

BILL NO. 2-1-17

ORDINANCE NO. 307

**AN ORDINANCE AMENDING CHAPTERS 5, 14, AND 23 FOR CRIMINAL OFFENSES
IN RESPONSE TO SB 419 OF THE CODE OF ORDINANCES OF THE CITY OF
WARRENSBURG, MISSOURI**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WARRENSBURG, MISSOURI
AS FOLLOWS:**

Section One: The following provisions of the City Code are hereby amended to read as follows;

Sec 14-4 Harassment.

(a) It shall be unlawful for a person, without good cause, to engage in any act with the purpose to cause emotional distress to another person.

Sec 14-22. False impersonation.

A person commits the offense of false impersonations if he or she:

- (1) Falsely represents himself to be a public servant with purpose in induce another to submit to his or her pretended official authority or to rely upon his or her pretended official acts, and
 - a. Performs an act in that pretended capacity;
 - b. Causes another to act in reliance upon his pretended official authority; or
- (2) Falsely represents themselves 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, and
 - a. Performs an act in that pretended capacity;
 - b. Causes another to act in reliance upon the representation.

Sec. 14-23. False reports.

(a) A person commits the offense of making a false report if they knowingly:

- (1) Gives false information to a law enforcement officer for the purposes of implicating another person in a crime;

- (2) Make a false report to a law enforcement officer that a crime has occurred or is about to occur;
- (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 the reliance thereon.

(c) The defendant shall have the burden of injecting the issue of retraction under subsection (b).

Sec. 14-24. Escape from custody.

A person commits the offense of escape from custody if, while being held in custody after arrest for any crime, they escape from custody.

Sec 14-25. Escape from confinement.

A person commits the offense of escape from confinement if, while being held in confinement after arrest for any crime, or while serving a sentence after conviction for any crime, they escapes from confinement.

Sec 14-26. Aiding escape of a prisoner.

A person commits the offense of aiding escape of a prisoner if they:

- (1) Introduce into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of facilitating the escape of any prisoner confined therein, or of facilitating the commission of any other crime;
- (2) Assists or attempts to assist any prisoner who is being held in custody or confinement for the purpose of effecting the prisoner's escape from custody or confinement.

Sec. 14-41. Assault and battery.

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

- (1) Attempts to cause or recklessly causes physical injury, physical pain or illness to another person;

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

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

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

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

(6) Knowingly causes physical contact with a person with a disability, which a reasonable person without disability would consider offensive or provocative.

Sec. 14-43 Domestic assault.

(a) It shall be unlawful for any person:

(1) To attempt to cause or recklessly cause physical injury to a domestic victim; or

(2) With criminal negligence cause physical injury to a domestic victim by means of a deadly weapon or dangerous instrument; or

(3) Purposely place a domestic victim in apprehension of immediate physical injury by any means; or

(4) To reckless engage in conduct which creates a substantial risk of death or serious physical injury to a domestic victim; or

(5) To knowingly cause physical contact with a domestic victim knowing the other person will regard the contact as offensive; or

(6) To knowingly attempt to cause the isolation of a domestic victim by unreasonably and substantially restricting or limiting such person's access to other persons, telecommunication devices or transportation for the purpose of isolation.

(b) As used in this section a domestic victim is defined as set forth in 565.002 RSMo, and as amended.

Sec. 14-56. Definitions.

The following words and phrases, when used in sections 14-57 to 14-50,

shall have the meanings respectively ascribed to them:

Appropriate shall mean to take, obtain, use, transfer, conceal, retain possession of, or dispose.

Coercion shall mean a threat, however communicated to:

- (1) Commit any offense;
- (2) Inflict physical injury in the future on the person threatened or another;
- (3) Accuse any person of any offense;
- (4) Expose any person to hatred, contempt or ridicule;
- (5) Harm the credit or business reputation of any person;
- (6) Take or withhold action as a public servant, or to cause a public servant to take or withhold action;
- (7) Inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is justified and 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.

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 or concealing a material fact as to the terms of a contract or agreement. The term "deceit" does not however, include falsity as to matters having no pecuniary significance, or pulling 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.

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.

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.

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.

Sec. 14-57 Robbery.

(a) A person commits the offense of robbery when they forcibly steal property.

(b) As used in subsection (a), the term "forcibly steal" shall mean when, in the course of stealing, under section 14-58, a person uses or threatens the immediate use of physical force upon another person for the purposes of:

(1) Preventing a overcoming resistance to the taking of the property or to the retention thereof immediately after the taking; or

(2) Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the theft.

Sec. 14-58 Stealing.

(a) A person commits the offense of stealing if they appropriate property or services of another with the purpose to deprive them thereof, either without their consent or by means of deceit or coercion.

Sec. 14-60 Claim of right to allegedly stolen property.

(a) A person does not commit an offense under section 14-58 if, at the time of the appropriation, they:

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

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

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

Sec. 14-61 Feigning disability for profit.

A person commits the offense of feigning disability for profit if they simulate disability or pretend to be a disabled person with the purpose of obtaining something of value from another person by deceit.

Sec. 14-62 Tampering.

A person commits the offense of tampering if they:

- (1) For the purposes 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, damages or tamper with property or facilities of such a utility or institution, and thereby cause substantial interruption or impairment of service;
- (2) Knowingly receive, possess, sell, or unlawfully operates or ride in or upon 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.

Sec. 14-63 Property damage.

A person commits the offense of property damage if:

- (1) They knowingly damage property of another;
- (2) They damage property for the purpose of defrauding an insurer.

Sec. 14-64 Claim of right to allegedly tampered, damaged property.

- (a) A person does not commit an offense by damaging, tampering with, operating, riding in or upon, or making correction with or damaging property of another if they do so under a claim of right and have reasonable grounds to believe they have such a right.
- (b) The defendant shall have the burden of injecting the issue of claim of right.

Sec. 14-65 Trespass.

A person commits the offense of trespass if they enter unlawfully or remain unlawfully upon the real property of another. This is an offense of absolute liability.

Sec. 14-82 Disturbance of public peace.

A person commits the offense of disturbance of the public peace if they either:

(1) They unreasonably and knowingly disturbs or alarm another person or persons by:

- a. Loud noise;
- b. Offensive and indecent language addressed in a face to face manner which is likely to produce an immediate violent response from a reasonable recipient;
- c. Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out;
- d. Fighting; or
- e. Creating a noxious and offensive odor.

(2) They are in a public place or on private property of another without consent and purposely cause inconvenience to another person or persons by unreasonably and physically obstructing:

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

Sec. 14-83. Disturbance of private peace.

A person commits the offense of disturbance of private peace if they are on private property and unreasonably and purposely cause alarm to another person on the same premises by:

- (1) Threatening to commit an offense against any person; or
- (2) Fighting.

Sec. 14-84. Unlawful assembly.

A person commits the offense of unlawful assembly if they knowingly

assemble with six (6) or more other persons and agree therewith to violate any of the provisions of this chapter, criminal laws of this state or of the United States with force or violence.

Sec. 14-85. Rioting

A person commits the offense of rioting if they knowingly assemble with six (6) or more other persons and agree therewith to violate any of the provisions of this chapter, criminal laws of this state or of the United States with force or violence, and thereafter, while still so assembled, does violate any of these laws with force or violence.

Sec. 14-86. Refusal to disperse.

A person commits the offense of refusal to disperse if, being present at the scene of an unlawful assembly, at the scene of a riot, or at the scene of a disturbance of the public peace, they knowingly fail or refuse to obey the lawful command of any law enforcement officer to depart from the scene of such unlawful assembly, riot or disturbance of the public peace.

Sec. 14-101. Abandonment of dangerous containers.

(a) A person commits the offense of abandonment of dangerous containers if they abandon, discard, or knowingly permit to remain on premises under their control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semiairtight container which has a capacity of one and one-half (1½) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with a hinge, latch or other fastening device capable of securing the door or lid, without rendering the equipment harmless to human life by removing the hinges, latches or other hardware which may cause a person to be confined therein.

(b) Subsection (a) does not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, warehouse operator or repair person.

(c) The defendant shall have the burden of injecting the issue under subsection (b).

Sec. 14-116. - Unlawful use of weapons.

(a) A person commits the offense of unlawful use of weapons if he or she knowingly:

- (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use into a place specified in Section 14-117;
- (2) Sets a spring gun;
- (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in RSMo 302.010, or any building or structure used for the assembling of people;
- (4) Exhibits, in the presence of one (1) or more persons, any weapon readily capable of lethal use in an angry or threatening manner;
- (5) Possesses or discharges a firearm or projectile weapon while intoxicated;
- (6) Discharges a firearm within one hundred (100) yards of any occupied school house, courthouse, or church building;
- (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across, a public highway or discharges or shoots a firearm into any outbuilding;
- (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 building owned or occupied by any agency of the federal government, state government, or political subdivision thereof;
- (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in RSMo 302.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or
- (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

(b) Subsections (a), (1), (8), (10) shall not apply to or affect any of the following, regardless of whether such use is reasonably necessary to fulfilling an official duty, and subsections (a), (3), (4), (6), (7), and (9) shall not apply to any of the following when reasonably necessary to fulfillment of an official duty:

- (1) All state, county and municipal peace officers possessing the duty and power of arrest for violation of ordinances of counties or municipalities of the state, whether such officers are within or outside their jurisdictions or on or off duty,

or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

- (2) Wardens, superintendents and keepers of persons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
- (3) Members of the armed forces or national guard while performing their official duty;
- (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state;
- (5) Any person whose bona fide duty is to execute process, civil or criminal;
- (6) Any federal probation officer;
- (7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;
- (8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under RSMo 84.340; and
- (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner.

(c) Subsections (a)(1), (5), (8) and (10) herein 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. Subsection (1) of subsection (a) of this section does not apply to any person twenty-one (21) years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subsection (a)(10) herein does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

(d) Subsections (a)(1), (8) and (10) herein shall not apply to any person who has a valid concealed carry endorsement issued pursuant to RSMo 571.094 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

(e) Subsections (a)(3) through (10) herein shall not apply to persons who are engaged in a lawful act of defense pursuant to RSMo 563.031.

(f) Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

Sec. 14-136. Sexual abuse.

(a) A person commits the offense of sexual abuse if they:

(1) Subject another person to whom they are not married to sexual contact, when the other person is incapacitated or less than thirteen (13) years old;

(2) Subjects another person to whom they are not married to sexual contact without that person's consent.

(b) As used in subsection (a), the term "sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person, or for the purpose of terrorizing the victim.

(c) Spouses living apart pursuant to a judgment of legal separation are not "married" to each other for the purposes of subsection (a).

Sec. 14-139. Urinating.

It shall be unlawful for any person in this city to urinate in any public location in such a fashion that their conduct may be viewed from a street, sidewalk or alley.

Sec. 14-151. Definitions.

Sexual contact shall mean any touching of another person with the genitals or any touching of the genitals or anus of another person or the breast of a female person, whether direct or through the clothing.

Sec. 14-152. Prostitution.

A person commits the offense of prostitution if they engage or offer to engage in sexual contact in return for something of value to be received by any person.

Sec. 14-153. Patronizing prostitution.

A person commits the offense of patronizing prostitution if they:

- a) Pursuant to a prior understanding, give something of value to another person as compensation for having engaged in sexual contact with any person, or
- b) Give or agree to give something of value to another person with the understanding that such person or another will engage in sexual contact with any person, or
- c) Solicits or requests another person to engage in sexual contact with any person in return for something of value.

Sec. 14-155. Prostitution establishments declared public nuisances.

- (a) Any room, building or other structure regularly used for sexual contact for pay or any unlawful prostitution activity prohibited by this division is a public nuisance.
- (b) The city attorney may, in addition to all sanctions available under this Code, prosecute a suit in equity to enjoin the nuisance. If the court having jurisdiction find that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for unlawful prostitution activity, it may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one (1) year.
- (c) All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance, and they may be enjoined from any prostitution activity anywhere within the jurisdiction of the court hearing the case.

Sec. 23-522. Leaving the scene of a motor vehicle accident.

- (a) A person commits the offense of leaving the scene of a motor vehicle accident when being the operator of a vehicle involved in an accident resulting in injury or death or damage to property of another person and knowing of the accident they leave the place of the injury, damage or accident without stopping and giving their name, residence, including city and street number, motor vehicle number and chauffeur's or registered operator's number, if any, to the injured party or to a police officer, or if no police officer is in the vicinity, then to the nearest police station or judicial officer.

Sec. 23-122. Driving while intoxicated prohibited.

A person commits the offense of driving while intoxicated if they operate a motor vehicle while in an intoxicated or drugged condition.

Sec. 23-123. Driving with excessive blood alcohol content prohibited.

(a) A person commits the offense of driving with excessive blood alcohol content if they operate a motor vehicle in this city with eight hundredths (.08) of one (1) percent or more by weight of alcohol in their blood or a commercial motor vehicle while having four one-hundredths (.04) of one percent or more by weight of alcohol in their blood.

Sec. 5-73. Animal neglect.

(a) A person is guilty of animal neglect when they have custody or ownership, or both, of an animal and fail to provide adequate care or adequate control or knowingly abandoning an animal without making provisions for its adequate care.

(b) All fines and penalties for a first conviction of animal neglect may be waived by the municipal court provided that the person found guilty of animal neglect shows that adequate, permanent remedies for the neglect have been made. Reasonable costs incurred for the care and maintenance of neglected animals may not be waived.

Sec. 5-74. Animal abuse.

A person is guilty of animal abuse when they:

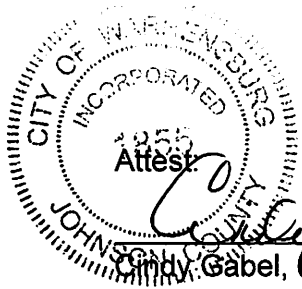
- (1) Intentionally or purposely kill an animal in any manner not allowed by or expressly exempted from the provisions of this article;
- (2) Purposely, intentionally or recklessly cause injury, suffering, or pain to an animal;
- (3) Abandon an animal in any place without making provisions for its adequate care and substantial harm to the animal results; or
- (4) Overwork or overload an animal or drive or work an animal unfit to work.

Section Two. The provisions of Sections One of this ordinance are incorporated into the Code of Ordinances.

Section Three. This ordinance shall be in full force and effect from its passage.

Read two times and passed this 13th day of February 2017.

Casey R. Renfrow
Casey R. Renfrow, Mayor



Cindy Gabel
Cindy Gabel, City Clerk