility; or
 - (3) Makes a telephone call anonymously; or
 - (4) Makes repeated telephone calls.

Section 15-51. Disposition of Unclaimed Seized Property — Forfeiture to the City, When — Appeal Authorized. [Ord. No. 841, §1]

- (a) Unless the ordinances authorizing seizure provide otherwise, property which comes into

³. Editor's Note — Ord. no. 2170 §1, adopted May 3, 2011, repealed section 15-49.1 "regulating sales and solicitations along roadways" in its entirety. Former section 15-49.1 derived from ord. no. 1753 §1, 4-6-2004. This section has been reserved for the city's future use.

the custody of an officer or of the Municipal Court as the result of any seizure and which has not been returned to the Claimant shall be disposed of as follows:

- (1) Stolen property or property acquired in any other manner declared an offense by the Code of the City of Eureka, but not including any other property referred to in Subsection (b) of this Section shall be delivered by order of Court upon claim having been made and established, to the person who is entitled to possession.
- (2) The claim shall be made by written motion filed with the Court with which a Motion to Suppress has been, or may be filed. The claim shall be barred if not made within one (1) year from the date of the seizure.
- (3) Upon the filing of such motion, the Judge shall order notice to be given to all persons interested in the property, including other claimants and the person in whose possession the property was seized, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons whose address is unknown by publication in a newspaper of general circulation in the county. No property shall be delivered to any claimant unless all interested persons have been given a reasonable opportunity to appear and to be heard.
- (4) After a hearing, the Judge shall order the property delivered to the person or persons entitled to possession, if any. The Judge may direct that delivery of property required as evidence in a criminal proceeding shall be postponed until the need no longer exists.
- (5) If the property is not claimed within one (1) year from the date of the seizure or if no one establishes a right to it, the Judge authorized to order a delivery shall, upon motion of the officer having custody of the property, or upon his own motion, order a public sale of the property. The proceeds of the sale, less necessary expenses of preservation and sale, shall be paid into the City's treasury for the use of the City. If the property is not salable, the Judge may order its destruction.
- (6) If the property is a living animal or is perishable, the Judge may, at any time, order it sold at public sale. The proceeds shall be held in lieu of the property. A written description of the property sold shall be filed with the Judge making the order of sale so that the claimant may identify the property. If the proceeds are not claimed within the time limit for the claim for the property, the proceeds shall be paid into the City treasury. If the property is not salable, the Judge may order its destruction.

(b)

- (1) Property, the possession of which is an offense under the laws of this City or which has been used by the owner, or used with his acquiescence or consent, as a raw material or as an instrument to manufacture or produce anything the possession of which is an offense under the laws of this City, or which any law authorizes or directs to be seized, other than lawfully possessed weapons seized by an officer incident to an arrest, shall be forfeited to the City of Eureka.

- (2) The officer who has custody of the property shall inform the Prosecuting Attorney of the fact of seizure and of the nature of the property. The Prosecuting Attorney shall thereupon file a written motion with the Court with which the Motion to Suppress has been, or may be filed praying for an order directing the forfeiture of the property. A motion may also be filed by any person claiming the right to possession of the property praying that the Court declare the property not subject to forfeiture and order to delivered to the moving party.
 - (3) Upon the filing of a motion either by the Prosecuting Attorney or by a Claimant, the Judge shall order notice to be given to all persons interested in the property, including the person out of whose possession the property was seized and any lienors, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons of unknown address by publication in a newspaper of general circulation in the City. Every interested person shall be given a reasonable opportunity to appear and to be heard as to the nature of his claim to the property and upon the issue of whether or not it is subject to forfeiture.
 - (4) If the evidence is clear and convincing that the property in issue is in fact of a kind subject to forfeiture under this Subsection, the Judge shall declare it forfeited and order its destruction or sale. The Judge shall direct that the destruction or sale of property needed as evidence in a criminal proceeding shall be postponed until this need no longer exists.
 - (5) If the forfeited property can be put to a lawful use, it may be ordered sold after any alterations which are necessary to adapt it to a lawful use, had been made. If there is a holder of a bona fide lien against property which has been used as a means for committing an offense or which has been used as a raw material or as an instrument to manufacture or produce anything which is an offense to possess, who establishes that the use was without his acquiescence or consent, the proceeds, less necessary expenses of preservation and sale, shall be paid to him in the amount of his lien. The remaining amount shall be paid into the City treasury.
 - (6) If the property is perishable the Judge may order it sold at a public sale or destroyed, as may be appropriate, prior to a hearing. The proceeds of a sale, less necessary expenses of preservation and sale, shall be held in lieu of the property.
- (c) An appeal by any party shall be allowed from the judgement of the Court as in other civil actions.

Section 15-52. Public Tennis Courts to be Used for Tennis Only. [Ord. No. 1013 §1, 2-4-1992]

It shall be unlawful to engage in any activity other than tennis on any public tennis court.

Section 15-53. Smoking Prohibited. [Ord. No. 1033 §1, 8-18-1992]

- (a) As used in subsections (a) to (f) of this section, the following terms mean:

OTHER PERSON IN CHARGE — The agent of the proprietor authorized to give administrative

directions to and general supervision of the activities within the public place, work place or public meeting at a given time.

PROPRIETOR — The party who ultimately controls, governs or directs the activities within the public place, work place or public meeting, regardless of whether he is the owner or lessor of such site or place. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting.

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

PUBLIC PROPERTY — Any real or personal property which is owned, leased or otherwise under the custody and control of a governmental body, including all City of Eureka buildings and vehicles.

SMOKING — Possession of burning tobacco in the form of a cigarette, cigar, pipe or other smoking material.

- (b) It shall be unlawful for any person to smoke in a public meeting or while on or in any public property, except in a designated smoking area.
- (c) A smoking area may be designated by persons having custody or control of public property, except in places in which smoking is prohibited by the fire marshall or by other law, ordinance or regulation.
- (d) No public property or public meeting shall have more than thirty percent (30%) of its entire space designated as a smoking area.
- (e) A designated smoking area where city employees may smoke during the work day shall be provided by each department within the confines of each city facility.
- (f) The following persons shall be guilty of a violation of this section and subject to the penalties provided herein:
 - (1) A person who smokes in those areas where smoking is prohibited pursuant to this section.
 - (2) A proprietor or other person in charge of public property or public meeting who permits, causes or allows a person to smoke in those areas where smoking is prohibited pursuant to this section.
- (g) The penalty for violation of any provision of this section shall be a fine of twenty-five dollars (\$25.00) for the first offense, one hundred dollars (\$100.00) for the second offense and two hundred fifty dollars (\$250.00) for the third or any subsequent offense.

Section 15-53.1. Restrictions on the Sale and Possession of Tobacco Products. [Ord. No. 1033 §2, 8-18-1992; Ord. No. 1554 §1, 9-4-2001; Ord. No. 1599 §1, 3-5-2002]

- (a) As used in Subsections (a) to (f) of this Section, the following terms mean:

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

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

PERSON — An individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the local, State or Federal Government, or any other legal entity which is recognized by law as the subject of rights and duties.

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

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

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

SAMPLING — The distribution to members of the general public of tobacco product samples.

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

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

- (b) It shall be unlawful for any person to sell, provide or distribute tobacco products or rolling papers to persons under eighteen (18) years of age. No person or entity shall sell, provide or distribute any tobacco product or rolling papers to any minor, or sell any individual cigarettes to any person in the State of Missouri or City of Eureka, unless the product is distributed by a family member on property not open to the public. Internet and mail sales of tobacco products to any person who is less than eighteen (18) years of age is prohibited.
- (c) No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products, unless the product is distributed by a family member on property not open to the public and the product is possessed on the property where the product was distributed by the family member or unless such person is an employee of a seller of cigarettes or tobacco products and is in such possession to effect a sale in the course of employment or an employee of the Missouri Division of Liquor Control or the City of Eureka Police Department for enforcement purposes. Minors will have their tobacco products confiscated. Purchasers of tobacco products are required to present prescribed identification, upon request, to demonstrate age.
- (d) The owner of any business at which tobacco products or rolling papers are sold at retail shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products are sold and purchased a sign that shall:
 - (1) Contain in red lettering at least one-half ($\frac{1}{2}$) inch high on a white background the following: "It is a violation of State and City law for cigarettes or other tobacco products to be sold or otherwise provided to any person under the age of eighteen (18) or for such person to purchase, attempt to purchase or possess cigarettes or other tobacco products"; and
 - (2) Include a depiction of a pack of cigarettes at least two (2) inches high defaced by a

red diagonal diameter of a surrounding red circle and the words "Under 18".

- (e) The owner of any business on which the required signs are not posted shall be guilty of a violation of this Section and subject to the penalties provided herein.
- (f) No person or entity shall sell individual packs of cigarettes or smokeless tobacco products unless it is displayed behind the check-out counter or it is within the unobstructed line of sight of the sales clerk or store attendant from the check-out counter.
- (g) A person or entity selling tobacco products or rolling papers or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen (18).
- (h) The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo., or the operator's or chauffeur's license issued pursuant to the laws of any state or possession of the United States to residents of those States or possessions, or an identification card as provided for in Section 302.181, RSMo., or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the Missouri Division of Liquor Control, City of Eureka Police Officer, or any owner or employee of an establishment that sells tobacco for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least eighteen (18) years of age when such person desires to purchase or possess tobacco products procured from a registrant. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.
- (i) Any person who shall, without authorization from the Department of Revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a class A misdemeanor.
- (j) Reasonable reliance on false proof of age shall be a defense against an alleged violation of this Section. The appearance of the purchaser shall not be a defense to any alleged violation of this Section.
- (k) If a sale is made by an employee of the owner of an establishment in violation of this Section, the employee shall be guilty of an offense of this Section and subject to the penalties provided herein. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense of this Section and subject to the penalties provided herein.
- (l) The penalty for violation of any provision of this Section shall be a fine of twenty-five dollars (\$25.00) for the first (1st) offense, one hundred dollars (\$100.00) for the second (2nd) offense and two hundred fifty dollars (\$250.00) for the third (3rd) and any subsequent offense.

Section 15-53.2. Vending Machine Tobacco Product Sales. [Ord. No. 1227 §1, 5-21-1996]

- (a) Definitions contained in Section 15-31.1(a) shall be applicable to this Section.

- (b) No vending machine may be installed for purposes of dispensing tobacco products after May 21, 1996. No vending machine in operation which does not dispense tobacco products as of May 21, 1996 may do so.
- (c) A vending machine which dispenses tobacco products within the City as of May 21, 1996, may continue such legally non-conforming operation through May 21, 1998, at which time all vending machine tobacco sales within the City shall cease.
- (d) A legally non-conforming vending machine which dispenses tobacco products must be located in a conspicuous location readily visible by an owner or employee on the premises containing same.
- (e) A vending machine shall lose its legal non-conforming status if it is removed from the premises in which it was located May 21, 1996. If a legally non-conforming vending machine dispensing tobacco products shall discontinue doing so for any period of time prior to May 21, 1998, such legal non-conforming status shall expire and such use may not resume.
- (f) The general penalty provisions of the City set forth in Section 1-7 of the Eureka Municipal Code shall apply for each violation of this Section. Each day of violation may be considered a separate offense and shall be subject to issuance of a separate citation for each offense.

Section 15-53.3. Public Schools and School Buses, Smoking or Tobacco Use Prohibited, Penalty, Permissible Use of Tobacco, Where. [Ord. No. 1778 §1, 8-17-2004]

No person shall smoke or otherwise use tobacco or tobacco products in any indoor area of a public elementary or secondary school building or educational facility, excluding institutions of higher education, or on buses used solely to transport students to or from school or to transport students to or from any place for educational purposes. Any school board of any school district may set policy on the permissible uses of tobacco products in any other non-classroom or non-student occupant facility and on the school grounds or outdoor facility areas as the school board deems proper.

Section 15-53.4. Regulation of Vaporizing Products. [Ord. No. 2297 §1, 4-15-2014]

- (a) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

VAPORIZING PRODUCTS

- (1) Electronic devices which employ a battery to power a heating chamber that converts a liquid solution containing tobacco-derived nicotine, through a non-combustive process, into a vapor or vapor-like mist. The definition includes electronic cigarettes, electronic cigars, electronic cigarillos and electronic pipes, which are personal vaporizing products on which users inhale through a mouthpiece.
- (2) Vaporizing products are not:
 - a. Cigarettes, as defined in 18 U.S.C. § 2341;
 - b. A product that is a drug, as described in 21 U.S.C. § 321(g)(1);

- c. A product that is a device, as described in 21 U.S.C. § 321(h);
 - d. A combination product, as described in 21 U.S.C. § 353(g);
 - e. A tobacco product, as described in 21 U.S.C. § 387(a); or
 - f. Modified risk tobacco products, as described in 21 U.S.C. § 387(k).
- (b) Distribution of vaporizing products to or possession by persons under eighteen (18) years of age is prohibited.
- (1) A person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person's establishment, may not sell, offer for sale, give, or furnish any vaporizing product or any component to a person under eighteen (18) years of age.
 - (2) Before selling, offering for sale, giving, or furnishing any vaporizing product, or any cartridge or component of any vaporizing product, to another person, the person selling, offering for sale, giving or furnishing the vaporizing product shall verify that the person is at least eighteen (18) years of age by:
 - a. Examining from any person that appears to be under twenty-seven (27) years of age a government-issued photographic identification that establishes the person is at least eighteen (18) years of age; or
 - b. For sales made through the Internet or other remote sales methods, performing an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the person during the ordering process that establishes the person is eighteen (18) years of age or older.
 - (3) No minor under eighteen (18) years of age shall possess, purchase or attempt to purchase any vaporizing product.
 - a. In the furtherance or facilitation of obtaining any vaporizing product, no minor shall display or use a false or forged identification card or transfer, alter, or deface an identification card.
 - b. It is not a violation of these provisions for a person under eighteen (18) years of age to purchase or possess a vaporizing product if the person under the age of eighteen (18) purchases or is given the vaporizing product from a retail seller of vaporizing products or an employee of the retail seller pursuant to a plan or action to investigate, patrol, or otherwise conduct a sting operation or enforcement action against a retail seller of vaporizing products or on any premises authorized to sell vaporizing products to determine if vaporizing products are being sold or given to persons under eighteen (18) years of age if the sting operation or enforcement action is approved by the State of Missouri, St. Louis County or City of Eureka.
- (c) *Use; Where Prohibited.*
- (1) The use of vaporizing devices shall be prohibited where tobacco products and

smoking are prohibited.

(d) *Penalties.*

- (1) Any person seventeen (17) years of age or older who violates Subsection (b) or (c) of these provisions is guilty of an offense and shall be subject to the general penalty provisions contained in Chapter 1, Section 1-7 of the Eureka Municipal Code.
- (2) If a minor sixteen (16) years of age or younger violates Subsection (3) of Subsection (b) or Subsection (c), he or she is guilty of an offense and the court may impose a sentence of four (4) hours of community service, a fine of twenty-five dollars (\$25.00) plus court costs and/or completion of a diversion program for a first violation.
- (3) A second violation by a minor sixteen (16) years of age or younger of Subsection (3) of Subsection (b) or Subsection (c) that occurs within twelve (12) months after the first violation is punishable by eight (8) hours of community service, a fine of fifty dollars (\$50.00) plus court costs and/or completion of a diversion program.
- (4) A third or subsequent violation by a minor sixteen (16) years of age or younger of Subsection (3) of Subsection (b) or Subsection (c) that occurs within twelve (12) months after the first violation is punishable by a fine of one hundred dollars (\$100.00) and court costs, twelve (12) hours of community service and/or completion of a diversion program.

Section 15-54. Foreign Matter on Roadways Within City Limits. [Ord. No. 1168 §1, 5-16-1995]

- (a) It shall be unlawful for any person, company, contractor, subcontractor or their agents or assigns to cause dirt, mud or any other foreign material or matter to be deposited upon any roadway located within the City.
- (b) In the event that such activity intentionally or unintentionally occurs, the responsible parties or their designees shall immediately remove same, restoring the roadway to its previous condition.
- (c) If after serving notice to the appropriate parties, the subject roadway is not cleaned to acceptable standards within a reasonable period of time as determined by the City, the City may remove the material from the roadway or engage a third party to do same.
- (d) The City shall be reimbursed by the owner or authorized developer for any outstanding fees incurred associated with said City or third party removal. An occupancy permit will not be granted until after such time that the City receives all amounts owed for these services.

**ARTICLE II
Pornography**

Section 15-55. Definitions. [Ord. No. 1224 §1, 4-18-1996]

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

DISPLAYS PUBLICLY — 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 if from a street, highway or public sidewalk or from the property of others.

EXPLICIT SEXUAL MATERIAL — Any pictorial or three (3) dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse or emphasizing the depiction of post-pubertal human genitals; provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition.

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

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

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

NUDITY — The showing of post pubertal human genitalia or pubic area, with less than a fully opaque covering.

PORNOGRAPHIC — Any material or performance if, considered as a whole, applying contemporary standards:

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

PROMOTE — To manufacture, issue, sell, provide, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise or to offer or agree to do same.

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

SEXUAL CONDUCT — Acts of human masturbation, deviate sexual intercourse, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female in an act of apparent sexual stimulation or gratification.

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

WHOLESALE PROMOTE — To manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate or to offer or agree to do the same for purposes of resale.

Section 15-56. Promoting Pornography. [Ord. No. 1224 §1, 4-18-1996]

A person commits the offense of promoting pornography if, knowing its content and character, he:

- (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 pecuniary gain.

Section 15-57. Furnishing Pornographic Materials to Minors. [Ord. No. 1224 §1, 4-18-1996]

A person commits the offense of furnishing pornographic materials to minors if, knowing its character and content, he:

- (1) Furnishes any pornographic materials 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 pornographic performance for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance.

Section 15-58. Public Display of Explicit Sexual Material. [Ord. No. 1224 §1, 4-18-1996]

A person commits the offense of public display of sexual material if he knowingly:

- (1) Displays publicly explicit sexual material;
- (2) Fails to take prompt action to remove such a display from property in his possession after learning of its existence.

Section 15-59. Evidence in Pornography Cases. [Ord. No. 1224 §1, 4-18-1996]

- (a) In any prosecution under this Article, evidence shall be admissible to show:
 - (1) What the predominant appeal of the material or performance would be for ordinary adults or minors;
 - (2) The literary, artistic, political or scientific value of the material or performance;
 - (3) The degree of public acceptance in this State, County and in the local community;
 - (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 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.

Section 15-60. Penalty for Violation. [Ord. No. 1224 §1, 4-18-1996]

Any person found in violation of this Article shall be fined no less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each instance of violation within a twenty-four (24) hour period may be deemed a separate violation.

Section 15-61. Injunctions and Declaratory Judgments. [Ord. No. 1224 §1, 4-18-1996]

- (a) Whenever material or a performance is being or is about to be promoted, furnished or displayed in violation of Sections 15-56, 15-57 or 15-58, a civil action may be instituted in the Circuit Court by the City Attorney against any person violating or about to violate those Sections in order to obtain a declaration that the promotion, furnishing or display of such material or performance is prohibited. Such an action may also seek an injunction appropriately restraining promotion, furnishing or display.
- (b) Any action brought under this Section may be brought only in the Circuit Court of the County in which any such person resides, or where the promotion, furnishing or display is taking place or is about to take place.
- (c) Any promoter, furnisher or displayer of, or a person who is about to be a promoter, furnisher or displayer of the material or performance involved, may intervene as of right as a party defendant in the proceedings.
- (d) The trial court and the appellate court shall give expedited consideration to actions and appeals brought under this Section. The defendant shall be entitled to a trial of the issues within one (1) day after joinder of issue and a decision shall be rendered by the court within two (2) days of the conclusion of the trial. No restraining order or injunction of any kind shall be issued restraining the promotion, furnishing or display of any material or performance without a prior adversary hearing before the court.
- (e) A final declaration obtained pursuant to this Section may be used to form a basis for an injunction and for no other purpose.
- (f) All laws regulating the procedure for obtaining declaratory judgments or injunctions which are inconsistent with the provisions of this Section shall be inapplicable to proceedings brought pursuant to this Section. There shall be no right to jury trial in any proceedings under this Section.

Section 15-62. Disposal of Seized and Lost Property by the Police Force. [Ord. No. 1027 §1, 6-16-1992; Ord. No. 2105 §1, 10-6-2009]

- (a) All property seized and held for evidence, after final disposition of the cause in which such property was used as evidence, and all lost property in the possession of the police department, which is of such a nature that its possession or sale is unlawful, shall be destroyed under the supervision of the chief of police. If lost property in the possession of the police department is not claimed by its rightful owner within a period of ninety (90) days or if property seized or held is proven to be stolen property and the owner is unknown or the owner does not claim such property within thirty (30) days after the disposition of the cause in which the property has been used as evidence, then such property shall be sold

under the supervision of the chief of police, provided that the possession or sale of such property is lawful.

- (b) Such sales shall be held from time to time, as may be determined by the chief of police, and a notice thereof containing a general description of the articles to be sold shall be published in a local community newspaper.
- (c) All proceeds of such sales shall be deposited in the general fund of the city.

Section 15-63. through Section 15-69. (Reserved)

ARTICLE III
Fortuneteller, Etc. — Prohibited

Section 15-70. Fortunetellers, Etc. — Prohibited. [Ord. No. 1611 §2, 5-21-2002]

No person shall pursue or practice within the City the avocation, profession or art of fortuneteller, clairvoyant, spirit medium, necromancer, seer, astrologist, palmist, prophet, or other like craft or occult art, or art of divination, or pretended art of telling past events of another's life or affairs; of foretelling knowledge of future events of another's life or affairs; or in any other way revealing things of the past, the future, of a secret or hidden nature; or giving advice or assistance in matters of business or affairs of any kind or nature by means of such art; or of purporting so to tell, foretell, reveal or give advice or assistance by means of such art; and any person who shall so pursue or practice in the City said avocations or professions, or any of them, whether for a price or gratuity, and whether by offer or on request shall be deemed guilty of a misdemeanor, and the advertising, posting or maintaining any sign, card, bill or announcement indicating the pursuit of any such avocation or art shall be sufficient evidence of a violation of this Section.

Section 15-71. Penalty for Violation. [Ord. No. 1611 §2, 5-21-2002]

Any person found in violation of this Article shall be fined no less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each instance of violation within a twenty-four (24) hour period may be deemed a separate violation.