

AN ORDINANCE PROHIBITING VARIOUS OFFENSES AGAINST THE PERSON OR PROPERTY OF OTHERS INCLUDING; FAILURE TO OBEY, OBSTRUCT, RESIST, CITY OFFICIALS; FALSE IMPERSONATION; ASSAULT AND BATTERY; STEALING; PROPERTY DAMAGE; TRESPASSING; LITTERING; UNAUTHORIZED BILL POSTING; DISTURBANCE OF PUBLIC PEACE; DISTURBANCE OF PRIVATE PEACE; LOITERING; CARRYING CONCEALED WEAPON ON PERSON; DISCHARGE OF FIREARMS AND WEAPONS; SALE OF ALCOHOLIC BEVERAGES TO MINORS, DRUNKS OR DRUNKARDS; PURCHASING OR POSSESSING ALCOHOL BY MINORS; INDECENT EXPOSURE. ALSO DEFINING THE DEFENSE OF CONSENT; ESTABLISHING A PROCEDURE FOR LOST PROPERTY; AND ESTABLISHING THE PROCEDURE FOR HANDLING PERSONS INTOXICATED OR INCAPACITATED.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. MARY, MISSOURI, AS FOLLOWS:

SECTION ONE: DEFINITIONS

(a) Appropriate shall mean to take, obtain, use, transfer, conceal or retain possession of.

(b) Coercion shall mean a threat, however communicated:

(1) To commit any crime;

(2) To inflict physical injury in the future on the person threatened or another;

(3) To accuse any person of any crime;

(4) To expose any person to hatred, contempt or ridicule;

(5) To harm the credit or business repute of any person;

(6) To take or withhold action as a public servant, or to cause a public servant to take or withhold action;

(7) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of the threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

(c) Deceit shall mean purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary

significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(d) Deprive shall mean:

(1) To withhold property from the owner permanently;

(2) To restore property only upon payment of reward or other compensation.

(3) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

(e) Loitering shall mean remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to stand around and shall also include the colloquial expression "hanging around."

(e) Of another shall refer to property or services of any person other than the actor, who has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(f) Private Property shall mean any place which at the time is not open to the public. It includes property which is owned publicly or privately.

(g) Property shall mean anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

(h) Property of another shall mean any property in which the actor does not have a possessory interest.

(i) Public place shall mean any place which at the time is open to the public. It includes property which is owned publicly or privately. It shall also mean any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.

(j) Services shall mean and include transportation, telephone, electricity, gas, water, cable television services, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

SECTION TWO: FAILURE TO OBEY, OBSTRUCTING, RESISTING, ETC.,
CITY OFFICIALS

It shall be unlawful for any person to wilfully and knowingly obstruct, resist, oppose or fail to obey a lawful command of any police officer or public official of the city, or any other person duly authorized in executing or attempting to execute and carry into effect any provision of this Code or other ordinance or order passed or made by the proper authorities of this city, or in serving or attempting to serve any legal writ, warrant, process or order issued by the mayor or other officer of the city.

SECTION THREE: FALSE IMPERSONATION

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 official 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; or

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

SECTION FOUR: ASSAULT AND BATTERY

A person commits the offense of assault and battery if he:

(1) Attempts to cause or recklessly causes physical injury to another person;

(2) With criminal negligence, causes physical injury to another person by means of a deadly weapon;

(3) Purposely places another person in apprehension of immediate physical injury;

(4) Recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;

(5) Knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

SECTION FIVE: CONSENT

When conduct is charged to constitute an offense because it causes or threatens physical injury, consent to that conduct or to the infliction of the injury is a defense only if:

(1) The physical injury consented to or threatened by

the conduct is not serious physical injury;

(2) The conduct and the harm are reasonably foreseeable hazards of the victim's occupation or profession or joint participation in a lawful athletic contest or competitive sport; or

(3) The consent establishes a justification for the conduct under RSMo Ch. 563.

The defendant shall have the burden of injecting the issue of consent.

SECTION SIX: STEALING

A person commits the offense of stealing if he appropriates property or services of another with the purpose to deprive him thereof, either without his consent or by means of deceit or coercion. Evidence of the following is admissible in any prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer.

SECTION SEVEN: LOST PROPERTY

A person who appropriates lost property shall not be deemed to have stolen that property unless the property is found under circumstances which gave the finder knowledge of or means of inquiry as to the true owner. The defendant shall have the burden of injecting the issue of lost property.

SECTION EIGHT: CLAIM OF RIGHT TO ALLEGEDLY STOLEN PROPERTY

A person does not commit an offense under section 13-46 if, at the time of the appropriation, he;

(1) Acted in the honest belief that he had the right to do so;

(2) Acted in the honest belief that the owner, if present, would have consented to the appropriation.

The defendant shall have the burden of injecting the issue of claim of right.

SECTION NINE: PROPERTY DAMAGE

A person commits the offense of property damage if he knowingly damages property of another.

SECTION TEN: CLAIM OF RIGHT TO ALLEGEDLY DAMAGED PROPERTY

A person does not commit an offense by damaging the property of another if he does so under a claim of right and has reasonable grounds to believe he has such a right. The defendant shall have the burden of injecting the issue of claim of right.

SECTION ELEVEN: TRESPASS

A person commits the offense of trespass if he:

(1) Enters upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof;

(2) Pursues a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to such premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof;

(3) Fails or refuses to depart from the premises of another in case of being requested, either orally or in writing by any owner or occupant thereof;

(4) Enters into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to the possession or control thereof, or a failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

SECTION TWELVE: LITTERING

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

SECTION THIRTEEN: UNAUTHORIZED BILL POSTING

A person commits the offense of unauthorized bill posting if he sticks or puts upon any house, fence, wall or public place in this city, any printed, written, painted or other advertisement, bill, notice, sign or poster, without having first obtained the written permission of the owner of such house, fence, wall, or public place.

SECTION FOURTEEN: DISTURBANCE OF PUBLIC PEACE

A person commits the offense of disturbance of the public

peace if:

(1) He unreasonably and knowingly disturbs or alarms another person or persons by:

- (a) Loud noise;
- (b) Offensive and indecent language which is likely to produce an immediate violent response from a reasonable recipient;
- (c) Threatening to commit a crime against any person;
- (d) Fighting;
- (f) Creating a noxious and offense odor;

(2) He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonable and physically obstructing:

- (a) Vehicular or pedestrian traffic;
- (b) The free ingress or egress to or from a public or private place;

(3) He unreasonably and knowingly disturbs any religious assembly in the city, by any of the methods described in subsections (1) or (2), within or about a place of worship, so as to disturb the order or solemnity of the meeting therein.

SECTION FIFTEEN: DISTURBANCE OF PRIVATE PEACE

A person commits the offense of disturbance of private peace if he is on private property and unreasonably and purposely causes alarm to another person on the same premises by threatening to commit a crime against any person or fighting.

SECTION SIXTEEN: LOITERING

It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to :

(1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicle, traffic or pedestrians.

(2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, therein and thereto.

When any person causes or commits any of the conditions

enumerated in the above paragraph, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

Any person who violates any of the provisions of this section shall be subject to a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding thirty (3) days or both. Any such violation shall constitute a separate offense on each successive day continued.

SECTION SEVENTEEN: CARRYING CONCEALED WEAPON ON PERSON PROHIBITED; EXCEPTION

No person shall in this city wear under his clothes, or concealed about his person, any pistol, revolver, sling shot, cross knuckles, knuckles of lead, brass or other metal, or any bowie knife or other dangerous or deadly weapon; provided, however, that this section shall not be so construed as to prevent any federal, state, county or city officer, or member of the city government, from carrying any such weapons as may be necessary in the proper discharge of his duties. Any defense that would be valid under the charge of carrying concealed weapons in a state case shall be a valid defense to a charge made under this section.

SECTION EIGHTEEN: DISCHARGE OF FIREARMS AND WEAPONS PROHIBITED; EXCEPTION

It shall be unlawful for any person to fire, shoot or discharge any firearm or other weapon, including any air gun, within the city, whether the projectile thereof is propelled by explosive, air or other means, and regardless of the character of the projectile; provided, however, that it shall not be unlawful for a person to discharge a firearm within the city when:

(1) That person is a member in good standing of a recognized organization having as one of its principal activities the handling and use of firearms;

(2) Their organization has been approved by a majority vote of the board of aldermen to conduct a shooting of undesirable animals in the city; and

(3) The shooting is conducted under the supervision and direction of the police department.

SECTION NINETEEN: SALE OF ALCOHOLIC BEVERAGES TO MINORS, DRUNKS OR DRUNKARDS PROHIBITED

It shall be unlawful for any person, except the parent or guardian thereof, to sell, vend, give away or otherwise supply any intoxicating liquor, as defined in RSMo 311.020, or nonintoxicating beer as defined in RSMo 312.010(2), to any person under the age of twenty-one (21) years or to any person intoxicated or appearing to

be in a state of intoxication or to a habitual drunkard. This section shall not apply to the supplying of intoxicating liquor or nonintoxicating beer to a person under the age of twenty-one (21) years for medical purpose only or to any person, when administered by a duly licensed physician.

SECTION TWENTY: PURCHASE OR POSSESSION BY MINORS PROHIBITED

It shall be unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase, or have in his possession, any intoxicating liquor or nonintoxicating beer.

SECTION TWENTY-ONE: PROCEDURE FOR HANDLING PERSONS FOUND INCAPACITATED, INTOXICATED.

(a) A person who appears to be incapacitated or intoxicated may be taken by a police officer to such 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.

(b) Any police officer detaining an apparently incapacitated or intoxicated person shall be immune from prosecution for false arrest and shall not be responsible in damages for taking action pursuant to subsection (a) if such officer has reasonable grounds to believe the person detained is incapacitated or intoxicated by alcohol and such officer does not use unreasonably excessive force to detain such person.

Immunity from prosecution under subsection (b) shall include the officer taking reasonable actin to protect himself from harm by the person detained.

SECTION TWENTY-TWO: INDECENT EXPOSURE

A person commits the offense of indecent exposure if he knowingly exposes his genitals under circumstances in which he knows that his conduct is likely to cause affront or alarm.

SECTION TWENTY-THREE: This Ordinance shall be in full force and effect from and after it passage.

SECTION TWENTY-FOUR: All Ordinances and parts thereof in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION TWENTY-FIVE: The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

READ TWO TIMES AND PASSED THIS 17th DAY OF September, 1988.

Robert L. Grass
MAYOR

ATTEST:

JoAnn E. Donze
CITY CLERK

<u>ALDERMEN</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Francis Bader	X			
Henry Coffman	X			
Robert Schultz	X			
Stephen Schwent	X			

I, JoAnn E. Donze, Clerk of the City of St. Mary, Missouri, do hereby certify that the foregoing ordinance was duly passed and adopted by the Board of Aldermen of the City of St. Mary, Missouri at a regular meeting thereof assembled this the 17th day of September, 1988.

JoAnn E. Donze
CITY CLERK